



Rationalisation of violence against migrants in EU policies

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Abstract

The European Union's (EU) externalisation policies disproportionately expose African and Middle Eastern migrants to violence both during their journeys and upon arrival in the EU. Despite being framed with humanitarian rhetoric, these policies legitimise harmful practices under the guise of migration management. This article examines the role of artificial intelligence (AI) in EU migration policies, arguing that its deployment often exacerbates systemic harm and raises urgent ethical concerns. Additionally, the article critiques how narratives surrounding the criminalisation of migration reinforce a securitised perspective, shaping policies that justify violations of migrants' rights at EU borders. By framing these practices as necessary for maintaining border security, the EU normalises the surveillance and control of migrants in ways that would be unacceptable for its citizens.

Introduction

In *Discipline and Punish: The Birth of the Prison*¹, Foucault demonstrates how institutions frame violence towards marginalised groups as necessary to maintain order and secure societal stability. Through the concept of *biopolitics*², he explains how the state categorises populations into those worth protecting and those deemed expendable.

Foucault's ideas help us understand how border controls, detention centres, and surveillance technologies are framed as essential for sovereignty, security, and stability, while masking their harmful impact on racialised migrants and legitimising violence against them.

While Foucault highlights how institutions legitimise systemic violence, Said's concept of *othering* provides a lens to examine how migrants are framed as external threats. Introduced in *Orientalism*³, Said describes othering as defining oneself through the construction of the "other," viewed as fundamentally different and inferior. This framing renders the violence migrants experience socially acceptable.

This process is achieved by portraying the EU as being under threat—whether from economic burdens, cultural threats, or security risks posed by migrants⁴. This framing not only justifies but also moralises the EU's actions against migrants, portraying its policies as virtuous or necessary to protect itself. As Said notes in *Culture & Imperialism*⁵, migration policies are not merely about border control but also about maintaining cultural and racial boundaries, where Europe sees itself as superior and in need of protection from the migrant 'other.' For decades, political and institutional discourses have constructed migration as a security threat to European societies⁶. For instance, the European Commission's proposal for a regulation on screening third-country nationals at external borders emphasised the need for robust screening and identification measures to prevent *security risks*⁷. Similarly, the EU's Asylum and Migration Management regulation underscores a security-oriented approach, framing migration control as vital for maintaining internal security⁸.

¹ Foucault, M. (1977). *Discipline and punish: The birth of the prison* (A. Sheridan, Trans.). Pantheon Books. (Original work published 1975)

² Foucault, M. (2008). *The birth of biopolitics: Lectures at the Collège de France, 1978–1979* (G. Burchell, Trans.). Palgrave Macmillan.

³ Said, E. W. (2003). *Orientalism*. Penguin Books. Pages 1–28

⁴ *Ibid.*

⁵ Said, E. W. (1994). *Culture and imperialism*. Vintage Books

⁶ Léonard, S. (2010). EU border security and migration into the European Union: FRONTEX and securitisation through practices. *European security*, 19 (2), 231–254. doi: <https://doi.org/10.1080/09662839.2010.526937>.

⁷ European Commission, Proposal for a new regulation on screening third country nationals at the external borders, (COM (2020) 612).

⁸ Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013

The Discursive Mask of Humanitarianism

The EU simultaneously constructs a self-image as a global champion of human rights. For example, the EU New Pact on Migration claims to protect vulnerable populations and combat human trafficking and smuggling networks that endanger migrants⁹.

This narrative positions the EU as a protector, aligning with celebrated ideals of human rights. However, this image often excludes the systemic violence embedded in its policies toward racialised groups, allowing the EU to rationalise exclusionary practices while maintaining its moral authority. This narrative remains in conflict with the material destruction of migrants' rights caused by these very policies.

The Khartoum Process, a 2014 agreement between the EU and the government of Sudan aimed to prevent violations of migrants' rights by combatting human trafficking and irregular migration crossing Sudan and Libya en route to Europe¹⁰. Framed as a life-saving mechanism, extensive research reveals that EU externalisation policies disproportionately expose African and Middle Eastern migrants to harm, violence, detention, deportation, and even death throughout their journeys and upon reaching the EU¹¹. Additionally, the humanitarian rhetoric underpinning institutional discourse claims to prioritise migrants' rights while simultaneously criminalising them by linking human trafficking with irregular migration¹². This dual framing not only obscures the harm inflicted by these policies but also reinforces narratives that portray migrants as threats to European society. Through border patrols, detention centres, and the criminalisation of migrants, the EU maintains control and dominance over non-EU migrants. This systemic violence dehumanises and racialises migrants, constructing them as cultural and racial 'others' and justifying discriminatory policies¹³.

The EU often justifies its migration policies with humanitarian rhetoric, claiming to protect vulnerable populations and combat smuggling networks¹⁴. Naval patrols, for instance, are framed as life-saving operations, but in practice, they have reportedly resulted in pushbacks or

⁹ European Commission (2020). New Pact on Migration and Asylum, 23 September 2020.

¹⁰ Oette L and Babiker M A (2017) 'Migration Control à La Khartoum: EU External Engagement and Human Rights Protection in the Horn of Africa', *Refugee Survey Quarterly* 36(4):64–89; European Parliament, DROI Subcommittee (2020) 'EU External Migration Policy and the Protection of Human Rights'

¹¹ See Richey, M. (2012). The north african revolutions: a chance to rethink european externalization of the handling of non-eu migrant inflows. *Foreign policy Analysis*, 9(4), 409-431. <https://doi.org/10.1111/j.1743-8594.2012.00195.x>; Kalir, B. (2019). *Departheid: The draconian Governance of illegalised migrants in Western States*. *Conflict and Society: Advances in Research*, 5, 19-40. DOI: <https://doi.org/10.3167/arcs.2019.050102>; Mayblin, L and Turner, J. (2021). *Migration studies and colonialism*. Polity Press Cambridge.

¹² Report of the Special Rapporteur on the human rights of migrants, François Crépeau, Regional study: management of the external borders of the European Union and its impact on the human rights of migrants, UN Doc. A/HRC/23/46, 24 Apr. 2013, para. 32.

¹³ Fanon, F. (1961). *The wretched of the earth*. New York: Grove Press

¹⁴ European Commission (2023). Press release. *Commission launches a Global Alliance to Counter Migrant Smuggling and proposes a strengthened EU legal framework*. Brussels, 28 November 2023 https://ec.europa.eu/commission/presscorner/detail/en/ip_23_6081

the abandonment of migrants at sea¹⁵. These practices suggest that such measures are designed more to constrain migrants in their attempts to cross EU borders and less to protect their lives. Thus, selective humanitarianism highlights the EU's contradictory approach to migration. While its policies claim to save lives and appear generous, institutional discourse masks the harm and violence they inflict on individual rights. This discursive approach normalises the violence embedded in migration policies and banalises the suffering and losses these policies inflict on those subjected to them. As a result, the EU increasingly disguises exclusionary practices as compassionate measures, thereby rationalising violence while preserving its moral authority.

Moreover, these policies are developed in ways that disregard the human conditions of migrants and effectively suppress the legitimisation of their voices in public discourse. Migrants are often portrayed as mere objects, and the violence of these policies becomes socially acceptable as migration narratives are constructed through systems that normalise the rejection of the "other."

The prevailing narratives around the criminalisation of migration continue to reinforce a securitised perspective, resulting in EU migration policies being shaped by a dominant discourse that justifies violations of migrants' rights at EU borders. This same discourse enables the allocation of EU funds to support violent practices in countries accused of subjecting migrants to inhumane conditions. These narratives justify discriminatory policies by constructing migrants as threats while aligning the EU's actions with its humanitarian self-image.

Legitimising Technological Violence Through the AI Act

The EU AI Act, adopted by the European Parliament in March 2024, was widely celebrated as a groundbreaking step toward ethical AI regulation. The Act sets comprehensive rules for the use of AI in the EU, seeking to balance innovation with fundamental rights by addressing issues such as transparency, accountability, and fairness¹⁶. However, while the Act claims to safeguard human rights, it also legitimises the use of harmful technologies on migrants under the guise of migration management.

Articles 31 and 32 of the AI Act highlight the discriminatory risks of AI systems. Article 31 prohibits AI systems that provide social scoring, noting that such systems can violate dignity and lead to unjust outcomes. Article 32 acknowledges the intrusive and potentially discriminatory effects of real-time remote biometric identification in public spaces.

Yet, Article 33 introduces significant exceptions. It permits the use of these technologies for law enforcement, border control, and migration management in narrowly defined circumstances deemed necessary for substantial public interest. These exceptions allow

¹⁵ See Council of Europe anti-torture Committee (CPT) publishes report on its 2022 visit to Latvia - CPT (coe.int); <https://asylumineurope.org/reports/country/greece/asylum-procedure/access-procedure-and-registration/access-territory-and-push-backs/>

¹⁶ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) (Text with EEA relevance)

authorities to conduct identity checks on migrants without prior authorisation, framing such practices as proportionate responses to perceived risks.

By explicitly permitting border control, immigration, and asylum authorities to use harmful technologies without requiring authorisation, the Act makes migrants targets of exceptional measures. It frames these practices as justified responses to public interest concerns, implicitly suggesting that migrants pose risks warranting such treatment.

While the Act acknowledges that migrants are in particularly vulnerable positions, it rationalises the use of high-risk technologies by implying that strict controls can prevent misuse. However, this logic overlooks the systemic biases already embedded in migration enforcement and the documented harm these technologies cause.

Moreover, by placing migration and border control in the same category as law enforcement operations targeting serious crimes, the Act frames migrants as potential suspects. This reinforces a securitised view of migration and justifies exceptional measures while maintaining an appearance of ethical governance.

By selectively applying safeguards and tolerating harmful practices in migration contexts, the AI Act undermines its credibility as a framework for ethical AI governance. It not only weakens its effectiveness but also perpetuates systemic violence and discrimination against migrants.

Conclusion

The EU's migration policies, disguised in humanitarian and security rhetoric, institutionalise harm against racialised and marginalised migrants. From border externalisation to AI-driven surveillance, these policies create a double standard where the rights of migrants are subordinated to control and risk management. To align with its professed values, the EU must confront the systemic violence embedded in its approach to migration and ensure that all technologies and practices are held to the same human rights standards and regardless of the subject. True commitment to human rights requires extending equal protection and dignity to all, including those most often excluded from its borders.