

## **Mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

### **List of additional recommendations in relation to report A/HRC/38/52 on racial discrimination in the context of laws, policies and practices concerning citizenship, nationality and immigration**

The following recommendations should be read in conjunction with report A/HRC/38/52, which will be presented by the Special Rapporteur at the 38<sup>th</sup> session of the Human Rights Council.

These additional recommendations build on inputs received in response to a call for submissions, as well as on previous recommendations made by the Committee on the Elimination of Racial Discrimination, Special Procedures mandate holders and other UN human rights mechanisms.

In this context, the Special Rapporteur urges States to adopt the following concrete measures aimed at eliminating and preventing racial discrimination in the context of law and policy relating to citizenship, nationality and immigration:

#### **General recommendations**

- Review and revise laws, policies and practices relating to nationality, citizenship and immigration in order to ensure their compliance with the absolute prohibition of racial discrimination under international human rights law.
- Pay particular attention to intersecting forms of discrimination, for example, by revising nationality laws to ensure the removal of provisions that discriminate on the basis of race and gender, disability status, sexuality or other categories.
- Adopt legislative and other measures to guarantee the principles of non-discrimination and equality before the law for everyone under their jurisdiction. Ensure the non-discriminatory enjoyment of the right to nationality, including by prohibiting the arbitrary denial or deprivation of citizenship on the basis of race, colour, descent, religion, national or ethnic origin.
- Ensure that legislative safeguards against racial discrimination apply to all individuals under their jurisdiction, including to non-citizens.
- Ensure that non-citizens and those without adequate documentation are not discriminated against, in practice or in law, on any prohibited grounds in their enjoyment of human rights.
- Adopt immediate and effective measures aimed at combatting prejudice, negative stereotyping and stigmatization and promoting tolerance and understanding in line with ICERD, article 7.

## **Documentation & the right to nationality**

- Facilitate effective and non-discriminatory access to civil registration and adequate documentation, including birth certificates and documents needed to prove nationality or the entitlement to nationality. Pay particular attention to ensuring registration and access to adequate documentation for the following individuals: persons living in remote areas; children born outside of health facilities; persons belonging to minorities and marginalized groups, including Gypsy, Roma and Traveller communities, indigenous peoples, refugees, asylum seekers, internally displaced persons, and migrants living in irregular situations.
- Eliminate all gender-based discriminatory legislative and political barriers that violate the right to nationality of women, and as a result impede their enjoyment of other human rights. This includes eliminating gender discriminatory laws that facilitate racial, ethnic and religious exclusion, and statelessness.
- Ensure that civil registration procedures, procedures for obtaining documentation and requirements for the granting of citizenship are reasonable and not overly burdensome for individuals, particularly for those belonging to racial and ethnic minorities.
- Remove administrative and financial barriers that disproportionately impact racial and ethnic minorities, especially when they pose an obstacle to obtaining documentation. To this end, establish simplified, clear, affordable and accessible civil registration procedures in cooperation with relevant community stakeholders.
- Provide free legal aid to individuals who lack documentation or need assistance to determine/acquire their nationality.
- Register all children born in their territory and issue birth certificates immediately after birth, without discrimination of any kind and irrespective of the child's legal status, the legal status of the parents or their ability to present residence registration papers.
- Grant nationality to children born in their territory who would otherwise be stateless, regardless of their parents' immigration status. In this context, facilitate the automatic conferral of nationality at birth, without additional application procedures.
- Intensify efforts to ensure the registration, documentation and access to citizenship for stateless person.
- Facilitate the acquisition of citizenship through naturalization procedures for long-term or permanent residents.
- Regularize the status of former citizens of their predecessor States who now reside within their jurisdiction.
- Conduct outreach and awareness raising campaigns on the importance of obtaining documentation, the right to birth registration and the right to nationality, particularly among minorities and marginalized communities. Provide information in a form and languages accessible to all and include information on procedures and available assistance. Ensure that relevant communities are directly involved and represented in such campaigns.

### **Accountability & Access to effective remedies**

- Guarantee equality before the law, non-discrimination and due process in all immigration and citizenship procedures. Ensure that decisions relating to nationality, citizenship and expulsions are subject to effective administrative or judicial review and take into account international legal obligations.
- Ensure access to effective legal remedies to individuals who have been denied access to adequate documentation as well as to individuals who have been denied or deprived of their citizenship.
- Grant access to adequate reparations for persons whose human rights have been violated as a result of their documentation or citizenship status.
- Investigate public officials who have engaged in discriminatory behaviour with regards to the issuance of documentation/the granting of citizenship status and ensure that disciplinary action is taken where appropriate.
- Provide human rights and non-discrimination training to all civil servants, including those involved in issues relating to nationality, citizenship and immigration.