

Call for submissions: Thematic report on racial and ethnic based discrimination through nationality and citizenship exclusion

The newly appointed Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. E. Tendayi Achiume, will focus her first thematic report on racism, racial discrimination and xenophobia in the context of laws, policies and practices relating to citizenship, nationality and immigration. The report will be presented at the thirty-eight Session of the Human Rights Council in June 2018.

Background

International human rights law prohibits racial discrimination which it defines broadly as discrimination based on race, colour, descent, or national and ethnic origin.¹ Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination requires States Parties to prohibit and eliminate racial discrimination in the enjoyment of various civil, political, economic, social and cultural rights. The Committee on the Elimination of Racial Discrimination has clarified that, although States may limit the provision of some rights to citizens, they may not do so in violation of the prohibition on racial discrimination. In this regard, the Committee emphasized that “States parties are under an obligation to guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law”.²

Nevertheless, in many States across the world, distinctions based on citizenship and nationality serve as a pretext for racial discrimination against particular groups:

- Especially in former colonial territories, longstanding citizenship and nationality laws often discriminate against indigenous peoples or persons belonging to racial and ethnic minorities. In some cases, racial discrimination in access to citizenship or naturalization renders these groups stateless, preventing them from fully enjoying their human rights.
- Despite international law provisions preventing States from withdrawing citizenship once granted, racial and ethnic minorities across the world have been stripped of their nationality and rendered stateless. In particular in the context of counter-terrorism, some States have introduced nationality-stripping measures that fail to comply with the principles of non-discrimination and equality before the law.
- In turn, some States have adopted immigration laws or policies - including blanket bans on specific nationalities - that frequently result in racialized exclusion. In many cases, such laws and policies not only discriminate against non-citizens on the basis of nationality, race or ethnicity, but also on the basis of religion. This is particularly the case when religious communities are closely identified with particular countries, ethnic or racial groups.

¹ Article 1 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination as “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”.

² Committee on the Elimination of Racial Discrimination, General Recommendation XXX on discrimination against non-citizens, para. 3.

Purpose of the report

- To identify various forms and manifestations of racism, racial discrimination and xenophobia rooted in citizenship/nationality/immigration laws, policies and practices;
- To examine the adverse effects of these manifestations on the ability of non-citizens to enjoy their human rights;
- To elaborate on the applicable legal and normative frameworks prohibiting discrimination against non-citizens based on race, colour, decent, or national and ethnic origin;
- To outline existing good practices in ensuring that citizenship/nationality/immigration laws, policies and practices do not discriminate - in purpose or effect - on prohibited ground of racial discrimination, including race, colour, decent, or national and ethnic origin;
- To identify measures aimed at addressing the adverse effects of these manifestations on the ability of non-citizens to enjoy their human rights;
- To provide concrete recommendations in this field to States and other relevant actors.

Call for submissions

To inform her report, the Special Rapporteur wishes to receive inputs from relevant stakeholders, including national and international non-governmental organizations, national human rights institutions, inter-governmental organizations, United Nations agencies and entities, activists and academics.

The Special Rapporteur therefore invites all interested stakeholders to provide information and share views on any of the following issues:

- Discrimination on grounds of race, colour, decent, or national and ethnic origin with regards to access to citizenship or naturalization;
- Gender discrimination affecting racial, ethnic and other minorities in access to citizenship and nationality;
- Barriers to naturalization or access to citizenship of certain groups of long-term or permanent residents, of statelessness people and of other groups belonging to ethnic and racial minorities, including peoples with a specific migratory status;
- Manifestations of the adverse impacts of racial discrimination with regards to access to citizenship and naturalization on the enjoyment of economic and social rights;
- Deprivation of citizenship on the basis of race, colour, decent, or national and ethnic origin, including in the context of counter-terrorism;
- Statelessness resulting from discrimination on grounds of race, colour, decent, or national and ethnic origin in the granting, denial or removal of citizenship;
- Racial discrimination in the regularization of former citizens of predecessor States;
- Racial discrimination with regards to the expulsion and deportation of non-citizens based on racial profiling;

- Laws, policies and practices restricting immigration on the basis of national and ethnic origin.

In relation to these issues, stakeholders may also make suggestions for concrete recommendations that Special Rapporteur could include in her report.

How to submit inputs to the Special Rapporteur

Submissions may be sent through the Office of the High Commissioner for Human Rights, United Nations Office at Geneva, CH-1211, Geneva 10 (Fax: +41 22 917 90 06; e-mail: racism@ohchr.org).

Submissions can be made in English, French, or Spanish.

While early submissions are encouraged, we kindly ask that you submit your inputs no later than **16 February 2018**.

Publication of submissions

Submissions will be posted on the website of the Special Rapporteur at the time of the report's publication, unless you indicate otherwise. We encourage the publication of submissions as they may serve as a useful resource for other interested stakeholders.