



## EXECUTIVE SUMMARY: RACE, MIGRATION, AND ETHNO-NATIONALIST IDEOLOGIES

RACIAL DISCRIMINATION IN THE CONTEXT OF LAWS, POLICIES AND PRACTICES CONCERNING CITIZENSHIP, NATIONALITY AND IMMIGRATION  
SPECIAL RAPPORTEUR E. TENDAYI ACHIUME'S REPORT TO THE HUMAN RIGHTS COUNCIL, APRIL 2018 ([A/HRC/38/52](#))

### WHAT IS THIS REPORT ABOUT?

The report "identifies and reviews contemporary racist and xenophobic ideologies, and institutionalized laws, policies and practices, which together have a racially discriminatory effect on individuals' and groups' access to citizenship, nationality and immigration status" ([A/HRC/38/52](#), para. 6). In particular, the report "highlights the impact of ethno-nationalism, and draws attention to how ethno-nationalists and other groups manipulate national anxieties about national security and economic prosperity to achieve and advance racist and xenophobic policies against indigenous peoples, non-nationals and other minority groups" ([para. 6](#)).

### DEFINING RACIAL DISCRIMINATION

International human rights law prohibits discrimination by States, including on the basis of race, and provides that all persons are equal under the law and entitled to equal protection of the law without discrimination ([UDHR](#), Art. 2; [ICCPR](#), Art. 2(1) and 26; [ICESCR](#), Art. 2(2)). Racial discrimination means "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life" ([ICERD](#), Art. 1(1)).

### UNDERSTANDING WHO IS MIGRATING

**Migrant**, as its used in this factsheet, can be understood as an "umbrella term, not defined under international law, reflecting the common law understanding of a person who moves away from [their] place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons" ([IOM definition](#)). Migrants may arrive to a country in a **regular** manner, which means they are formally admitted to the country with valid documentation. A migrant may arrive or fall into an **irregular** situation when they arrive or stay in a country without valid documentation, including when they overstay the authorized period in the country.

Under international law, a **refugee** refers to a person who has been forced to flee their country because of persecution, war or violence. A refugee has "a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion" ([Refugee Convention](#), Art. 1). Increasingly, the Convention definition of refugee is being critiqued for excluding migrants who are seeking safety and security for reasons not foreseen in the Refugee Convention, including the human and environmental impacts of climate change and a lack of economic opportunity resulting from global inequality.

A stateless person refers to a person who is "not considered as a national by any State under the operation of its law," which means that they are not a citizen of any country ([Convention Relating to the Status of Stateless Persons](#), Art. 1(1)).

### A PERSON'S CITIZENSHIP, NATIONALITY OR IMMIGRATION STATUS CAN PREVENT THE FULL ENJOYMENT OF THEIR HUMAN RIGHTS

Although every person is entitled to their fundamental human rights, most people's citizenship, nationality and immigration status is what determines their ability to exercise and enjoy these rights. States around the world require residents to show their passports, ID cards, or other forms of proof of citizenship in order to work or access social services like healthcare or education. This can create barriers for non-citizens who lack formal documentation, including in some cases formally recognized refugees or regular or irregular migrants. As the report notes, "[b]arriers to formal documentation can mean entire generations of refugee children are excluded from formal education" ([A/HRC/38/52](#), para. 9). Stateless persons, in particular, "face grave and often insurmountable barriers in access to employment, education, health care, birth registration, property ownership, freedom of movement and political participation" as well as "greater risks of human trafficking victimhood and other forms of exploitation" ([para. 8](#)). Migrants and stateless persons may live in fear of arrest, detention and even "unlawful involuntary physical expulsion in violation of the non-refoulement principle under international refugee law and international human rights law" ([para. 9](#)).

### INTERNATIONAL HUMAN RIGHTS LAW CREATES A STATE OBLIGATION NOT TO DISCRIMINATE IN THE CONTEXT OF LAWS, POLICIES, AND PRACTICES CONCERNING CITIZENSHIP, NATIONALITY, AND IMMIGRATION

Although international human rights law permits States to make some distinctions between citizens and non-citizens, this must be interpreted narrowly and in accordance with the principles of non-discrimination and equality (See generally: [A/HRC/38/52](#), paras. 19-21). This means that any distinctions States make between citizens and non-citizens "cannot be applied in a racially discriminatory manner or as a pretext for racial discrimination" ([para. 19](#)). The prohibition of racial discrimination applies to the enjoyment of all human rights, including the right to acquire, change and retain a nationality as protected in various international and regional human rights instruments (See [paras. 22-28](#)).

In general, States must not discriminate directly or indirectly in the adoption or enforcement of immigration laws and policies. The use of "blanket immigration bans that target particular nationalities with the intent or effect of discriminating on the basis of race, colour, national or ethnic origin" violate international human rights law ([para. 21](#)). The prohibition of racial discrimination also applies to immigration measures adopted by States in the context of counter-terrorism, as well as to the deportations or expulsions of non-citizens by States ([paras. 20-21](#)).

Individuals or groups "who are actual or perceived 'foreigners' are vulnerable to a broad spectrum of human rights violations on account of this foreigner status" ([paras. 30](#)). In many cases, it is non-white and racially marginalized individuals and groups who are viewed as "foreigners," irrespective of their citizenship, nationality, or immigration status. Racially marginalized women and religious minorities experience intersecting discrimination (See [paras. 29-37; 44](#)).

## ETHNO-NATIONALIST IDEOLOGIES ARE FUELING RACIAL AND XENOPHOBIC DISCRIMINATION AGAINST NON-CITIZENS AROUND THE WORLD

The report notes that “explicit prejudice, often rooted in ethno-nationalist ideologies” is the “most obvious driver and facilitator of racial discrimination in citizenship and immigration laws” ([A/HRC/38/52](#), para. 39). In general terms, ethno-nationalists view “nations” as groupings of people with common ethnicity or bloodlines. Ethno-nationalist ideologies do not arise spontaneously, but instead result from “a range of complex economic, political, social and historical forces” that can be manipulated by individuals “who seek to advance the narrow interests of particular groups” ([para. 39](#)). Ethno-nationalist ideologies have “deep historical roots,” such as the targeting of people of Jewish and Roma descent in 19th and 20th century Europe ([para. 40](#)). In recent years, there has been a “remarkable and dangerous normalization and mainstreaming of racist and xenophobic discourse,” as ethno-nationalist ideologies have made a resurgence ([para. 40](#)). As more States in the Global North turn towards populist nationalism and right-wing extremism, politicians are tolerating “ethno-nationalist messages of hatred and intolerance” as well as adopting explicitly anti-immigrant laws and policies ([para. 40](#)). In some States in the Global South, “nation-building and nationalist ideologies that privilege certain racial, ethnic or religious groups have played an equivalent role to extreme right-wing ideology in the global North” ([para. 45](#)).

### SOME STATES ARE ADOPTING IMMIGRATION MEASURES THAT DIRECTLY AND INDIRECTLY DISCRIMINATE ON THE BASIS OF RACE, COLOR, NATIONAL OR ETHNIC ORIGIN

States may directly discriminate in the context of citizenship and immigration status by “[withholding or withdrawing] status on an unreasonable classification such as skin colour, ethnicity, national origin or religion” ([A/HRC/38/52](#), para. 11). In other cases, States adopt laws and policies that seem neutral on their face but in effect “continue to permit institutional or indirect discrimination based on race, colour, ethnicity and religion” ([para. 11](#)).

The report outlines various contemporary manifestations of racial discrimination in the context of citizenship and immigration status, including:

- **Blanket immigration bans** targeting specific groups (such as Africans or people of African descent, and Muslims and Muslim majority countries), rooted in offensive and Islamophobic rhetoric. Discrimination on grounds of religion and national origin violates international law. ([para. 42](#)).
- Use of **military force and border fences** to exclude migrants seeking protection, in violation of international human rights law and international refugee law ([para. 41](#)).
- Politicians and others are relying on “**fake news**” or false information that can “raise national resistance to and violence against asylum seekers and migrants, and more generally escalate racial, ethnic and religious intolerance” ([para. 41](#)).
- Some States, particularly in Europe, are including “**linguistic and cultural requirements** in naturalization or immigration laws [that] have the effect of excluding groups from the benefits of the State on the basis of their race, ethnicity or religion” ([para. 42](#)). As well, some States are justifying the exclusion of certain groups, framing “cultural difference as an existential threat to European nationhood” ([para. 43](#)).
- Some States in the Global South are relying on “**civilian and military force to exclude** minorities and indigenous peoples from the benefits of national membership,” in some cases amounting to “ethnic cleansing and ultimately genocide” ([para. 45](#)).
- **Immigration laws and policies can exclude** certain racial, ethnic or religious groups from citizenship. Some people “are denied citizenship or formal immigration status at birth or through restrictions on naturalization, while others are subject to collective and individualized withdrawals of citizenship” ([para. 10](#)). In some cases, States “produce stateless populations or persons with irregular or inadequate status through administrative barriers that structurally exclude marginalized social or national groups...[including] policies and laws that range from outright denial of citizenship to heightened inaccessibility of complicated immigration systems” ([para. 10](#)).

### ETHNO-NATIONALISTS OFTEN EXPLOIT PEOPLE'S NATIONAL SECURITY FEARS AND ECONOMIC ANXIETIES TO JUSTIFY VIOLATING THE HUMAN RIGHTS OF NON-CITIZENS

In response to concerns around national security and terrorism, States have created “a far-reaching web of surveillance and other practices that result in racial discrimination on the basis of citizenship or immigration status” ([A/HRC/38/52](#), para. 55). In some States, “politicians have spread misinformation that portrays certain racial, national and religious groups as inherent national security threats,” stoking and exploiting people’s fears, and stigmatizing entire groups who become “even more vulnerable to racist and xenophobic violence” as a result ([para. 56](#)). States “continue to use national security and counter-terrorism justifications to strip members of their national populations of citizenship” or prevent certain groups from accessing citizenship ([paras. 57-58](#)). These policies may not explicitly discriminate, but are discriminatory when they disproportionately impact marginalized racial, national and religious groups.

Further, in response to growing global economic inequality and the “resulting economic marginalization of large sectors of national populations,” some politicians and extremist groups are using non-citizens as scapegoats to “bear the blame for the economic failures of Governments and the global neoliberal order” ([para. 60](#)).

### THE SPECIAL RAPPORTEUR'S RECOMMENDATIONS WITH RESPECT TO LAWS, POLICIES AND PRACTICES CONCERNING CITIZENSHIP, NATIONALITY AND IMMIGRATION

- States and multilateral regional bodies should publicly condemn instances of explicit ethno-nationalism, xenophobia and racism.
- States should not rely on the pretext of economic and national security concerns to engage in racist and xenophobic practices in the context of citizenship, nationality and immigration laws and policies.
- States should adopt concrete measures to eliminate and prevent racial discrimination in the context of citizenship, nationality and immigration, including ratifying, adopting and implementing relevant international instruments and integrating their definitions into national laws.
- States must not restrict the rights of non-citizens “in any way that is not proportionately tailored to achieve a legitimate aim grounded in the substantive racial equality framework of the [ICERD].”
- States must stop using, and undo existing, blanket bans that exclude specific nationalities or groups on the basis of race, color, ethnic or national origin.

((See full list of recommendations: [A/HRC/38/52](#), paras. 63-68; [List of Additional Recommendations](#) )