



Forum:	General Assembly 3
Issue:	Protecting and ensuring rights of non-citizens
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Description of the issue

“The general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens.” - Human Rights Committee

All persons should enjoy all human rights. However exceptional distinctions, for example between citizens and non-citizens, can be made but only if they serve a valid and lawful State objective and are proportional to the achievement of that objective. Unfortunately states may narrowly draw distinctions between citizens and non-citizens in relation to explicit guaranteed political rights and movements of freedom. A large gap between the rights that international human rights laws guarantee to non-citizens and the realities that they face occurs. In many countries there are institutional, inescapable and widespread problems confronting non-citizens. Nearly all categories of non-citizens face official and non-official discrimination. While in some countries there may be legal guarantees of equal treatment and recognition of the importance of non-citizens in, e.g achieving economic prosperity, non-citizens face hostile social and practical realities. This includes experiencing xenophobia, racism and sexism; language barriers and unfamiliar customs; lack of political representation; difficulty realizing their economic, social and cultural rights, particularly the right to work, the right to education and the right to health care; difficulty obtaining identity documents; and lack of means to challenge violations of their human rights effectively or to have them remedied. Some non-citizens are subjected to arbitrary and often indefinite detention.

Source: <http://www.ohchr.org/Documents/Publications/noncitizensen.pdf>



Background

In 1985 the United Nations proclaimed the Declaration on the Human Rights of Individuals who are not Nationals of the country in which they live in, in order to ensure and protect the rights of non-citizens: <http://hrlibrary.umn.edu/instree/w4dhri.htm>

The articles 5 – 10 of this Declaration refer to the particular rights of non-citizens:

Aliens must receive the same treatment as nationals of the country in which they live with regard to the following rights:

- The right to life and security of the person, including freedom from arbitrary arrest or detention,
- Protection against arbitrary or unlawful interference with privacy, family, home or correspondence,
- Equality before the courts, including the free assistance of an interpreter,
- The right to choose a spouse, to marry, and to found a family,
- Freedom of thought, opinion, conscience and religion,
- The right to retain language, culture and tradition,
- The right to transfer money abroad,

The following rights must be granted to aliens as long as they do not interfere with national security, public safety, public order, public health or morals or the rights and freedoms of others:

- The right to leave the country,
- The right to freedom of expression,
- The right to peaceful assembly,
- The right to own property individually or in association with others,
- Liberty of movement and freedom to choose their place of residence within the borders of the country,
- The right of spouse and minor or dependent children to join a lawful alien, as provided by national law,

Aliens lawfully residing in the country must be granted the following rights as long as they observe the country's laws and respect the customs and traditions of the people:



The right to safe and healthy working conditions, fair wages, and equal pay for equal work,

The right to join trade unions,

The right to social services, health care, education, and social security.

The following additional rights of aliens are particularly enumerated in the Declaration:

Protection from torture or cruel, inhuman, or degrading punishment,

Freedom from being subjected to medical or scientific experimentation without the alien's free consent,

Protection against arbitrary or unlawful expulsion from the country,

The right to defend oneself from expulsion, except where compelling reasons of national security require otherwise,

Protection from being arbitrarily deprived of lawfully acquired assets,

The right to communicate at any time with the consulate or diplomatic mission of the country of which he or she is a national,

What kinds of rights are given to non citizens?

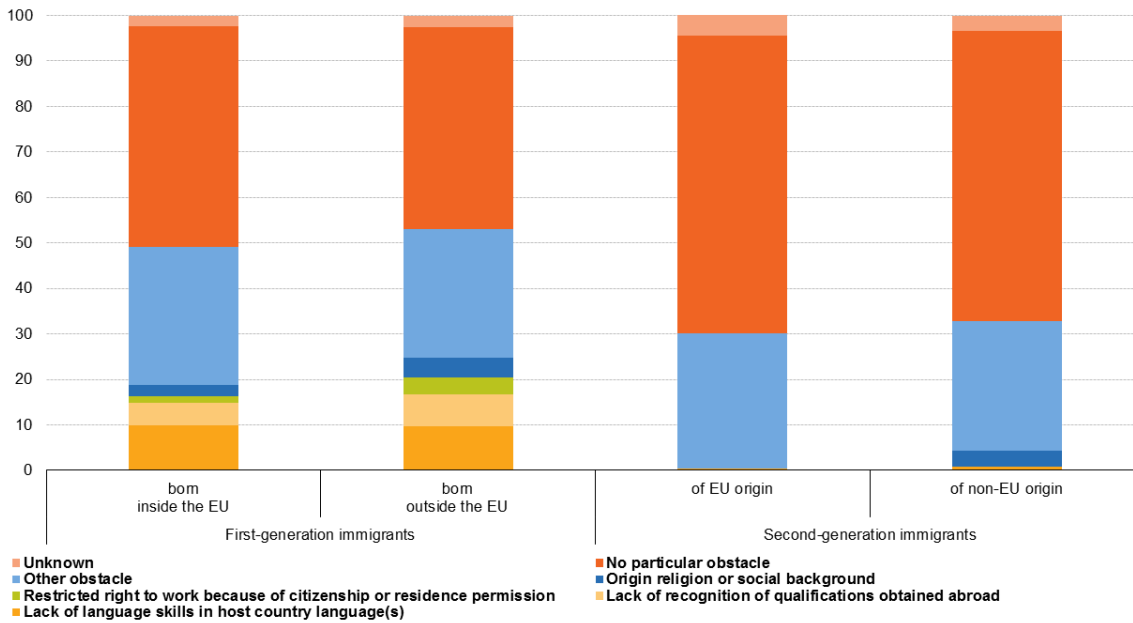
In addition to the rights mentioned in the declaration from 1985, specific rights given to non citizens exist. These subdivide into three main categories with the first one being fundamental rights and freedoms, the second one being civil and political rights and the third one ensuring economic, social and cultural rights. Moreover there are certain rights given to selected non-citizen groups, eg. stateless persons or refugees and asylum-seekers but also non-citizen workers and their families; victims of trafficking and non-citizen children.

Source: <http://www.ohchr.org/Documents/Publications/noncitizensen.pdf>

What is the proportion of non-citizens suffering from discrimination?

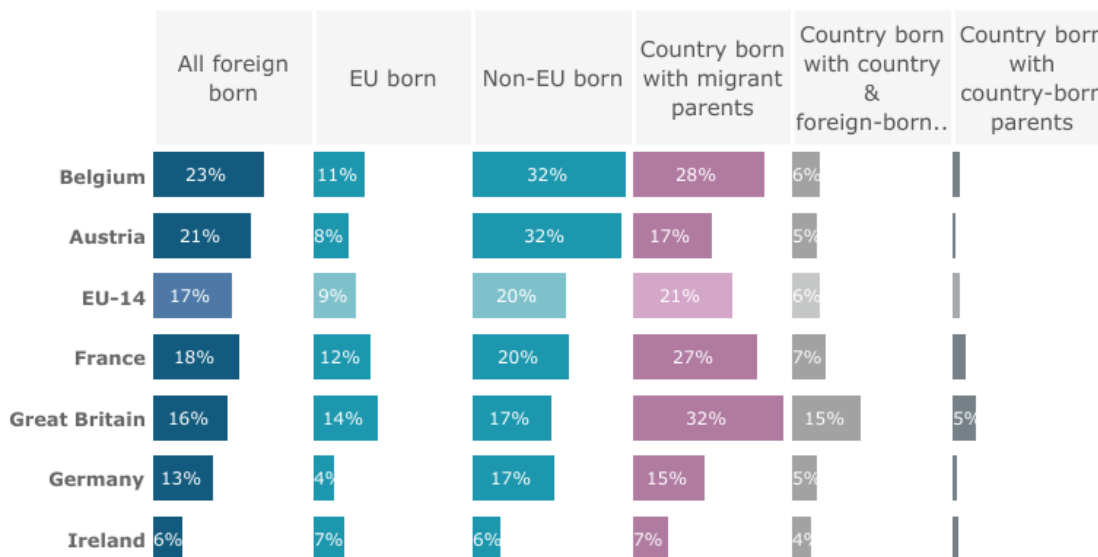
While each of these groups may have rights based on separate legal regimes, the problems faced by most, if not all, non-citizens are very similar. A European study has identified 28% of (non-European Union) foreigners between the ages of 25 and 49 are unable to find work, the rates being as high as 35% for Turks and Pakistanis and 60% for recent immigrant groups such as Somalis.

High rates of unemployment have been registered among ethnic minority and immigrant workers in many Western European countries.



Source: Eurostat, LFS 2014 ad hoc module

Respondent is a member of a group that is discriminated on grounds of colour/race, nationality, religion, language or ethnicity, 2016-2018
Age 15+



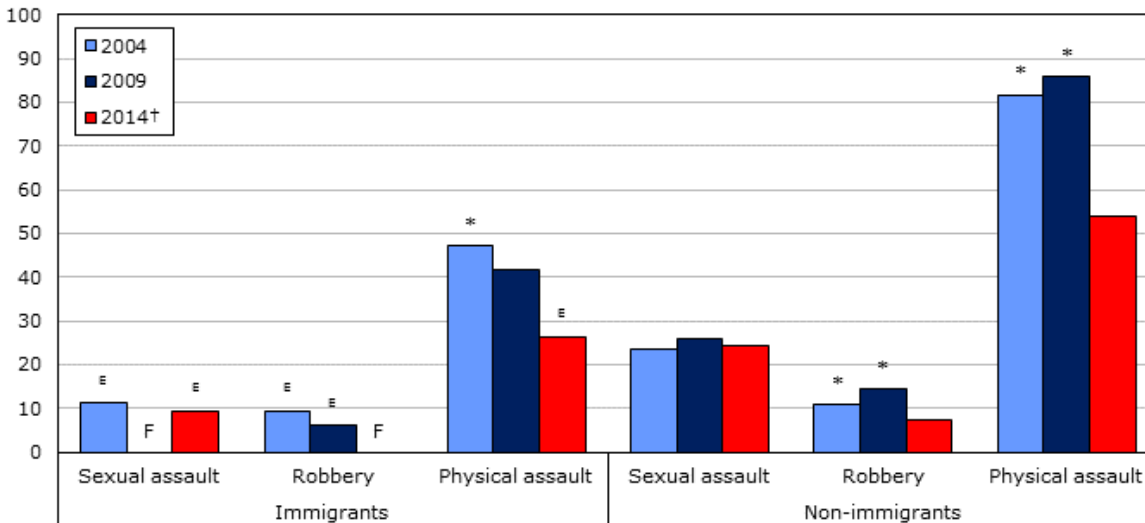
Source: Migration Observatory analysis of the European Social Survey 2002 to 2018 for Great Britain.
Note: respondents are asked whether they "describe themselves as being a member of a group that is discriminated against in this country". Those answering affirmatively are asked on what grounds their group is discriminated against (colour/race, nationality, religion, language or ethnicity).





Chart 2
Violent victimization rates of immigrants and non-immigrants, by type of offence, Canada, 2004, 2009 and 2014

rate per 1,000 population



E use with caution

F too unreliable to be published

* significantly different from reference category (p < 0.05)

† reference category

Note: Due to differences in methodology, data from the territories are not included in the trend analysis. As of 2014, sexual assault includes having had non-consensual sexual relations because the victim was drugged, manipulated or forced in some way other than physically.

Source: Statistics Canada, General Social Survey.

Historical Background

A big proportion of all non-citizens are often arrested or detained without proofs and on the ground of false charges. For many years, non-citizens have been equated with criminals by citizens. In addition, non-citizens are denied contact with their families and access to legal defence eg. a lawyer. This hostility on the part of the authorities has become particularly noticeable in times of war and racial hostility. This situation has become worse since September 11th 2001 and many non-citizens are being detained in fear of terrorism.

In August 2004, a general recommendation on discrimination against non-citizens was adopted by the committee on the elimination of racial discrimination. Some of its main principles are summarized here:

- States are under an obligation to guarantee equality between citizens and non-citizens in the enjoyment of their civil, political, economic, social and cultural rights to the extent recognized under international law and enunciated especially in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights;



- Differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation are not applied pursuant to a legitimate aim and are not proportional to the achievement of this aim;
- States must abstain from applying different standards of treatment to different categories of non-citizens, such as female non-citizen spouses of citizens and male non-citizen spouses of citizens;
- Immigration policies and any measures taken in the struggle against terrorism must not discriminate, in purpose or effect, on grounds of race, color, descent, or national or ethnic origin;
- States have a duty to protect non-citizens from xenophobic attitudes and behavior;

Glossary

Non-citizens: Someone who is not a national or inhabitant of a state/country or town.

Aliens: A foreigner, especially one who is not a naturalized citizen of the country where he or she is living.

This term is often used to refer to non-citizens

Asylum: The protection granted by a state to someone who has left their home country as a political refugee

Deportation: Deportation occurs when a nation removes and sends a non-citizen (alien) back to the country from which he or she came.

Detention: The exercise of physical restraint upon an individual depriving him or her of liberty and holding him or her in government custody for reasons other than to face criminal charges.

Xenophobia: Hatred or prejudice towards people from other countries.



How to prepare as a delegate

Due to the fact that you are a delegate in the 3rd committee of the General Assembly you will have to write two position papers and one resolution. Start off by reading all the aspects mentioned in this research report in order to get an idea of what the issue is about.

If you decide to write a position paper on this issue, start off by mentioning to what extent your country is affected by the problem, if any measures have been taken yet and whether they are sufficient. Furthermore you should make research on what programs your nation is taking part in. It is often advantageous to work with graphics, which visualize the problematics of the issue.

However, if you decide to write a draft resolution on this issue it is always very useful to firstly outline the most significant problematics which occur in the country. It is always very helpful to look up passed resolutions on the issue of protecting and ensuring rights of non-citizens. However, if you do so please remember to not only copy paste measures but establish own realistic plans and measures. How can other nations support you? What is your country willing or not willing to do? Try to focus on measures that have already been taken in your country. Where they sufficient? What still needs to be done? How can your and other countries contribute to a peaceful solution of this conflict?

Please keep in mind that you are representing a nation and not your own opinion. Therefore at all times act upon the interest of the country you will be representing during the conference.

We kindly ask you to keep in mind that all position papers and resolutions need to be send in till September 3rd 2021. Everything sent in after the deadline will not be corrected by the Student Officers.



UN documents regarding this topic

Draft resolution from the HRC from September 19th 2008 - „Promotion and protection of all human rights, civil political, economic, social and cultural rights, including the right to development“ (Human rights of migrants):

https://digitallibrary.un.org/record/637736/files/A_HRC_9_L.14-EN.pdf

Draft resolution from the third committee of the General Assembly from November 11th 1999 - „Protection of migrants“ Agenda item 116 (b) Agenda item 116 (b)

Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms:

https://digitallibrary.un.org/record/340347/files/A_C.3_54_L.67-EN.pdf

Draft resolution from the ECOSOC from August 12th 2002

COMMISSION ON HUMAN RIGHTS: Sub-Commission on the Promotion and Protection of Human Rights - Prevention of discrimination / „The rights of non-citizens“:

https://digitallibrary.un.org/record/471749/files/E_CN.4_Sub.2_2002_L.31-EN.pdf

Draft resolution from the third committee of the General Assembly from December 3rd 1985- „Declaration on the human rights of individuals who are not nationals of the country which they live in“:

https://digitallibrary.un.org/record/110985/files/A_C.3_40_L.80-EN.pdf

General recommendation XXX (2004) on discrimination against non-citizens by the committee on the Elimination of Racial Discrimination: www.ohchr.org/Documents/Publications/noncitizensen.pdf (p.48-53)

Useful links

- <https://digitallibrary.un.org/record/637736?ln=en>
- <https://www.un.org>



- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: <https://www.ohchr.org/en/professionalinterest/pages/cmw.aspx>
- <https://www.un.org/ruleoflaw/files/noncitizensen.pdf>
- <https://www.un.org/ruleoflaw/blog/document-category/statelessness-nationalitycitizenship/>
- Study guide - the rights of non-citizens: <http://hrlibrary.umn.edu/edumat/studyguides/noncitizens.html>
- Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live: <http://hrlibrary.umn.edu/instree/w4dhri.htm>
- https://publications.iom.int/system/files/pdf/international_migration_racism.pdf
- <https://ec.europa.eu/eurostat/documents/1001617/4577877/3-2-OU DHOF-EN.pdf>
- <https://migrationobservatory.ox.ac.uk/resources/briefings/migrants-and-discrimination-in-the-uk/>

Sources

- <https://www.un.org/ruleoflaw/blog/document/the-rights-of-non-citizens/>
- https://ec.europa.eu/eurostat/statistics-explained/images/5/5e/Work_obstacles_by_migration_status_and_background%2C_15-64_age_group%2C_2014%2C_%25_F1.png
- https://publications.iom.int/system/files/pdf/international_migration_racism.pdf
- <https://migrationobservatory.ox.ac.uk/resources/briefings/migrants-and-discrimination-in-the-uk/>
- <https://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54911-eng.htm>