

Combating Xenophobic Violence

A Framework for Action



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Introduction

Around the world, refugees, asylum seekers, migrants, and others viewed as “foreign” have been the targets of violent attacks. Xenophobic, racist, and other forms of bias-motivated violence have a devastating and crippling effect on the targeted communities.^{*} This global problem will only escalate if not effectively addressed. In this era of increased global migration, and during a time of economic difficulties, those viewed as “foreign” are more vulnerable than ever, as they can be easy targets of blame—and anger—for political, economic, and societal ills.

Xenophobic and other bias-motivated violence has affected refugees, asylum seekers, migrants, and others in different corners of the globe. A brutal anti-immigrant mob attack in Athens, injuring dozens; sub-Saharan African migrants targeted during the recent conflict in Libya; threats of anti-immigrant violence in the run-up to the 2010 World Cup in South Africa, recalling the 2008 wave of violence there; migrant workers from Central Asia assaulted in broad daylight on the busy Moscow subway; and racist harassment and violence against Haitians and stateless persons of Haitian descent continues in the Dominican Republic—these are just a few examples that have garnered domestic and international attention.

This Framework for Action builds upon reporting and advocacy that Human Rights First has conducted since 2002 as part of its efforts to combat all forms of bias-motivated violence across the globe. This document outlines some of the serious challenges that xenophobic and other bias-motivated violence presents to the

^{*} “Xenophobic violence is one common form of bias-motivated violence to which refugees, asylum seekers, and migrants fall victim. They may also be victims of related forms of bias-motivated violence, such as those which are motivated by race, religion, sexual orientation or gender identity. In fact, different forms of bias – such as a person’s “foreignness,” race, ethnicity, national origin, and/or religion – can be deeply intertwined and difficult if not impossible to separate out from one another. It is partly for this reason that xenophobic violence can best be addressed as part of a comprehensive strategy that seeks to combat all forms of bias-motivated violence.

protection of the human rights of refugees, asylum seekers, internally displaced persons, stateless persons, migrants, and other persons viewed as “foreign.” The Framework for Action sets out concrete recommendations for States which, on the basis of their international obligations and other commitments, bear the primary responsibility for protecting all persons—including non-nationals—from xenophobic or other bias-motivated violence. Recognizing the important and differing roles of U.N. agencies, intergovernmental organizations, and other international entities, the Framework also includes recommendations for the United Nations High Commissioner for Refugees (UNHCR), the Office of the High Commissioner for Human Rights (OHCHR), the International Organization for Migration (IOM), the Organization for Security and Cooperation in Europe (OSCE), and other bodies, according to their respective mandates and responsibilities.

The contributing factors, triggers, and focus of xenophobia¹ can vary from country to country, with racist sentiments a driving force in some countries, and religious differences or economic factors sparking intolerance in others. What is common throughout is that the targets of xenophobic violence are usually marginalized communities that are often viewed as foreign, while the perpetrators of such violence often act with relative impunity.

In one serious and extreme manifestation of intolerance, xenophobia can be a motivating factor behind violent attacks on individuals and property. Xenophobic and other bias-motivated violence (in many countries referred to as “hate crime”[†]) is a pernicious form of discrimination in which individuals are targeted because of their race, national or ethnic origin, religion, sexual orientation, gender, gender identity, disability, or other similar status.

Refugees, asylum seekers, stateless persons, displaced persons, and migrants are particularly vulnerable to such forms of violence as they are often distinguished by their

[†] The Organization for Security and Cooperation in Europe’s Office for Democracy and Human Rights (ODIHR) defines hate crime as:

(a) any criminal offence, including offences against persons or property, where the victim, premises, or target of the offence is selected because of a real or perceived connection, attachment, affiliation, support, or membership of a group as defined in part B.

(b) A group may be based upon a characteristic common to its members, such as real or perceived “race”, national or ethnic origin, language, color, religion, sex, age, mental or physical disability, sexual orientation, or other similar factor.

appearance, language, religion and customs, particularly in largely homogenous societies. Discrimination, intolerance, and bias-motivated violence are often causes of displacement and flight.² And, as the United Nations High Commissioner for Refugees has stressed, “Refugees who flee intolerance at home are increasingly finding more intolerance in the countries where they seek protection.”³ Earlier this year, UNHCR expressed its concern that “racism and discrimination have become a major protection challenge in many parts of the world, including in the region of North African and the Middle East, where escalating violence has particularly affected persons in need of international protection and has generated forced displacement in some of these countries.”⁴

Xenophobic and other forms of bias-motivated violence can contribute to a range of difficulties for refugees, asylum seekers, stateless persons, migrants, and non-nationals, and can deprive these individuals of basic human rights protections. These populations are particularly vulnerable to bias-motivated violence, as they are often viewed as outsiders and may lack any kind of formal, permanent, or even temporary legal status. Xenophobic and bias-motivated violence can result in deaths, serious injuries, mass displacement, and a range of other protection challenges. In addition, fear of violence may prevent vulnerable individuals from seeking available services and protection—including education, medical care, food aid, and, for some, access to formal asylum procedures—for fear of being attacked at places where these services are offered.

Members of communities that fear violence cannot move freely in towns and cities, much less participate fully in the larger society. Even where bias-motivated violence does not involve severe personal attacks, the result may be progressive marginalization and exclusion, largely barring those under threat from the exercise of rights taken for granted by others. By undermining the shared value of equality, xenophobic violence threatens the very fabric of the increasingly diverse societies in which we live, impairing the equal enjoyment of fundamental rights and freedoms and weakening integration policies.

Though the most visible and brutal of these attacks may make the news headlines, the large majority of cases of violent attacks and day-to-day physical and verbal harassment remain under the radar. Underreporting of these crimes is endemic as refugees, asylum seekers,

stateless persons, and migrants without legal status may be afraid to identify themselves to local government authorities due to fear of deportation or mistrust of local law enforcement authorities.

States have the primary obligation to protect individuals—citizens and noncitizens, regardless of their legal status—from discrimination by addressing xenophobic and other forms of bias-motivated violence. Several key international treaties—including the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the 1951 Refugee Convention and the Outcome Document of the Durban Review Conference, outline specific obligations and commitments of States to protect refugees, asylum seekers, migrants, and other persons of concern from discrimination and bias-motivated violent acts.

Some States are taking steps to address such violent acts as well as the climate of intolerance in which they occur. However, there is much more that States can and should do. Human Rights First has developed a comprehensive **Ten-Point Plan for Combating Hate Crime**, based on the organization’s extensive research, monitoring, reporting, and analysis of such violence over the last decade. Key elements of this plan are outlined below in the Recommendations for States, and the plan itself appears as Appendix IV to this document.

This year, States and the U.N. High Commissioner for Refugees (UNHCR) are celebrating a series of milestones, including the 60th anniversary of the 1951 Convention Relating to the Status of Refugees and the 50th anniversary of the 1961 Convention on the Reduction of Statelessness. As States reaffirm their commitments to these conventions, and pledge to take action to address the protection challenges facing refugees, asylum seekers, internally displaced and stateless persons, governments should commit to take the concrete steps outlined below to address the serious protection challenges faced by the targets of xenophobic violence. Key steps include:

- **Acknowledge** and **condemn** acts of bias-motivated violence whenever they occur.
- **Enact** hate crime laws, **strengthen** enforcement, and **prosecute** offenders.
- **Monitor** and **report** on attacks.

- **Reach** out to communities affected by violence to **reduce** fear, **assist** victims, and **improve** reporting of incidents.

International bodies, including U.N. agencies, can and should also take action to address xenophobic and other bias-motivated violence as a central protection challenge, playing complementary and collaborative roles given their various mandates and responsibilities. As outlined below, the UNHCR, the Office of the High Commissioner for Human Rights, the International Organization for Migration, and the OSCE's Office for Democratic Institutions and Human Rights (ODHIR) have all taken some steps to address xenophobia and bias-motivated violence. However, there is more that these and other organizations should do—in close collaboration with States and civil society—to address the protection needs of refugees, asylum seekers, internally displaced persons, stateless persons, migrants, and other non-nationals in the face of bias-motivated violence. Recommendations include:

- **Enhance** operational guidance, strategies, and capacity.
- **Report** xenophobic and other bias-violence incidents and **provide** assistance to victims.
- **Raise** cases and **advocate** with States for improved responses and proactive action.
- **Increase** collaboration, **develop** global, regional, and local strategies, and **define** leadership and other roles.

The Reality of Xenophobic Violence

Xenophobic and other bias-motivated violence threatens a wide range of individuals and communities distinguished by ethnic origin, religious beliefs, race, sexual orientation, and other characteristics. This violence affects national minorities and people of immigrant origin, citizens and noncitizens, longtime residents and newcomers.⁵

In many parts of the world, refugees, asylum seekers, internally displaced persons, stateless persons, and migrants have been among the principal targets of violence motivated by xenophobia, racism, and religious hatred. Their vulnerability increases when they are

concentrated in a few urban areas and neighborhoods.⁶ Some are marginalized and may be subjected to violence on multiple grounds, including those who are lesbian, gay, bisexual, or transgender, or intersex.⁷

Refugees, asylum seekers, stateless persons, and migrants—from a wide range of countries, including Burma, China, Côte d'Ivoire, the Democratic Republic of Congo, the Dominican Republic, Ethiopia, Haiti, Iran, Iraq, Libya, Mexico, Sudan, Zimbabwe—have been the targets of xenophobic and other bias-motivated attacks.

Incidents of xenophobic and other forms of bias-motivated violence have been widely reported and well documented in many parts of Europe—raising concerns about the undermining of the overall protection environment for refugees, asylum seekers and other vulnerable populations. These forms of violence also present serious and increasing challenges in many regions of the world. The examples below and the country modules in Appendix I on “Select Country Snapshots” illustrate how xenophobic and other bias-motivated violence is a global phenomenon, not limited to any one country or region of the world:

- In the **Dominican Republic**, Haitian refugees, migrants and stateless persons of Haitian descent have been brutally assaulted and killed. Documented cases include street attacks, arsons, and a beheading.⁸
- In **Egypt**, refugees and migrants from Sudan, Somalia, Ethiopia, and Eritrea have been the targets of racist violence and harassment.⁹
- In **Greece**, there has been a rise in racist and xenophobic attacks against refugees, asylum seekers and migrants, including attacks on more than one hundred Asians and Africans carried out largely by extreme right-wing groups in May 2011.¹⁰
- In **India**, there is a climate of racism, particularly towards those of African origin and violent attacks have been reported against Burmese Chin and Somali refugees.¹¹
- In **Italy**, the antiracism NGO Lunaria documented 186 assaults, including 18 murders, allegedly motivated by racism or xenophobia, between January 2007 and July 2009. Immigrants and refugees were among the most frequent victims.¹²

- In **Libya**, migrants, refugees, and asylum seekers from Sub-Saharan Africa have long been victims of xenophobic and racist violence, and these populations faced additional violence following reports that the Gaddafi regime had hired mercenaries from African countries to fight for it. Mass arrests of migrant workers were reported in September 2011.¹³
- In **Malaysia**, xenophobic attitudes among the population toward refugees and migrants, particularly from Burma, have reportedly been on the rise in recent years. Violence at the hands of a government-sanctioned civilian group as well as by ordinary citizens has been reported.¹⁴
- In **Morocco**, racist violence, verbal threats, and physical assaults have targeted sub-Saharan African refugees and migrants.¹⁵
- In **Russia**, racist and ethnically motivated murders and other violent attacks by neo-Nazi skinhead groups continue to occur with an alarming frequency; migrants from Central Asian countries are among the primary victims of attacks.¹⁶
- In **South Africa**, a number of serious incidents of violence against refugees and migrants, including those from Somalia and Zimbabwe, were reported in 2011.¹⁷ This is particularly troubling given the record of xenophobic violence in recent years, including the well-documented wave of violence against foreigners in 2008, which led to at least 62 deaths and the displacement of a hundred thousand people.¹⁸
- In **Thailand**, migrants and refugees from Burma and elsewhere have been the victims of violent attacks and killings by government security forces and private individuals.¹⁹
- In **Turkey**, refugees and asylum seekers—including lesbian, gay, bisexual, transgender, and intersex (LGBTI) refugees—have been subjected to acts of violence motivated by intolerance, including severe beatings and sexual assaults.²⁰
- In **Uganda**, LGBTI refugees have been frequently targeted for violence due to their sexual orientation or gender identity and have struggled to access State protection.
- In **Ukraine**, refugees, asylum seekers, and migrants have long been the victims of xenophobic attacks and other forms of harassment, including a surge in

violence between 2006 and 2008 that resulted in several murders. In spring 2011, civil society reports noted a revival of violent attacks against dark-skinned foreigners.²¹

- In the **United States**, xenophobic attacks targeting people of Hispanic origin rose nearly 40 percent between 2003 and 2007. They declined in 2008 and 2009, before rising 10 percent in 2010. Refugees have also been the victims of hate crimes motivated by racism and religious intolerance.²²

The Impact on Protection and Integration

Xenophobic and other bias-motivated violence can contribute to a range of difficulties that deprive refugees, asylum seekers, internally displaced persons, stateless persons, and migrants of basic human rights protections. These forms of violence threaten the physical safety and security of affected individuals, undermine access to asylum, contribute to deprivations of nationality or denial of citizenship, and can encourage the increased use of detention. As UNHCR stressed in its December 2009 Guidance Note on Combating Racism, Racial Discrimination, Xenophobia, and Related Intolerance through a Strategic Approach: “Racism, racial discrimination, xenophobia, and related intolerance constitute a serious threat to the overall protection environment for people of concern.”²³

Individuals who fear such violence cannot move freely in the towns and cities where they reside, much less participate fully in the larger society. As one victim of an attack motivated by xenophobia explained, “Since the attack on me I feel very scared of people. I have lost every hope of living in this community.”²⁴ Bias-motivated violence sends a message of fear to entire communities that share a similar identity, and thus such incidents threaten the equal enjoyment of fundamental rights and freedoms by a broader group as well as the individual victim.²⁵ Fear of violence may prevent vulnerable individuals from seeking available protection and services—including education, medical care, food aid, and even access to UNHCR registration or formal asylum procedures as well as access to judicial institutions—for fear of venturing out to those places where they are

offered. The result is progressive marginalization and exclusion, largely barring those under threat from the exercise of a range of rights. As UNHCR recognized in its 2010 Note on Protection, delivering protection “requires combating racism and various forms of violence against individuals.”²⁶

Because of its impact on individuals, families and whole communities, xenophobic and bias-motivated violence impedes integration. At an OSCE ministerial-level meeting, UNHCR described its concern “with expressions of racism, xenophobia and discrimination throughout the OSCE area and beyond, which seriously endanger refugees’ rights to international protection including their integration prospects into host societies.”²⁷ Experts on migration have highlighted the severe obstacles to integration posed by bias-motivated violence against at-risk communities.²⁸

In its 2005 Protection Conclusion on Integration, the Executive Committee of UNHCR called on States, and other relevant actors, to “combat intolerance, racism and xenophobia ... and to foster empathy and understanding through public statements, appropriate legislation and social policies, especially with regard to the special situation of refugees with the aim of allowing refugees to participate actively in the civic, economic, and social and cultural life of the host country.”²⁹ Addressing bias-motivated violence is a key to laying the groundwork for successful integration policies.

State Obligations to Protect

Bias-motivated violence is always harmful to society but is particularly destructive when there is either no response or an inadequate response by State institutions. A failure by political leaders to speak out against such crime and to hold the perpetrators accountable amplifies the negative impact and the feeling of fear and vulnerability that victims and their communities feel. Such a failure to act also sends a message of impunity to those who commit such crimes. An expectation of impunity can contribute to an escalation of such attacks.

UNHCR has rightly noted that while “concerted efforts are required from all concerned parties—States, the United Nations, and other international and regional organizations, as well as NGOs and community groups—to address these issues,” ultimately “the success of any

such effort will be directly proportional to the political will of States to put in place systems for the protection of basic rights and mechanisms for ensuring their effective implementation.”³⁰

States have taken on obligations under international human rights law and made other commitments to protect individuals from discrimination, especially in its most violent forms.

- The **International Covenant on Civil and Political Rights (ICCPR)** (1966) transformed the post-war principles of nondiscrimination into treaty law. Among the rights guaranteed are the right to life (article 6) and security of the person (article 9)—rights that states have an obligation to ensure “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (article 2).³¹ The treaty, to which 167 States are now party, requires governments to report to the Human Rights Committee on the measures adopted to give effect to the rights recognized.
- The **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)** (1965) obligates states to combat racial discrimination and report to the CERD committee. The Convention, to which 174 states are party, obliges governments to condemn and eliminate racial discrimination by both public institutions and officials and private individuals, guaranteeing to everyone—without distinction as to race, color, or national origin, “the right to security of person and protection by the State against violence or bodily harm.”³² One of the Committee’s General Recommendations has stressed that States should collect comprehensive statistical and other information on complaints, prosecutions, and convictions in cases of racist or xenophobic violence.³³
- The **1951 Convention Relating to the Status of Refugees** contains a nondiscrimination provision in Article 3, which also applies to states that are party to the **Protocol Relating to the Status of Refugees**. Article 3 of the **1954 Convention Relating to the Status of Stateless Persons** also contains a nondiscrimination provision. The **Executive Committee of the UNHCR**, which now includes 85 state members, has repeatedly expressed concern about xenophobia, racism, and intolerance, and has

called on states—through its conclusions on International Protection—to combat racism, xenophobia, and intolerance, including through public statements and information to raise awareness, appropriate legislation and the adoption of comprehensive protection-based approaches.³⁴

- **The Durban Declaration and Program of Action** (2001) called on States to carry out thorough investigations and to combat impunity in cases of racist or xenophobic violence.³⁵ As part of the Durban Review Conference (2009), most U.N. Members States agreed in an **Outcome Document** that reaffirmed the responsibility of governments to respond to racist and xenophobic crimes and called on governments to collect reliable information on these and other forms of hate crimes.³⁶
- Regional human rights instruments, such as the **European Convention on Human Rights (ECHR)** (1953) have also contributed to the fight against discrimination. In particular, Protocol No. 12 to the ECHR, concerning the general prohibition of discrimination, entered into force in 2005 and has been ratified by 17 countries.³⁷ The implementation of these norms, in turn, has been monitored and facilitated by the European Court of Human Rights. In a similar way, the Inter-American Court of Human Rights applies the **American Convention on Human Rights**, ratified by 24 of 35 OAS member States, which includes nondiscrimination provisions.³⁸ The **African Charter on Human and People's Rights** also includes a prohibition against discrimination.
- States have likewise undertaken political commitments in regional intergovernmental organizations and structures, such as the **Organization for Security and Cooperation in Europe (OSCE)**, and the **Council of Europe (CoE)**. Member states in these bodies have made political commitments, including to collect data and publicly report on hate crimes, to develop adequate legal frameworks for response, and to establish specialized human rights and other bodies to ensure the enforcement of principles of nondiscrimination.³⁹ Member States of the **Organization of American States (OAS)** have also undertaken political commitments to combat discrimination and violence.⁴⁰

Governments have the duty to implement their international legal and political obligations to combat discrimination manifested in bias-motivated violence by transforming these principles into practical action.

Human Rights First's Ten-Point Plan for Combating Hate Crime (Appendix IV), if implemented by States, would go a long way toward securing the safety of refugees, asylum seekers, stateless persons, and migrants, as well as others who are vulnerable to bias-motivated violence. As States and UNHCR mark a series of important anniversaries, including the 60th anniversary of the Refugee Convention, and move forward in pledging and implementing pledges to take action to protect refugees, stateless persons and others, States can and should commit to taking the concrete and practical steps outlined in the Ten-Point Plan—and then implement those commitments.

Shortcomings in State Responses

There is little systematic documentation on the responses of States to bias-motivated violence. One of the few sources of information comes from the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR). Since 2007, the ODIHR has produced an annual report on hate crimes in the OSCE region (including all of Europe, North America, and the Former Soviet Union) collecting information from the participating States, U.N. agencies, NGOs and other actors on the extent of hate crime and the government responses. These reports include instances of and responses to hate crime motivated by racism and xenophobia targeting refugees, asylum seekers, and migrants.

A review of the ODIHR's reports indicate that while States have made some progress in recent years in their responses to violent hate crime, most are still falling short of meeting their commitments. For example, two important measures of a State's response to hate crime (as identified by the OSCE in Ministerial and other decisions) are: 1) systems for comprehensive data collection on hate crime; and 2) the adoption and enforcement of adequate legislation. With regard to these indicators, the report for 2010 revealed that:⁴¹

- Most governments have yet to develop monitoring systems that provide data on the bias motivations (e.g., racism, xenophobia, antisemitism, anti-Muslim intolerance, and homophobia) of violent crimes. Due to insufficient disaggregation of hate crime incidents, it remains difficult to assess the exact nature of the problem in a given country and to identify the targeted measures that would be most effective.
- A growing number of the 56 countries in the OSCE region are adopting criminal laws to expressly address violent hate crimes, largely in the form of penalty enhancement provisions. While 39 States have developed such legislation, 17 OSCE countries still have no express provisions defining bias as an aggravating circumstance in the commission of a range of violent crimes against persons. Furthermore, even in some countries that have adopted legislation, hate crime prosecutions remain rare, suggesting that law enforcement and criminal justice officials may not be fully aware or adequately trained as to the application of these provisions.

Outside of the OSCE region, many governments face similar challenges in their efforts to curtail racist and xenophobic violence against refugees, asylum seekers, migrants, and other non-nationals. However, criminal laws to address such violence exist only in a few States and any systematic monitoring is lacking.

Underreporting: One Key Obstacle to Better State Responses

Though there are numerous aspects to a comprehensive government response to hate crime, one particular obstacle is the problem of underreporting. In order to understand the nature and frequency of hate crime, respond to individual incidents, and develop sound public policy, governments must be aware of their occurrence.

Underreporting of crimes remains one of the principle impediments to improved government responses, especially among irregular migrants, refugees, asylum seekers, and displaced persons, and other vulnerable minorities.

There are many reasons for this kind of underreporting, including:

- fear of retaliation by the perpetrators of violent acts;
- fear that reporting incidents will lead to deportation back to persecution or other difficult or dangerous situations;
- fear of victimization by law enforcement officers, some of whom may be corrupt, may share the same biases as the perpetrators of the violence, or in some instances, may even be the perpetrators themselves;
- loss of faith in the ability of the State to provide protection;
- uncertainty about how/where to report the incident or how reporting will help the victims in their lives; and
- language barriers.

As a result, governments must make particular efforts to ensure that hate crimes are reported to the appropriate government body so that action can be taken to hold the perpetrators responsible in individual incidents and better measure state response over time. Those who come forward to report such crimes should not suffer negative consequences such as detention or deportation due to their decision to approach government authorities.

Governments can increase confidence in the system—and encourage reporting—by 1) speaking out publicly against bias-motivated violence, 2) responding to instances of abuse by law enforcement officials against victims of such violence, 3) developing systems of third party reporting, 4) providing guarantees that victims' legal status in the country will not be regarded when reporting an incident to the police, 5) exploring the potential of protection visas for victims of violent crimes, and 6) enhancing outreach to UNHCR, civil society groups, and other entities that may have regular and direct contact with the various populations who have been victims of violence.

A Role for International Bodies

States have the primary responsibility to protect individuals from all types of violence and the duty to implement their international legal obligations to combat

discrimination manifested in bias-motivated attacks. At the same time, the role of various UN agencies and other international organizations is essential given the multiple populations affected by xenophobic and other bias-motivated violence, and the different mandates, roles, and expertise of the various relevant entities.

UNHCR rightly recognized in a 2009 Guidance Note on Combating Racism and Xenophobia the need for “a strategic broad-based alliance of partners from different sectors,” identifying as key partners the OHCHR, U.N. field offices, the IOM, as well as regional organizations, civil society actors, the media, and the population at risk.⁴²

The structure or form of such a “strategic broad-based alliance” has not yet been devised, although progress toward better cooperation is evident. The UNHCR and ODIHR recently entered into a Memorandum of Understanding in order to formalize their collaborations and roles in this area. UNHCR, IOM, and the OHCHR are all members of the Global Migration Group (GMG), which has recently provided a forum for discussion on the issue. Reaffirming a mutual concern, the GMG member agencies in September 2010 called “on States, civil society, the private sector, the media and host communities to ... work actively to combat xenophobia, racism, and incitement to discrimination in national politics and in public discourse, to protect all migrants, as well as to actively promote tolerant societies in which every person can enjoy his or her human rights, regardless of migration status.”⁴³

Given the differing, yet complementary, mandates and responsibilities of various U.N. agencies and international organizations, there is a critical need for greater clarity—including within the United Nations system—regarding the specific roles of the various agencies and organizations, at the global, regional and local levels. Without the designation of lead agencies, the ability of the international community to address these challenges, influence state practice and provide protection when necessary to affected populations will be undermined. In addition to delineating leadership and other specific roles at global, regional and national levels, U.N. agencies and international organizations should also continue to increase their attention and collaborative efforts to address xenophobic and bias-motivated violence affecting refugees, asylum seekers, internally displaced persons, stateless persons, migrants, and other non-nationals.

UNHCR

The U.N. Refugee Agency engages in efforts to combat xenophobia and racism from the perspective of its mandate to provide international protection to refugees, assist governments in finding durable solutions for them, as well as to prevent and reduce stateless and protect stateless populations.⁴⁴ In line with its mandate and responsibilities, UNHCR has an important role to play in working with governments, civil society and victims in an attempt to better document xenophobic violence that affects the populations “of concern” to UNHCR, assist these victims in reporting violence to the authorities, and advocate accountability through criminal justice systems.

António Guterres, the High Commissioner for Refugees, has spoken out publicly against xenophobia since his election to the post in 2005. The Executive Committee of UNHCR has repeatedly urged UNHCR (as well as States) to take steps to address xenophobia, racism and intolerance—including in conclusions from 1992 and 2002.⁴⁵ While several UNHCR offices have developed projects or initiatives aimed at addressing xenophobia and bias-motivated violence, and efforts in this area are increasing, there is a need for greater consistency to ensure that UNHCR country offices engage proactively to address these protection challenges when refugees or other populations of concern to UNHCR are among those affected by xenophobia and bias-related violence. In this regard, it is important that initiatives to address xenophobia do not focus only on awareness raising campaigns, but also include concrete protection mechanisms focusing both on prevention and responses.

Over the last few years, UNHCR has taken some important steps at various levels of the agency toward addressing protection of refugees, asylum seekers, stateless and internally displaced persons who are affected by xenophobia, racism, intolerance, and bias-motivated violence, including:

- **The 2009 Guidance Note:** In December 2009, UNHCR’s Division of International Protection Services (DIPS) issued a Guidance Note on “Combating Racism, Racial Discrimination, Xenophobia, and Related Intolerance through a Strategic Approach.” The Guidance Note outlines for UNHCR offices around the world as well as for governmental authorities and civil society key elements of a strategic approach to tackle racism, xenophobia, and hate

crimes—including monitoring and tracking incidents, providing support to victims, and engaging diverse networks and actors such as law enforcement officers, government institutions and officials, and others. The Note also cites Human Rights First’s Ten-Point Plan for Combating Hate Crime which outlines steps that states should take to address bias-motivated violence. In its 2011 Note on International Protection, UNHCR points to “a noticeable rise in xenophobia and other forms of discrimination against asylum seekers and refugees” and reaffirmed that UNHCR “has made combating racism and related xenophobia a key protection priority.”⁴⁶

- **Urban Refugee Policy:** UNHCR’s urban refugee policy, released in September 2009, acknowledges that urban refugees can face xenophobia and discrimination, and commits UNHCR to further addressing these challenges. It also describes the importance of UNHCR’s partnerships with local and national officials, including police and judiciary, the private sector, NGOs, legal networks, and other parts of civil society in protecting asylum seekers, refugees, and migrants in urban settings.⁴⁷
- **Field-Based Projects:** UNHCR has developed or supported several specific projects in various countries—including Ukraine, South Africa, Costa Rica, and Italy—that are aimed at countering xenophobia and related protection problems.⁴⁸ Several of the projects focus on awareness-raising, but others are more targeted, such as the development of a code of conduct for journalists in Italy and a project aimed at developing an “early warning” system in South Africa. The Diversity Initiative in Ukraine, which is described below, is a multifaceted effort aimed at improving documentation, working with government officials, relating concerns to the police, bringing together communities affected by violence, and raising awareness among the general public.⁴⁹
- **The Memorandum of Understanding between UNHCR and OSCE/ODHIR (See Appendix IV):** In June 2011, the collaborative relationship between the UNHCR and the OSCE Office for Democratic Institutions and Human Rights (ODHIR) was formalized by the signing of an official Memorandum, in which the two bodies agreed, among other things, to share information for annual reporting, provide joint

technical advice to States, train staff, issue joint communications, and prepare pilot projects.

While UNHCR has taken these and other steps to address the many serious protection challenges sparked by xenophobia, racism, and intolerance, there is more that the Agency can and should do to facilitate and support the development of effective strategies and projects in some local UNHCR offices and to encourage states to take more action to address these protection challenges. In a number of States, for instance, UNHCR is well placed to assist affected refugees, asylum seekers, and other persons of concern to improve reporting of incidents to the authorities, to help lead collaborative strategies, and to encourage State leaders to condemn bias-motivated violence and to prosecute the perpetrators of such acts.

Office of the High Commissioner for Human Rights (OHCHR)

The OHCHR has a broad mandate to address racism and xenophobia. Lacking the operational capacity to provide direct assistance to vulnerable migrants, non-nationals and others across the globe, it works to press State institutions and provide technical assistance with the goal of addressing commitments to combat xenophobia and other forms of intolerance. The OHCHR recently reaffirmed that “the protection and promotion of the human rights of all migrants is a priority.”⁵⁰

High Commissioner Navi Pillay has reminded states of their obligations to protect migrants from bias-motivated violence, emphasizing that: “Governments have obligations to ensure that xenophobic violence, racism, and related intolerance against migrants and their communities have no place in their societies.”⁵¹ The OHCHR has raised these obligations in their engagement with the Universal Periodic Review and in their work with the Special Procedures.

The OHCHR’s Anti-Discrimination Section is responsible for developing national action plans and supporting governments and other stakeholders in implementing the Durban Declaration and Program of Action (DDPA) and the Outcome Document of the Durban Review Conference. The DDPA and the Outcome Document urge States to develop national action plans to combat racism, xenophobia, and intolerance; to monitor the implementation of these plans; and to establish mechanisms to collect, analyze, and disseminate reliable

statistical data. The Anti-Discrimination Section provides guidance on the development of national action plans, antidiscrimination legislation and educational materials.

The OHCHR has adopted an all-inclusive approach to combating discrimination, evaluating its impact on the lives of indigenous people; migrants; national, ethnic, religious, and linguistic minorities; persons with disabilities; women; and lesbian, gay, bisexual, transgender, and intersex persons. The OHCHR has explained that it “aims at building national capacity to eliminate migration-related discrimination through advisory services, research and analysis, raising awareness and mobilizing support for antidiscrimination measures—such as legislation, policies and programs—and engages with the wider community forging partnerships in this field.”⁵²

OHCHR is well-placed to play an enhanced role in addressing bias-motivated violence and related forms of intolerance.

U.N. Special Rapporteurs

The U.N. Special Rapporteur on Contemporary forms of racism, racial discrimination, xenophobia, and related intolerance has on several occasions stressed the vulnerability of refugees to bias-motivated attacks. For example, at a June 2010 discussion—co-organized by Human Rights First and UNHCR at the Annual UNHCR-NGO Consultations—the previous mandate-holder, Githu Muigai, stressed that “refugees and asylum seekers continue to be victims of various forms of racism, racial discrimination, xenophobia, and intolerance.”⁵³ Dr. Muigai also called for the adoption of specific laws for racist and discriminatory acts. Such legislation should be revised if the legal provisions are discriminatory or “provide insufficient protection in case of racist violence targeting refugees and asylum seekers.”⁵⁴ The Rapporteur has stressed the need for “coordinated strategies and joint initiatives involving a large range of actors, including civil society” to enhance protection against racism and xenophobia.⁵⁵

The U.N. Special Rapporteur on the Human Rights of Migrants Jorge Bustamante (2005-2011) pledged, from the start of his mandate in 2005, to collect and analyze “data on indicators of changes in anti-immigrant ideologies such as statistics on police profiling of or hate crimes against aliens.”⁵⁶ Bustamante raised the problem of hate crime violence during country visits, including to South

Africa, where the Special Rapporteur stressed the need to increase protection of migrants, encouraging the government to enact hate crime legislation to do so.⁵⁷ The current mandate-holder, François Crépeau, has similarly emphasized the challenges that migrants face as a result of xenophobia.⁵⁸

International Organization for Migration (IOM)

With 132 member States, IOM’s mission declares that the organization is dedicated to the principle of humane and orderly migration. IOM’s efforts to address xenophobia and related violence have mainly relied on various awareness-raising campaigns. IOM, working with UNHCR, played a leading role in launching the Diversity Initiative in Ukraine (which is described below). IOM’s Director General William Lacy Swing has expressed concern about migrants being subjected to “unfair and misinformed labeling and scapegoating” and “in the worst cases to racism, discrimination and xenophobia” and has stated that “IOM is committed to do everything possible to prevent the victimization and criminalization of migrants.”⁵⁹

Best Practice Examples

A number of States have laws and law enforcement strategies that present examples that should be supported and replicated. For instance, a number of states have developed hate crimes legislation and other effective strategies for responding to hate crimes.⁶⁰ State strategies and government initiatives can be particularly effective, especially if civil society is involved from the beginning of the process. While effective hate crime legislation and law enforcement strategies are essential, there are also complementary strategies that can be advanced with the support of international organizations and civil society and that can help encourage more effective law enforcement efforts and assist in protecting victims.

Outlined below are three examples of strategies for combating violence motivated by xenophobic, racist, and other bias that have involved coalition advocacy, public reporting, and documentation at the local and international level. Some of these initiatives, or aspects of them, could be replicated, with appropriate adjustments due to the differing challenges in different locations.

Coalition Building and Multipronged Strategy: Ukraine's Diversity Initiative

Beginning in 2005, nongovernmental monitors in Ukraine began documenting a dramatic rise in violent hate crimes, with a six-fold increase in documented crimes between 2006 and 2008. Hate crimes in Ukraine have targeted a range of "visible minorities," including people of African and Asian origin and Jews, as well as people from the Caucasus and the Middle East. Asylum seekers, refugees, and labor migrants have been among the principle targets of these hate crimes.

In 2006, the Ukraine Offices of UNHCR and IOM partnered with a number of concerned civil society groups to coordinate a uniform response to hate crime impacting refugees, migrants, and other populations in Ukraine. In April 2007, the "Diversity Initiative"—a coalition of dozens of entities, including domestic and international NGOs and agencies—was launched to coordinate efforts to raise awareness of the problem, provide assistance to victims, and advocate a more robust government response.

The Diversity Initiative's participants have provided direct medical and legal assistance to victims of hate crime; engaged with the Ukrainian government, bringing attention to individual cases of hate crime and pressing for accountability through law enforcement and prosecutions; produced legal analyses of relevant antidiscrimination and hate crime legislation; and engaged the general public directly through conferences, roundtables, public events, and publications.

After 2008 and following pressure from domestic and international actors, the authorities in Ukraine publicly signaled that racist violence was unacceptable, formed an interministerial commission to combat xenophobia, and began to address hate crimes in a more systematic way. The number of recorded hate crime attacks decreased markedly in 2009 and 2010, and the Diversity Initiative's partner organizations played a key role in achieving this result.

A combination of factors contributed to the early success of the Diversity Initiative: the strong leadership initially provided by international organizations like UNHCR and the IOM, its multipronged strategy, its diverse network of grassroots human rights and community organizations, the support it received from foreign embassies in Ukraine, and its efforts to work closely with both national and local

authorities in Ukraine. Sustained commitment from all participants is necessary to ensure continued progress, particularly as monitoring suggests that bias-motivated violence is on the rise again in 2011. The ability of international institutions to reengage NGOs with the same commitment and interest that existed when this coalition first came together will determine the future of the Diversity Initiative's lobbying and data collection efforts.

This framework of cooperation has provided a useful model for combating hate crime, elements of which could be replicated elsewhere.

Public Reporting on Xenophobic Violence: the South African Human Rights Commission

Public reporting by human rights or antidiscrimination bodies that address racist and xenophobic violence are important efforts to raise the profile of these human rights concerns and to outline and press for government responses. One such example of a study is the March 2010 report of the South African Human Rights Commission (SAHRC).

The SAHRC is a national human rights institution with a constitutional mandate. Following the May 2008 wave of violence against foreigners that left 62 people dead and hundreds of thousands displaced, at the request of civil society the Commission carried out an official investigation and published a report on the "Issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence against Non-Nationals."

The findings of the SAHRC's report included:

- Weaknesses in intergovernmental coordination and institutional processes hindered the response to the 2008 crisis.
- Progress has been made in some areas in acknowledging and preparing for the contingency of future xenophobic attacks; however further effort will be required to maintain this progress.
- Judicial outcomes for cases arising from the 2008 violence have limited the attainment of justice for victims of the attacks and have allowed for significant levels of impunity for perpetrators.

The Commission acknowledged its own accountability in the crisis as well and examined the need for better

systems of monitoring and redressing human rights violations, including violent bias-motivated attacks.

Although the governmental response to the 2008 crisis was inadequate, SAHRC recognized the subsequent positive steps that have been taken to ensure future preparedness. The National Prosecuting Authority has begun monitoring post-2008 cases of xenophobic violence, and certain provinces have drafted contingency plans for widespread xenophobic attacks.

In its report, SAHRC provided specific recommendations for improving government policies, including that:

- The Department of Justice and Constitutional Development develop hate crimes legislation and support measures to institute it, and that the South African Police Services ensure training in hate crimes.
- The South African Police Services review record keeping systems and information collation mechanisms, standardize reporting, draw up guidelines, and—working with the Department of Justice—ensure that prejudice-related crimes against non-national individuals and opportunistic crimes exploiting the marginal position occupied by non-nationals receive adequate focus and judicial response.
- The Department of Home Affairs work with police and Disaster Management to identify incidents that may be precursors to larger acts of xenophobic violence.

By providing a full set of recommendations for government action, backed up by detailed analysis, the SAHRC outlined a comprehensive plan for addressing bias-motivated violence in South Africa and committed to monitoring the plan's implementation. This kind of report, by a governmental human rights commission, is a step that could be replicated in other places. Building in a process and resources to monitor the implementation of recommendations made by such a commission—as well as to hold relevant authorities accountable—would be an important addition to this model.

Documenting and Responding to Bias-Motivated Violence: OSCE and UNHCR

A new formal agreement between the UNHCR and the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) was launched in June 2011. Both ODIHR and UNHCR have long recognized the need for more in-

depth collaboration on combating racism, discrimination, and hate crimes. The OSCE Ministers have tasked ODIHR with a mandate to provide States with tools to enhance their responses to hate crime. Since 2004, ODIHR has produced and distributed policymaking guidelines and educational tools on hate crime legislation, data collection, and response. It has also facilitated trainings on documenting and responding to bias-motivated attacks for law enforcement and criminal justice officials and for civil society actors. In December 2009, OSCE Ministerial Decision 9/09 on "Combating Hate Crime" (Appendix III) reaffirmed State commitments to combat bias-motivated violence.

Since 2007, the ODIHR has also produced an annual hate crime report on the OSCE region. The report includes instances of hate crime motivated by racism and xenophobia against refugees and asylum seekers. ODIHR solicits information from States and has supplemented its reporting to more accurately illustrate the extent of the problem with information submitted by NGOs and other international bodies like UNHCR. UNHCR field offices have increasingly submitted information about cases to the ODIHR: in 2009 11 UNHCR offices submitted information, while in 2010 that number increased to 21.⁶¹

Efforts are underway to expand this cooperation to include: more systematic documentation by UNHCR field offices for ODIHR annual reports; training for UNHCR protection officers in documenting and responding to racist and xenophobic hate crime; and joint advocacy in responding to individual incidents and seeking accountability. A Memorandum of Understanding between UNHCR and ODIHR (Appendix IV)—signed on June 22, 2011, in Geneva—officially formalizes the partnership.

This partnership could encourage other international organizations and agencies to develop formal collaborations to address these challenges. At the same time, the expertise and partnership central to this MOU should also be leveraged by UNHCR as it takes steps to improve protection from xenophobic, racist and other bias-motivated violence in other regions of the world.

Recommendations

There are a range of measures that States, UNHCR, and other bodies can take to both continue and strengthen efforts to combat xenophobic and other bias-motivated violence. Human Rights First makes the following recommendations.

To States:

Governments and Political Leaders should:

- **Acknowledge and condemn acts of bias-motivated violence whenever they occur** by sending immediate, strong, public, and consistent messages that bias-motivated violence—including against refugees, asylum seekers, stateless persons, displaced persons, and migrants—will be investigated thoroughly and prosecuted to the full extent of the law;
- **Strengthen enforcement and prosecute offenders** by ensuring that those responsible for acts of bias-motivated violence are held accountable under the law and that the prosecution of such acts against any individuals, regardless of their legal status in the country, is a priority for the criminal justice system;
- **Monitor and report bias-motivated violence**, including against migrants, refugees, asylum seekers, and stateless and internally displaced persons, by maintaining official systems of monitoring and public reporting to provide accurate data for informed policy decisions to combat such violence;
- **Reach out to affected communities** by conducting outreach and education efforts to communities and civil society groups—including those consisting of or working with migrants, refugees, asylum seekers, and stateless and internally displaced persons – in order to 1) reduce fear and assist victims, 2) advance police-community relations, 3) encourage improved reporting of acts of bias-motivated violence to the police, 4) protect victims who are undocumented from being deported following their decision to report incidents to the authorities, and 5) improve the quality of data collection by law enforcement bodies; and
- **Speak out against intolerance.** Political leaders, government and other officials serving in public office should pledge: to refrain from using rhetoric that incites hatred and discrimination against refugees,

asylum seekers, stateless persons, displaced persons, migrants, and others; to speak out publicly and consistently to condemn violence and rhetoric that incites violence when it occurs; to build political consensus—reaching out across political party lines—to encourage speaking out.

As the international community marks the 60th Anniversary of the Refugee Convention and the 50th Anniversary of the Statelessness Convention, States should pledge to take the steps outlined above and should also pledge to support international efforts to address these protection challenges by supporting the work of international organizations and civil society groups that develop effective initiatives for addressing these challenges in a proactive, multipronged, and collaborative manner.

To UNHCR

UNHCR has taken a number of steps to address—as serious protection challenges—xenophobic and other bias-related violence that affects refugees, asylum seekers, stateless persons, internally displaced persons and other persons of concern to UNHCR.

Recommendations for UNHCR headquarters and field offices include:

Report xenophobic and other bias-violence incidents and provide assistance to victims:

- With the victim's consent, promptly and systematically report incidents of bias-motivated violence against refugees, asylum seekers, and other persons of concern to the government, and press for criminal justice and other appropriate responses;
- Report incidents to UNHCR headquarters, and within OSCE participating States, to the ODHIR;
- Develop an effective referral system to ensure access to legal, medical, and other services for persons of concern to UNHCR who are affected by xenophobic and other forms of bias-motivated violence;
- Work together with civil society networks, state authorities, and others to increase awareness among the general public about bias-motivated violence; and
- Work closely with (or in some locations continue working closely with) OHCHR and IOM, to ensure that

incidents of violence against migrants and other populations are reported and the victims assisted.

Enhance operational guidance, strategies, and capacity:

- Develop operational guidance to assist local offices as they design and implement policies pursuant to the 2009 Guidance Note on “Combating Racism, Racial Discrimination, Xenophobia, and Related Intolerance Through a Strategic Approach”;
- Document and evaluate local projects and strategies, and develop models of effective approaches to combat xenophobic and bias-motivated violence;
- Ensure that sufficient staff capacity—both at headquarters, including within the DIPS, and in UNHCR field offices—is allocated to addressing this protection challenge;
- Conduct, or facilitate access to, regular training of protection staff regarding documenting and responding to bias-motivated violence; and
- Work with OHCHR, IOM, and other key partners, whether through the Global Migration Group (GMG) or otherwise, to develop a comprehensive long-term plan and coordination mechanism for addressing xenophobic and other forms of bias-motivated violence.

Advocate with States for improved and proactive responses:

- Raise concerns and recommendations for combating bias-motivated violence in meetings with key government officials—including police and justice officials during bilateral and other meetings—including during high level meetings;
- Encourage States, including in the context of the pledges and Ministerial Statement planned for the commemoration of the anniversaries in 2011, to commit to take concrete steps—such as those outlined above and in Human Rights First’s Ten-Point Plan—to address xenophobic and bias-motivated violence; and
- Propose an updated Executive Committee Conclusion which condemns xenophobic and other bias-motivated violence, urges a stronger State response,

and encourages a collaborative effort that includes States, UNHCR, civil society, and other stakeholders to address xenophobic and other bias-motivated violence against refugees, asylum seekers, stateless and other persons of concern to UNHCR.

To the Office of the High Commissioner for Human Rights (OHCHR)

- Ensure that staff are instructed and adequately trained to report on all forms of bias-motivated violence, including against migrants, refugees, asylum seekers, and stateless and displaced persons;
- Continue to regularly report on and include instances of bias-motivated violence and State responses in reports to the Human Rights Council and in other U.N. forums, and include migrants, refugees, asylum seekers, stateless persons, internally displaced persons in these and other materials and activities;
- Raise with State officials their duty to protect migrants, refugees, asylum seekers, and others, from bias-motivated violence and press governments to take action—along the lines of the recommendations to States that are outlined above;
- Enhance efforts to use National Action Plans as tools to encourage greater state protection from xenophobic and other bias motivated violence for migrants, refugees, asylum seekers, internally displaced persons, stateless persons, and foreign nationals;
- Support and encourage national human rights institutions in their efforts to document and press for government responses to xenophobic and other bias-motivated violence; and
- Work with UNHCR, IOM, and other key partners, whether through the Global Migration Group (GMG) or otherwise, to develop a comprehensive long-term plan and coordination mechanism for addressing xenophobic and other forms of bias-motivated violence.

To the U.N. Special Rapporteur on the contemporary forms of racism and the

U.N. Special Rapporteur on the human rights of migrants

- During country visits, in reports, public statements, and in engagement with States, raise the problem of racist and xenophobic acts and other forms of bias-motivated violence, shortcomings in States' responses, as well as recommendations for improved state action; and
- During country visits, meet with nongovernmental organizations engaged in efforts to combat xenophobic and other bias-motivated violence.

To the International Organization of Migration (IOM)

- Ensure that staff are instructed and adequately trained to report on bias-motivated violence, including against migrants, refugees, asylum seekers, and stateless and displaced persons;
- Encourage political leaders and other public personalities to speak out against xenophobia and bias-motivated violence;
- Develop an effective referral system to ensure access to legal, medical, and other services for migrants affected by xenophobic and related forms of bias-motivated violence;
- Urge governments to develop more adequate responses to bias-motivated violence, along the lines of the recommendations to States above, including through improvements to law enforcement agencies, increased prosecutions, and the development of hate crime legislation; and
- Work with UNHCR, OHCHR, and other key partners, whether through the Global Migration Group (GMG) or otherwise, to develop a comprehensive long-term plan and coordination mechanism for addressing xenophobic and other forms of bias-motivated violence.

To the OSCE Office for Democratic Institutions and Human Rights (ODIHR)

- Continue to raise with States related commitments, including the implementation of OSCE Ministerial Decision No 9/09 on "Combating Hate Crime" (Appendix II);
- Maintain robust programs to provide technical and other assistance to participating States and to civil society in their efforts to address hate crimes;
- Work to implement the activities outlined in the Memorandum of Understanding between the ODIHR and UNHCR, including conducting research, training, monitoring, and reporting on issues in the field of racism, discrimination, xenophobia, and related intolerance; and
- Seek strategic opportunities to share policies and best practices developed in order to improve efforts to address bias-motivated violence in key locations outside of OSCE region.

To Civil Society Organizations

- Urge States to take steps to proactively address xenophobic and other forms of bias-motivated violence such as the measures outlined in Human Rights First's **Ten Point Plan for Combating Hate Crimes**—a) including to advocate that states monitor, respond to, and publicly report on attacks; b) to condemn acts of bias-motivated violence whenever they occur; c) to strengthen law enforcement and prosecute offenders; and d) to reach out to affected communities. States can be urged to commit to take some of these steps in the context of the 60th anniversary of the Refugee Convention and 50th anniversary of the Statelessness Convention, and beyond;
- Develop mechanisms to monitor, record, and publicly report on incidents of xenophobic violence as a means of addressing current levels of underreporting and encouraging improved reporting by states;
- Report progress or shortcomings on State efforts to combat xenophobic and other bias-motivated violence to international mechanisms such as the Human Rights Committee, CERD, Human Rights Council, as

well as in regional mechanisms such as the African Commission on Human and People's Rights, the OSCE, the Council of Europe, the Organization of American States, and others;

- Develop partnerships and coalitions among groups involved in combating different forms of bias-motivated violence with a view to strengthening engagement with the authorities, promoting policies that aim to enhance state responses to all forms of bias-motivated violence, and enhancing the use of human rights mechanisms as advocacy tools for the protection of victims of such incidents;
- Provide legal, medical, and other relevant services to victims of bias-motivated violence, and advocate for access to state services for victims;
- Support and assist victims in reporting incidents of bias-motivated violence to the relevant authorities, advocate for prosecutions and for mechanism to ensure that victims who are undocumented or lack legal status are not deported following their decision to report incidents to the authorities;
- Treat protection from xenophobic, racist, and other bias-motivated violence as a protection challenge, develop strategies to address this challenge, advocate for action, and address victims' needs.

Appendix I: Select Country Profiles

Although the incidence of xenophobic and other bias-motivated violence may vary from country to country, no state is immune from the intolerance at the root of this violence. This section offers brief country profiles from around the globe regarding the nature of xenophobic violence and related abuses occurring in those countries.

This section is by no means intended to be all-encompassing either in terms of the countries covered or of the particular cases of violence referenced. Nor is the number of cases that have been included in any way directly proportional to the frequency of incidents occurring in that country. In many cases, the availability of incident reports may be less a reflection of the severity of the problem as much as a product of better government and NGO monitoring, more extensive public reporting, and greater confidence in the criminal justice system. Where no government monitoring and public reporting is available—as is largely the case for most of the countries below—we rely on credible reporting from NGOs and the media.

DOMINICAN REPUBLIC

In the Dominican Republic, Haitian migrants, refugees, and asylum seekers, as well as individuals of Haitian descent, have been subjected to both racist and xenophobic attacks.⁶² At times, terms such as the threat of “Haitianization” have been employed in official discourse.

While it is difficult to assess the extent of day-to-day harassment and assaults, incidents of extreme violence, including lynchings and beheadings, have been reported by the media and various NGOs. These attacks have sometimes come in the form of vigilante-style reprisals for alleged assaults or grievances attributed to Haitians. In November 2008, in the municipalities of Neiba and Guayubín, mob attacks against Haitians left at least two dead with others sustaining severe injuries.⁶³ In May 2009, a Haitian man was beheaded by an angry mob in the nation’s capital, Santo Domingo.⁶⁴ In October 2009, a group of armed assailants attacked and killed three Haitians, including two minors, who were preparing charcoal from illegally harvested trees near Jimani.⁶⁵ While incidents of these more severe attacks seemed to decline in the immediate aftermath of the January 2010

earthquake, recent media reports have indicated that the violence still continues. In January 2011, a 3-year-old Haitian boy was killed in an arson attack on his family’s house by a group of Dominicans. The attack reportedly came a few days after an incident involving the boy’s father and a group of men in which a Dominican man was allegedly injured.⁶⁶

Racist and xenophobic attacks are seldom investigated in a thorough and impartial manner and those responsible are rarely held accountable.

EGYPT

Egypt is host to a diverse population of refugees and asylum seekers comprising more than 30 different nationalities. Larger populations come from countries such as Sudan, Somalia, and Iraq with growing numbers from Ethiopia and Eritrea.⁶⁷

There is no official data collection or reporting system concerning xenophobic or bias-motivated crime in Egypt making it difficult to assess the extent of such crime in Egypt. However, human rights and refugee protection organizations have reported that xenophobic and racist harassment and violence against refugees, asylum seekers, and migrants is prevalent.⁶⁸ One researcher reported that “refugees and migrants, especially those from non-Arab countries experience racism and xenophobia on a day-to-day basis.” Discrimination ranges from “harassment on the streets to extortion from landlords to poor treatment at hospitals” as well as violent attacks.⁶⁹ There are recent reports stating that refugees living the Cairo have faced more discrimination and less help from the authorities since President Hosni Mubarak’s removal from power.⁷⁰ In a 2008 Human Rights Watch study that included interviews with several Sudanese refugees and asylum seekers, many reported being subjected to racist violence and abuse by local Egyptians. Such abuse ranged from acts of verbal abuse to physical assaults. Of those who sought protection from the police, many reported being met with little or no assistance.⁷¹

In light of racist and xenophobic sentiments in the country, violence against African migrants in the Sinai region is particularly concerning. Over the past few years, Egyptian border guards have reportedly killed at least 85 people trying to cross the border into Israel, including some who appear to have been seeking asylum.⁷² Egyptian authorities have also been criticized for failing to

prosecute traffickers who were kidnapping, detaining and torturing African refugees and migrants—holding them hostage for ransom and in some cases harvesting their organs.⁷³

GREECE

In recent years, there has been an apparent increase in violence against refugees, asylum seekers, and migrants in Greece. Refugees and migrant populations there are diverse and include nationals from Afghanistan, Iraq, Iran, Pakistan, Sudan and Somalia.

Racist attacks and threats against these groups by so-called "angry citizens", including members of the extreme right organization "*Chrisi Avgi*" have been reported in the media and by NGOs, along with suggestions that law enforcement officials have often been slow to respond to such crimes.

On May 10, 2011, a wave of violence broke out in Athens following the fatal attack of a Greek man in a neighborhood populated largely by migrants. Though the perpetrator of the attack was not identified, far-right and nationalist groups reportedly blamed foreigners whom they hold generally responsible for rising crime and unemployment in Greece. During the course of the next few days ultranationalist mobs took to the streets in neighborhoods with large migrant populations and attacked more than 100 Asians and Africans. Hundreds of youth wielding baseball bats reportedly chased, punched, and kicked foreigners; dozens of immigrant-owned shops were attacked or looted. Dozens of people were injured, with one reported death of a 21-year-old Bangladeshi migrant.⁷⁴

Many of the incidents reported over the last few years involved attacks on houses where foreigners resided, attacks on refugees' shops, and beatings and stabbings of refugees, asylum seekers, and migrants in the streets. Some of these incidents are highlighted below:

- In May 2009, five African migrants were injured after far-right demonstrators hurled stones and fireworks at the eight-story building, where they were living. The attack occurred after a march by the anti-immigrant group, Golden Dawn, in which protesters waved flags stating "Foreigners mean crime."⁷⁵
- In March 2010, a gang of mostly teenagers set fire to a house in Sparta (Peloponnese) where a group of

Bangladeshi migrants slept; the youth were charged with arson and a racist attack.⁷⁶

- In June 2010, in the Aghios Panteleimonas neighborhood of Athens, right-wing extremists severely beat a Pakistani migrant.⁷⁷
- In July 2010 a group of approximately 60 extremists attacked migrants in the neighborhood and vandalized migrant houses, two cafes and a makeshift mosque; a Bangladeshi migrant was injured during the attack. During the same month, a gang of 10 men reportedly beat four Afghan migrants with clubs after breaking into their home in Areopoli, Peloponnese.⁷⁸
- On September 11, 2010, in Agios Panteleimonas an Afghan employee of the NGO Medecins du Monde (MdM) was beaten by a mob of 20 people, some carrying iron bars. The attacks were so severe that the victim was rendered unconscious.⁷⁹

INDIA

India is host to a large number of refugees, asylum seekers, migrants, and other displaced persons—from neighboring countries such as Sri Lanka, Bhutan, China and Burma. A small but significant community of refugees also comes from Somalia. India is a very color conscious society and reports of racism towards Africans are not uncommon. Violent attacks have also been reported against specific refugee groups such as the Chin from Burma and Somali refugees. Due to UNHCR's limited presence in areas outside the capital, persons seeking asylum must generally travel to New Delhi to apply for protection. In New Delhi, differences in appearance, language, culture, and religion set these asylum seekers apart from the local population, and some have faced xenophobic violence and harassment.

Assaults on Chin minorities have been reported including sexual assaults targeting Chin women.⁸⁰ In February 2008, local youths attacked a Chin asylum seeker in West Delhi, reportedly beating him for more than an hour and then stealing his money.⁸¹ In April 2010, a Chin refugee sustained injuries after bricks and stones were thrown at his head by unknown locals as he was out on the street with his two daughters trying to collect water at a public tap. Also in April 2010, a Chin refugee was beaten and left unconscious on the ground near Jeewan Park, Uttam Nagar while he was making his way home after work.⁸² In October 2010, a Chin woman was attacked and raped as

she made her way home from the market at Hastal, West Delhi.⁸³

In India, Somalis are also the subject of xenophobic harassment and violence. Though incidents of xenophobic violence against Somalis have garnered less attention, a few locally-based NGOs have sought to raise awareness on the issue. In a June 2008 report discussing the problems faced by Somali refugees in India, Voice of the Asia Pacific Human Rights Network noted as follows:

Refugees often face harassment from a xenophobic local population...India is a color conscious society and Somali refugees are easy targets of racist taunts, harassment and discrimination. This adds to their discomfort and impedes their ability to earn a livelihood in the informal sector. They are thus more disadvantaged than many other refugee groups who are able to blend into the general population and can pass off [as] Indians. When assaulted, the Somalis are threatened and instructed not to make trouble, compelling them [to] live with the uneasy knowledge that they have no real protection.⁸⁴

ITALY

Refugees, asylum seekers and migrants in Italy come from a diverse range of countries including Albania, China, Ghana, Egypt, Eritrea, Libya, Morocco, Nigeria, Romania, Somalia, and Senegal.⁸⁵ The Italian government has only recently begun to collect data on hate crimes, and what exists is not disaggregated by specific victim group. An estimate of the number of hate crimes targeting refugees, asylum seekers and migrants or specific ethnicities is therefore difficult. Various NGOs based in Italy however compile case information based on interviews with victims and media reports of racist and xenophobic violence. During the period from January 1, 2007 to July 14, 2009, Lunaria, an antiracism NGO, registered 398 media reports of such crimes, with 186 physical assaults, 18 of which were fatal. Immigrants and refugees were among the most frequent victims.⁸⁶

Specific incidents of racist and xenophobic violence that have been reported include:

- In March 2010, masked men armed with sticks destroyed a Bangladeshi-owned internet café, injuring four.⁸⁷

- On January 7, 2010, a group of Italian men with air guns shot at two African migrant workers on their way back from work in the town of Rosarno. In the ensuing mob attacks and clashes that occurred over the next few days, 11 African migrant workers were seriously injured. Over 1,000 migrants left the town following the violence, most of them evacuated by law enforcement personnel.⁸⁸ Three residents of the Rosarno area were later arrested in connection with some of the attacks against the foreigners. However none of the charges included the aggravating circumstance of racist motivation.⁸⁹
- In July 2009, Willy Lulua, a refugee from the Democratic Republic of Congo, was attacked by two men armed with a bat and a knife, as he was distributing flyers in a central neighborhood in Rome. During the attack Lulua was verbally abused with racial epithets and his attackers threatened to kill him saying “we’re doing the will of the government ... helping to chase out the Africans.” Charges were brought against one of the attackers for assault aggravated by racial motivation.⁹⁰
- In February 2009 a Senegalese man was verbally abused with racist epithets and beaten at a street market in Rome where he went to buy a pair of jeans. In charges that were later brought the prosecutor did not request the aggravating circumstance of racial motivation.⁹¹
- In February 2009, an Indian man in a town outside Rome was beaten, doused with gasoline and set on fire. The attackers, while convicted, were not sentenced on the basis of the aggravating circumstance of racial motivation.⁹²
- On January 25, 2009 authorities arrested and charged three persons for the October 2008 “hate crime” killing of Mohamed Chamrani, a Moroccan who had been beaten and thrown into Lake Garda.⁹³
- In September 2008, Abdoul Guiebre, an Italian of Burkina Faso origin was bludgeoned to death on the street in Milan after a petty theft from a café. The state prosecuted this case as an ordinary crime despite the racial insults uttered by the perpetrators during the attack.⁹⁴

Human rights groups have accused the government of not doing enough to address racist and xenophobic violence.⁹⁵ In March 2011, Human Rights Watch produced a 71-page

report documenting “the state’s failure to take effective measures against hate crimes.” It noted that “prosecutions for racially motivated violence are rare, with Italian officials downplaying the extent of the problem and failing consistently to condemn attacks.” Insufficient training of law enforcement and judiciary personnel in identifying, investigating and prosecuting racist violence, and incomplete data collection were also identified as issues compounding the problem.⁹⁶

LIBYA

Amidst ongoing turmoil following the government crackdown against anti-Gaddafi protesters in February 2011, the plight of refugees, asylum seekers and migrants in Libya has been of increasing concern. In August 2011, the U.N. High Commissioner for Refugees called for the protection of third country nationals in Libya: “Thousands of third-country nationals in Libya will be feeling great fear and uncertainty at this time,” said António Guterres. “We have seen at earlier stages in this crisis that such people, Africans especially, can be particularly vulnerable to hostility or acts of vengeance. It is crucial that humanitarian law prevails through these climactic moments and that foreigners—including refugees and migrant workers—are being fully and properly protected from harm.”⁹⁷

Foreign migrants and refugees have long been the target of hostility and xenophobic attitudes in Libya.⁹⁸ In addition, racial discrimination against black African migrants and refugees has been an on-going problem.⁹⁹ Prior to the current crisis in Libya, an estimated 2.5 million migrant workers lived in Libya. Over 8,000 refugees had registered with UNHCR in Libya with a further 3,000 asylum seekers with pending cases. The main countries of origin for these refugees and asylum seekers were Chad, Eritrea, Iraq, Palestine, Somalia, and Sudan.¹⁰⁰ As described by OHCHR in a September 2011 report, “migrants from sub-Saharan Africa were reportedly subject to xenophobic attacks or hostility from the local population, and portrayed in the media as responsible for criminal behavior.”¹⁰¹

Following the civil unrest, hostility against migrants and refugees—particularly those from Sub-Saharan Africa—escalated. Tensions were fueled by reports that the Libyan government was using mercenaries from sub-Saharan Africa to retain power. In the wake of these allegations, accounts of Africans being targeted and attacked by anti-Gaddafi protesters have been received

by human rights organizations and others.¹⁰² Migrants were reportedly attacked, beaten, killed, kidnapped, stopped and violently harassed at checkpoints.¹⁰³ Reports of armed Libyans forcibly entering homes and evicting migrants and refugees have also been received. In interviews conducted by the UNHCR with fleeing Sudanese nationals at the Egyptian border, the Sudanese reported that armed Libyans were going door-to-door forcing sub-Saharan Africans to leave. In one instance a 12-year-old Sudanese girl was reported to have been raped.¹⁰⁴

In September 2011, Human Rights Watch reported that security forces operating in Tripoli conducted mass arrests of migrant workers from African countries such as Chad, Sudan, Niger, and Mali detaining them in makeshift facilities. Human Rights Watch called on the de facto authorities in Tripoli to stop the arbitrary arrests and abuse of African migrant workers and black Libyans assumed to be mercenaries, and noted that the arbitrary arrests and abuse created a grave sense of fear among the city’s African population.¹⁰⁵

MALAYSIA

Malaysia is host to between 90,000 and 170,000 refugees and asylum seekers. The vast majority come from Burma, with other significant refugee and asylum seeker populations coming from Sri Lanka, Somalia, Iraq and Afghanistan. Those registered as refugee and asylum seekers constitute only a small fraction of the total population of non-Malaysian nationals. An estimated 2.2 million regular migrant workers and a further 2.2 million irregular migrant workers also make up part of this population.¹⁰⁶

Racial and ethnic prejudices, along with other issues such as an increase in competition for jobs, have given rise in recent years to distinct xenophobic attitudes among certain segments of the society toward refugees and migrants. Violence at the hands of the government-sanctioned civilian group Ikatan Relawan Rakyat Malaysia (RELA), as well as by individual citizens, has been widely reported.

In recent years, the Malaysian government has drawn widespread criticism due to its oppressive enforcement of immigration laws and policies, and in particular the tactics of the government-sanctioned civilian volunteer corps RELA.¹⁰⁷ The RELA corps, vested with police functions by

the government, has the power to arbitrarily arrest or detain any individual that it considers to be an “illegal immigrant.” Allegations of abuse by RELA “agents” are rife including reports of beatings, canings, rape and theft.¹⁰⁸ In one such case, an assault on a Burmese national with a club left the victim blinded.¹⁰⁹ In an August 2010 press release, Amnesty International stated that “RELA agents are responsible for the most rampant human rights abuses against migrants and refugees in Malaysia.” Despite these criticisms, in August 2010, RELA’s director-general announced the corps’ plans to expand its membership from a reported 1.6 million to 2.6 million by the end of the year.¹¹⁰

Aside from abuses by members of RELA, incidents of violence at the hands of ordinary citizens have also been reported. In April 2008, a Burmese refugee died after he was stabbed and set on fire by assailants.¹¹¹ In May 2008, a group of 20 to 30 local students from Mantin College, reportedly unhappy over foreigners dating local girls, assaulted three African students, at random. One of the African students suffered a broken arm while two others received outpatient treatment.¹¹² In 2007, Medecins Sans Frontieres (MSF) conducted a survey of the health issues among migrants, refugees and asylum seekers. Of 248 incidents of violence reported, 26 percent were committed by ordinary Malaysians.¹¹³ Frequent government crackdowns and RELA raids have created an environment in which victims of violence including, refugees and asylum seekers are afraid to report crimes to the police for fear of deportation or other reprisals.

MOROCCO

Refugees, asylum seekers, and migrants in Morocco come from countries such as Cote d’Ivoire, Democratic Republic of Congo, Senegal and Sierra Leone, with growing numbers from Iraq.

Various NGOs and human rights organizations have reported that xenophobic and racist violence against refugees, asylum seekers and migrants does occur and is a serious problem.¹¹⁴ Such violence particularly targets sub-Saharan African refugees and migrants and involves racist harassment and random physical assaults.¹¹⁵ In a March 2010 report prepared by UNHCR on its role and activities concerning refugee protection and international migration, it noted that “among the UNHCR beneficiaries interviewed by the review team, a significant number reported that they had been subject to racist and

xenophobic attitudes and in some cases had been victims of theft and physical aggression by local delinquent groups.”¹¹⁶

In June 2009, a Congolese refugee taking part in a protest concerning living conditions in Morocco recounted to a news reporter stories of having stones thrown at her as she walked down the street. Several others who were interviewed also reported random assaults.¹¹⁷ In March 2009, a registered refugee was insulted and attacked in the street by three persons. More than a year following the filing of the complaint no action had been taken by local authorities.¹¹⁸

In an August 2010 report by the Moroccan human rights NGO, *Groupe antiraciste d’accompagnement et de defense des etrangers et migrants* (GADEM), victims of xenophobic or racist violence reported being met with little or no assistance when they reported matters to the police, or being threatened with *refoulement*. GADEM noted that since 2006, it had “registered testimonies of numerous persons who have been attacked without the possibility of being protected by the law being offered, because of their legal status or because of the simple fact that the competent authorities (police or military police) do not register their complaints.”¹¹⁹

RUSSIAN FEDERATION

The Russian Federation has struggled to cope with bias-motivated violence—which, since 2004, has resulted in as many as 470 murders and thousands of serious assaults, including against refugees and asylum seekers.

In mid-December 2010, ultranationalist groups were able to quickly mobilize thousands of supporters to spread xenophobic rhetoric and rally in downtown areas. The police were late in responding to the riots, characterized by numerous racist attacks on innocent by-passers on the subway and elsewhere in the city. President Medvedev and Prime Minister Putin reacted with strong condemnation of both the attacks and the unrest, yet their calls did not lead to arrests or concrete improvements, thereby further reinforcing impunity.

Refugees and asylum seekers in Russia are from Georgia, Afghanistan, Iraq, and various African countries.¹²⁰ Migrants from Central Asia have also been among the principle victims of the violence, while refugees, asylum seekers and other persons of concern have been victims of attacks in which the perpetrators

indiscriminately target anyone of non-Slavic origin. Recent representative examples include:

- A 28-year-old labor migrant from Tajikistan was murdered in Saint Petersburg on March 2, 2011. The victim was stabbed repeatedly in the head, neck, and stomach.¹²¹
- On January 13, 2011, a Congolese national was attacked by six youths near a metro exit in Moscow.¹²² The police patrolling at the station did not interfere to stop the attack, which the victim thought was racially motivated. In April 2005, a political refugee from Congo was severely beaten in downtown Moscow in a similar incident.¹²³
- In November 2008, Atakhan Abilov, a refugee from Azerbaijan, was hospitalized with a concussion and a broken nose after he was assaulted by three masked individuals near a metro station in Moscow.

Bias-motivated violent incidents in Russia occur with an alarming frequency and at a rate that is far higher than in any other country in Europe. Though steps taken by the government in recent years has played a role in diminishing the levels of violence, the December 2010 racial riots were a bitter pill for the government and a reminder of the challenge of confronting the intolerance at the root of bias-motivated violence.

In 2010, the most recent year for which there is complete data, the SOVA Center for Information and Analysis, the leading NGO monitor recognized for the rigor of its data collection, reported that there were at least 39 bias-motivated murders, while some 368 people were injured in suspected racist attacks (compared with 71 murders in 2009 and 110 in 2008).

SOUTH AFRICA

The largest population of refugees, asylum seekers, and migrants in South Africa comes from neighboring Zimbabwe. Estimates put the number of Zimbabweans in South Africa at between one to three million. Refugees and asylum seekers also originate from countries in the Great Lakes region (particularly Burundi, the Democratic Republic of Congo and Rwanda) and the Horn of Africa (Eritrea, Ethiopia and Somalia), alongside migrants from various parts of Southern Africa.¹²⁴

In March 2010, the South African Human Rights Commission (SAHRC) issued a comprehensive report

outlining its findings and recommendations relating to a wave of violence in 2008 that targeted migrants, refugees and others viewed as foreigners. Several academic and civil society reports have also examined the May 2008 attacks that broke out in as many as 135 different locations across the country leading to at least 62 deaths (two-thirds of the victims were foreign nationals), over a hundred thousand people displaced, and substantial property damage.¹²⁵ The SAHRC report noted severe problems in accessing justice for victims of the 2008 xenophobic violence resulting in “significant levels of impunity for perpetrators.”

Before the 2008 violence, at least another 72 foreign nationals had been killed in allegedly xenophobic attacks since 2000. Patterns of violence included a number of cases of attacks on all foreign nationals living in a particular location as well as attacks specifically targeting foreign-owned shops.

In the midst of the 2010 World Cup, held in South Africa, reports of new possible attacks surfaced in several cities, spreading fear and anxiety amongst refugees and migrants living in the country. The government responded by reactivating an Interministerial Committee, which allocated more resources to crime prevention, community outreach, and patrolling, as well as communicating publicly that the government will have a zero-tolerance policy toward any acts of private violence. As a result of this leadership, another potential outbreak of widespread violence was averted.

Since 2008, certain provinces have drafted contingency plans for widespread xenophobic attacks and the National Prosecuting Authority has begun monitoring cases of xenophobic violence, although the results of that monitoring have not been made public.

Nongovernmental groups and the media have themselves documented and reported on numerous incidents of bias-motivated attacks, including xenophobic violence against refugees, asylum seekers, and migrants. Some examples include:

- In July 2010, four foreigners were injured in the township of Kya Sands after being attacked by local residents.¹²⁶
- On February 7, 2010, local residents looted shops run by Ethiopian nationals in Siyathemba township, 50 miles east of Johannesburg, while leaving South African-owned businesses untouched. This was the

second such incident in eight months and resulted in the displacement of more than a hundred people.¹²⁷

- On November 17, 2009, local residents attacked and demolished the shacks of Zimbabwean workers in De Doorns, Western Cape. Sources of the conflict included tensions over access to jobs on local wine farms. Additionally, the police arrested 24 individuals allegedly involved in the attack on the settlement, 12 of whom were later released for lack of evidence.¹²⁸
- On January 4, 2009, an armed crowd shouting abuse against foreign nationals raided a building inhabited by refugees, asylum seekers and migrants in KwaZulu-Natal province. Two people fell to their deaths from the high-rise building and one was seriously injured as they tried to escape the 150-person mob armed with knives. Reports indicated that despite the fact that the armed crowd marched past a police station moments before the attack, police did not intervene until the attackers left. The attack was reportedly part of a community crime-fighting initiative led by the local municipal ward councilor. Following a public outcry, four men, including the councilor, were brought to trial on charges of public violence. One was also charged with attempted murder.¹²⁹

South Africa has announced its intention to introduce legislation on hate crimes that will also include a focus on current patterns of homophobic violence, including 'corrective' rapes of lesbian women, which often go unpunished by the legal system.¹³⁰

THAILAND

Thailand is host to a large population of refugees, asylum seekers and migrants from South East Asia—many of whom are from Burma. According to estimates, a total of 153,000 refugees and 2.5 million migrant workers from Burma are living in Thailand.¹³¹

Incidents of abuse including killings, beatings, sexual harassment and rape by state authorities, have been reported by refugees, migrants and asylum seekers. Fear of deportation or other reprisal often prevents victims from reporting such crimes to the police.¹³²

Refugees, asylum seekers and migrant workers have also been the targets of crime by private individuals. Xenophobic and hostile attitudes towards refugees and migrants have been fueled by anti-immigrant political discourse labeling migrant workers as threats to national

security.¹³³ Historical tensions between Thailand and Burma have also given rise to negative stereotypes and sentiments regarding Burmese refugees and migrant workers. Underreporting of crime due to fear of reprisal or a lack of faith in police has left these communities even further exposed to acts of violence. As noted in a February 2010 Human Rights Watch report, "common criminals frequently target migrant workers for robbery and other offenses because it is common knowledge that migrants are less likely to approach police to file criminal complaints and insist on an effective police investigation." While, due to an absence of statistics it is difficult to estimate the extent of crime targeting refugees, asylum seekers and migrants, incidents of abuse including, killings, robbery, rape and sexual harassment, have been reported. Human Rights Watch's reporting was based on interviews with 82 migrants in Thailand, noting that "both documented and undocumented migrants in Thailand are vulnerable to arbitrary acts of violence, intimidation, and extortion from state authorities ... as well as private individuals."¹³⁴

TURKEY

Numerous incidents of bias-motivated violence against refugees, asylum seekers, and migrants have been reported in Turkey in recent years. These attacks primarily target minorities of African origin from countries such as Sudan, Democratic Republic of Congo and Guinea.¹³⁵ Such incidents are rarely reported to the authorities and no comprehensive data on racist violence are available in Turkey. As recently as February 2011, the European Commission against Racism and Intolerance (ECRI), a Council of Europe body, urged the Turkish government to intensify their efforts to document, monitor, and combat racist violence by thoroughly investigating all allegations of racist violence and taking racist motivations of these offenses into account in prosecutions.¹³⁶

Lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals are among the most vulnerable refugees and asylum seekers in Turkey. In addition to sharing the problems of other refugee populations, they also face discrimination because of their sexual orientation or gender identity. Most of these refugees come from Iran—which enforces the death penalty for consensual same-sex conduct. In Turkey, they are often met with discrimination and threats from private individuals in the cities in which they live, with local authorities doing little to

assist them. In recent years, LGBTI individuals have been the target of deadly violent attacks—between November 2008 and September 2010 there were thirteen reported murders of LGBTI individuals.¹³⁷ In a report issued by Helsinki Citizen’s Assembly and Organization for Refugees, Asylum & Migration (ORAM), based on interviews with 46 LGBTI asylum seekers and refugees, threats to physical safety were identified as the most pressing concerns facing these communities. Most of those interviewed reported having been subjected to at least one incident of physical violence, with some being attacked two or more times. Others reported being threatened with death. Lack of police protection was also a major concern—of those who sought protection from the police, many reported being met with little or no assistance.¹³⁸

UGANDA

In Uganda, NGOs have reported a number of violent attacks on LGBTI refugees living in the country, including many perpetrated by refugees of the same country of origin as well as Ugandan nationals. LGBTI refugees struggle to access police protection in a country where same sex relations are criminalized, LGBTI advocates have been targeted for violence, and social attitudes are generally overwhelmingly negative towards LGBTI persons. The police have a reputation for extorting and arbitrarily arresting LGBTI persons, including refugees. In addition, LGBTI refugees face a range of other protection challenges as well, including denial of services due to their sexual orientation or gender identity.

Human Rights First conducted research on the protection gaps facing LGBTI refugees in Uganda in 2011 and heard reports of high levels of physical and sexual violence targeting LGBTI refugees. A report on Human Rights First’s findings is due for release in early 2012.

UKRAINE

Ukraine has in recent years experienced a dramatic rise in xenophobia, including a surge in acts of bias-motivated violence between 2006 and 2008, in which refugees, asylum seekers and migrants were among the principle victims. Though there was an apparent sharp decrease in incidents in 2009-2010, civil society monitors, and representatives of international agencies working in Europe have reported a renewed increase in 2011 in attacks affecting foreigners from African and Middle

Eastern countries.¹³⁹ The IOM in Ukraine received more reports of racist attacks through the first four months of 2011 than during the whole of 2010.

Some examples include:

- On March 8, 2011, two foreign students from Nigeria were attacked near the Kharkivska metro station. Two of the attackers were reportedly detained, though the police did not file charges against these individuals.¹⁴⁰
- On March 18, 2011, a Somali asylum seeker was attacked by three men on a suburban train in Kyiv Oblast.¹⁴¹
- On September 2, 2010, an asylum seeker from Eritrea was attacked by a group of young men in Odessa.¹⁴²
- On January 27, 2008, in Kyiv, the body of Joseph Bunte, a 19-year old asylum seeker from the Democratic Republic of the Congo, was found with 17 knife wounds in the head, chest, and back.

The Ukrainian government does not collect statistics or publicly report on violent hate crimes. However, within the country’s vibrant civil society scene are monitoring groups, campaign-based organizations, and government advocacy nonprofits that have prioritized the problem of bias-motivated violence, taking the initiative to alleviate the data gap. Documenting and responding to hate crime has been an issue of importance to both mainstream human rights groups and smaller community-based group initiatives. The marked decrease in the number of recorded hate crime attacks in 2009 and 2010 can be partly attributed to the early steps taken by the authorities to investigate and prosecute cases, as well as signals from top government officials indicating the unacceptability of racist violence. Among specific steps, the Interior Ministry adopted an action plan on combating racism in 2007, and an interministerial commission to combat xenophobia was created in 2008. These policy initiatives have not been translated into concrete action by the authorities, as the current government no longer treats hate crime as a priority issue.

Since elections in 2010, the new government has already made significant cutbacks on programs designed to address bias-motivated violence, including dismantling the special hate crime investigative unit and the human rights monitoring division in the Ministry of Internal Affairs, which served as the principle liaison with civil society.

UNITED STATES

In the United States, the polarizing national debate on immigration in recent years has provided the backdrop for violent xenophobic assaults against people of Hispanic origin, both citizens and immigrants. There have also been some reports of attacks on refugees and asylum seekers, particularly when they are living in areas with homogenous populations.¹⁴³

The highest levels of violent hate crime in the U.S. continue to be directed toward members of the African-American community and others of African origin, including refugees and asylum seekers. In the latest report, covering 2009, the FBI found that almost 35 percent of the total victims of hate crime violence were targeted because of antiblack bias (2,284 of 6,604 incidents).¹⁴⁴ A high incidence of racist attacks on black Americans and immigrants is also reported by municipal and county hate crimes monitors. Among categories of racist and xenophobic attacks, attacks targeting people of Hispanic origin rose nearly 40 percent between 2003 and 2007. Such attacks declined in 2008 and 2009, before increasing once again in 2010.¹⁴⁵

Civil society groups like the Anti-Defamation League and the Southern Poverty Law Center (SPLC) monitor and

report on anti-immigrant rhetoric and violence by right-wing extremist groups and individuals. SPLC reported a 54 percent rise in the growth of hate groups operating in the United States since 2000, which is attributed mainly “to the anti-immigrant fervor sweeping the country.”¹⁴⁶ Some organized white supremacist and anti-immigrant factions have been shown to have both advocated and engaged in racist violence.

Although hate crimes are a serious and continuing problem in the United States, the government has taken important steps to prevent and respond to hate crime. The government has generally responded to hate crimes vigorously, in rhetoric and in action, putting in place a robust system of monitoring and reporting, as well as creating and improving a sound legal base for prosecuting hate crimes as the more serious crimes that they are. The Federal Bureau of Investigation produces annual hate crime report, disaggregating attacks according to bias motivation and incident type, although underreporting is an ongoing challenge. The 2009 Hate Crime Prevention Act addressed several principle shortcomings in hate crime legislation, expanding the federal government’s ability to investigate and prosecute violent attacks.

Appendix II: OSCE Ministerial Decision No. 9/09 on “Combating Hate Crime”

The Ministerial Council,

Reaffirming that respect for human rights and fundamental freedoms, democracy and the rule of law is at the core of the OSCE comprehensive concept of security, and that tolerance and non-discrimination are important elements in the promotion of human rights and democratic values,

Reaffirming that manifestations of discrimination and intolerance threaten the security of individuals and societal cohesion, and reiterating that they may give rise to conflict and violence on a wider scale,

Concerned by hate crimes throughout the OSCE region and acknowledging the need for co-operation to combat such crimes effectively, and taking note of the ODIHR report entitled “Hate Crimes in the OSCE Region – Incidents and Responses”, as tasked by the participating States,

Reaffirming the OSCE commitments on promoting tolerance and non-discrimination, and acknowledging that the primary responsibility for addressing acts of intolerance and discrimination rests with the participating States,

Acknowledging that hate crimes are criminal offences committed with a bias motive, Taking note of the UN Global Counter-Terrorism Strategy adopted on 8 September 2006 by the UN General Assembly, which outlines a comprehensive global approach towards countering terrorism by addressing not only its manifestations, but also the conditions conducive to its spread, and recognizing the role hate crimes, discrimination and intolerance can play in fuelling violent extremism and radicalization that lead to terrorism,

Acknowledging the need for more consistent, comprehensive and comparable data on hate crimes, highlighted *inter alia* in the ODIHR report,

Welcoming the work done by the ODIHR in providing assistance to participating States, upon their request, in their efforts to address hate crimes,

Taking note of the 2009 Supplementary Human Dimension Meeting on Hate Crimes – Effective Implementation of Legislation and of the second annual meeting of the National Points of Contact on Combating Hate Crimes,

Recognizing that the global economic downturn may increase incidents of hate crimes in the OSCE area,

Acknowledging that victims of hate crimes may belong to both minority and majority communities,

Acknowledging the work of the three Personal Representatives of the Chairman-in-Office in support of the overall OSCE effort to combat hate crimes and violent manifestations of intolerance in accordance with their mandate,

Recognizing the instrumental role that political representatives can play in taking the lead in combating intolerance and discrimination and promoting mutual respect and understanding,

Calls on the participating States to:

1. Collect, maintain and make public, reliable data and statistics in sufficient detail on hate crimes and violent manifestations of intolerance, including the numbers of cases reported to law enforcement, the numbers prosecuted and the sentences imposed. Where data-protection laws restrict collection of data on victims, States should consider methods for collecting data in compliance with such laws;
2. Enact, where appropriate, specific, tailored legislation to combat hate crimes, providing for effective penalties that take into account the gravity of such crimes;

3. Take appropriate measures to encourage victims to report hate crimes, recognizing that under-reporting of hate crimes prevents States from devising efficient policies. In this regard, explore, as complementary measures, methods for facilitating, the contribution of civil society to combat hate crimes;
4. Introduce or further develop professional training and capacity-building activities for law-enforcement, prosecution and judicial officials dealing with hate crimes;
5. In co-operation with relevant actors, explore ways to provide victims of hate crimes with access to counseling, legal and consular assistance as well as effective access to justice;
6. Promptly investigate hate crimes and ensure that the motives of those convicted of hate crimes are acknowledged and publicly condemned by the relevant authorities and by the political leadership;
7. Ensure co-operation, where appropriate, at the national and international levels, including with relevant international bodies and between police forces, to combat violent organized hate crime;
8. Conduct awareness raising and education efforts, particularly with law enforcement authorities, directed towards communities and civil society groups that assist victims of hate crimes;
9. Nominate, if they have not yet done so, a national point of contact on hate crimes to periodically report to the ODIHR reliable information and statistics on hate crimes;
10. Consider drawing on resources developed by the ODIHR in the area of education, training and awareness raising to ensure a comprehensive approach to the tackling of hate crimes;
11. Calls on the participating States to seek opportunities to co-operate and thereby address the increasing use of the Internet to advocate views constituting an incitement to bias-motivated violence including hate crimes and, in so doing, to reduce the harm caused by the dissemination of such material, while ensuring that any relevant measures taken are in line with OSCE commitments, in particular with regard to freedom of expression;
12. Tasks the ODIHR to explore, in consultations with the participating States and in co-operation with relevant international organizations and civil society partners, the potential link between the use of the Internet and bias-motivated violence and the harm it causes as well as eventual practical steps to be taken;
13. Invites the Director of the ODIHR to keep the participating States informed about the ODIHR's work in assisting the participating States to combat hate crimes during his or her regular reporting to the Permanent Council.

Appendix III: Memorandum of Understanding between ODIHR and UNHCR

This MEMORANDUM OF UNDERSTANDING (“MOU”) is hereby entered into between the OSCE Office for Democratic Institutions and Human Rights (“ODIHR”) and the Office of the United Nations High Commissioner for Refugees (“UNHCR”), hereinafter individually referred to as “the Party” and collectively as “the Parties.”

RECOGNIZING the importance of the non-discrimination principle as enshrined in the Universal Declaration of Human Rights and in other international human rights instruments, providing that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind;

ACKNOWLEDGING that racism, racial discrimination, xenophobia and related intolerance continue to be amongst the root causes of persecution, leading to forced displacement, as well as to statelessness; and that discrimination affects persons of concern in the various stages of their displacement cycle; and presents a serious obstacle for refugees and internally displaced persons in finding quality protection and durable solutions;

RECALLING the importance of the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees, the International Convention on the Elimination of All Forms of Racial Discrimination, the OSCE Ministerial Council Decisions No. 12/04, 13/06, 10/07 and 9/09, and the Durban Declaration and Programme of Action, UNHCR and ODIHR agree to use these documents as a basis for the joint activities foreseen by this MOU;

WHEREAS ODIHR is a specialized institution promoting the “human dimension” of the OSCE, and the implementation of commitments in the field of human rights, democracy and the rule of law: ODIHR’s mandate is, inter alia, to monitor and report on hate crimes and responses in the OSCE participating States and on the basis of its mandate, ODIHR has developed programmes to assist participating States in combating hate crimes; and

WHEREAS UNHCR is the United Nations agency mandated to provide international protection and seek durable solutions for refugees and other persons of concern, through operational engagement as well as through its supervisory responsibilities; and

WHEREAS ODIHR and UNHCR wish to collaborate on a variety of activities that involve research, training, monitoring and reporting on issues in the field of racism, discrimination, xenophobia and related intolerance;

NOW THEREFORE ODIHR and UNHCR agree to work together in the following areas:

Cooperative Activities

In recognition of the complementarities of the mandates of ODIHR and UNHCR as regards activities aiming at combating racism, racial discrimination, xenophobia and related intolerance in the region covered by OSCE, initial possible cooperative activities include, but are not limited to, the following:

- a. Providing expert input as requested and as possible for research, projects and other initiatives in the field of racism, discrimination, xenophobia and related intolerance;
- b. Development of a compilation of good practices to combat these phenomena;
- c. Reporting of hate crimes, including systematic and regular contributions by UNHCR to the Annual Hate Crime Reports published by ODIHR, and the use of ODIHR information for UNHCR documents;
- d. Providing joint technical advice to Governments on preventive or legislative measures related to racism, discrimination, xenophobia and related intolerance;
- e. Participation of staff from both Parties in training and other events aimed at enhancing prevention, monitoring and reporting of hate crimes and other manifestations of discrimination and xenophobia;
- f. Participation in relevant meetings, conferences and seminars;

- g.** Joint communications and press releases, if and when appropriate;
- h.** Dissemination and exchange of relevant information;
- i.** Development of pilot projects in line with UNHCR's policy on urban refugees;

Specific collaborative projects will be elaborated in the framework of this MOU and the Parties shall agree on funding, deliverables, timelines and other terms, as required by each particular project.

Appendix IV: Human Rights First's Ten-Point Plan for Combating Hate Crimes

- 1. Acknowledge and condemn violent hate crimes whenever they occur.** Senior government leaders should send immediate, strong, public, and consistent messages that violent crimes which appear to be motivated by prejudice and intolerance will be investigated thoroughly and prosecuted to the full extent of the law.
- 2. Enact laws that expressly address hate crimes.** Recognizing the particular harm caused by violent hate crimes, governments should enact laws that establish specific offenses or provide enhanced penalties for violent crimes committed because of the victim's race, religion, ethnicity, sexual orientation, gender, gender identity, mental and physical disabilities, or other similar status.
- 3. Strengthen enforcement and prosecute offenders.** Governments should ensure that those responsible for hate crimes are held accountable under the law, that the enforcement of hate crime laws is a priority for the criminal justice system, and that the record of their enforcement is well documented and publicized.
- 4. Provide adequate instructions and resources to law enforcement bodies.** Governments should ensure that police and investigators—as the first responders in cases of violent crime—are specifically instructed and have the necessary procedures, resources and training to identify, investigate and register bias motives before the courts, and that prosecutors have been trained to bring evidence of bias motivations and apply the legal measures required to prosecute hate crimes.
- 5. Undertake parliamentary, interagency or other special inquiries into the problem of hate crimes.** Such public, official inquiries should encourage public debate, investigate ways to better respond to hate crimes, and seek creative ways to address the roots of intolerance and discrimination through education and other means.
- 6. Monitor and report on hate crimes.** Governments should maintain official systems of monitoring and public reporting to provide accurate data for informed policy decisions to combat violent hate crimes. Such systems should include anonymous and disaggregated information on bias motivations and/or victim groups, and should monitor incidents and offenses, as well as prosecutions. Governments should consider establishing third party complaint procedures to encourage greater reporting of hate crimes and conducting periodic hate crime victimization surveys to monitor underreporting by victims and underrecording by police.
- 7. Create and strengthen antidiscrimination bodies.** Official antidiscrimination and human rights bodies should have the authority to address hate crimes through monitoring, reporting, and assistance to victims.
- 8. Reach out to community groups.** Governments should conduct outreach and education efforts to communities and civil society groups to reduce fear and assist victims, advance police-community relations, encourage improved reporting of hate crimes to the police and improve the quality of data collection by law enforcement bodies.
- 9. Speak out against official intolerance and bigotry.** Freedom of speech allows considerable latitude for offensive and hateful speech, but public figures should be held to a higher standard. Members of parliament and local government leaders should be held politically accountable for bigoted words that encourage discrimination and violence and create a climate of fear for minorities.
- 10. Encourage international cooperation on hate crimes.** Governments should support and strengthen the mandates of intergovernmental organizations that are addressing discrimination—like the Organization for Security and Cooperation in Europe, the European Commission against Racism and Intolerance, and the Fundamental Rights Agency—including by encouraging such organizations to raise the capacity of and train police, prosecutors, and judges, as well as other official bodies and civil society groups to combat violent hate crimes. Governments should also provide a detailed accounting on the incidence and nature of hate crimes to these bodies in accordance with relevant commitments.

Endnotes

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