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# Foundations for Implementation

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A reference tool containing guidance drawn from the UN's Special Procedures and Treaty Bodies to support States in human rights based implementation of the Global Compact for Safe, Orderly and Regular Migration.

**Objective 17: Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration**

## What This Reference Tool Contains

This compilation draws on recommendations from:

- Special Procedure thematic reports that relate specifically to migrants
- Treaty Body General Comments and General Recommendations that relate specifically to migrants

This practical tool emphasises recommendations for individual State action rather than observations, and includes those recommendations that assist in turning the objectives into practical actions rather than echoing the principles and standards agreed in the Compact.

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## Objective 17: Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration

### Guidance from Special Procedures

Source	Guidance
SR migrants (2018), A/73/178/Rev.1 (para.77(b))	With regard to migrant women States should: Take appropriate measures to create supportive environments that encourage women to claim their rights, report crimes committed against them and actively participate in criminal proceedings;
Special Rapporteur on the human rights of migrants (2015), A/70/310 (Section A (p.19))	Ensure the total elimination of wage discrimination on the basis of nationality
SR migrants (2013), A/HRC/23/46 (para.89)	Avoid criminalization of irregular migrants in language, policies and practice, and refrain from using incorrect terminology such as “illegal migrant”
SR migrants (2010), A/65/222 (para.67)	Migration governance should be clearly human-centred, and grounded in human rights law, and it should therefore recognize the inherent dignity of every human being, promote equality and the prohibition of discrimination and fully incorporate the principle of equal opportunities and choices for all so that everyone, regardless of immigration status, can develop their own unique potential and have a chance to contribute to development and social progress. Ensuring that all migrants, regardless of their immigration status, enjoy their internationally recognized human rights at all stages of the migratory processes in countries of origin, transit and destination should be the guiding principle of migration governance
SR migrants (2010), A/65/222 (para.82)	States should prohibit ethnic profiling of migrant communities as a form of discrimination
SR migrants (2010), A/65/222 (para.84)	In particular, States should: (a) Develop or strengthen programmes, including ensuring civil society participation, meant to tackle xenophobia in public speech and the media and discrimination and intolerance against migrants and their families; (b) Ensure that effective remedies are available to victims of racism, racial discrimination, xenophobia and related intolerance and monitor the responses of the judicial system to allegations of xenophobia and hate crimes against migrants, with due regard for age and gender considerations; (c) Implement intercultural policies aimed to raise children in an environment that accepts and values differences, discouraging racism and xenophobia and fostering children’s participation in the design and implementation of such policies; (d) Strengthen awareness-raising programmes to combat prejudice against migrant communities and increase awareness-raising efforts to prevent abusive practices by employers, regardless of immigration status
SR migrants (2008), A/HRC/7/12 (para.74)	Further consideration needs to be given to better integrating statistics into flexible, inclusive, and sustainable decision-making processes to govern admission, employment and residence status of migrants, as well as communication/education campaigns on the benefits of migration to the local and national economy. Recognition of demand-driven labour migration should mitigate the potential for anti-immigrant sentiments and rhetoric

<p><b>SR migrants (2006), A/61/324 (para.56)</b></p>	<p>Governments should undertake public awareness campaigns regarding the need for migrant labour and the contributions made by migrants to their economies so as to better combat the racist feelings and anti-migrant arguments of certain sectors of their population</p>
<p><b>SR migrants (2002), A/57/292 (para.74)</b></p>	<p>The Special Rapporteur recommends that efforts should be made not to polarize the debate on migration, since the protection of the human rights of migrants is not incompatible with either the exercise of sovereignty by States or the practical implementation of national security policies</p>
<p><b>Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2018), A/HRC/38/52 (para.67(b))</b></p>	<p>In addition, the Special Rapporteur urges States to adopt the following concrete measures aimed at eliminating and preventing racial discrimination in the context of citizenship, nationality and immigration: Especially with respect to citizenship and nationality, adopt and implement article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, as explained by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 30. States are prohibited from restricting 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 Convention. Under the Convention relating to the Status of Refugees and the International Convention on the Elimination of All Forms of Racial Discrimination, blanket bans on specific nationalities and other immigration measures that exclude on the basis of race, colour, ethnicity or national origin are unlawful. States must take immediate steps to undo any measures of this sort;</p>
<p><b>SR racism (2018), 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 (p.3)</b></p>	<p>Provide human rights and non-discrimination training to all civil servants, including those involved in issues relating to nationality, citizenship and immigration</p>
<p><b>SR racism (2006), A/HRC/32/50 (para.77)</b></p>	<p>While generalized frameworks and principled statements calling for tolerance and inclusion are an important and necessary step, there are few concrete sources that correlate intervention strategies, local conditions and rates of success. Only through concrete independent monitoring and critical evaluation — by all actors — can we develop the insights necessary to improve future interventions' chances of being successful. In this regard, the Special Rapporteur reiterates the recommendation to establish independent national anti-discrimination monitoring bodies with the power to monitor the effectiveness of policies and enforce anti-discrimination legislation, to receive and act upon individual complaints of discrimination and to accompany vulnerable groups in their claims for justice and equality. Furthermore, research and monitoring of citizens' attitudes towards immigrants, refugees, and other minorities perceived as outsiders should be conducted on a regular basis to feed into policies over time and to inform any necessary adjustments</p>

<p><b>SR racism (2015), A/HRC/29/46 (para.67)</b></p>	<p>The Special Rapporteur calls upon political leaders and heads of law enforcement agencies to speak out publicly against discrimination and to avoid making statements linking race or ethnicity to criminal behaviour, irregular migration or terrorism, in order to repair the harm caused to minority communities by the use of racial and ethnic profiling and to ensure that these groups and individuals are able to fully integrate into their societies</p>
<p><b>SR racism (2015), A/HRC/29/46 (para.72)</b></p>	<p>The Special Rapporteur also strongly recommends that law enforcement agencies provide their officers with clear standards and instructions on permissible versus impermissible uses of ethnicity, race and national origin in conducting their work. Requiring that law enforcement officers have objective grounds for reasonable suspicion on the basis of a person's behaviour rather than on the basis of their appearance is a fundamental safeguard against ethnic profiling and should be clearly established as a prerequisite before any police or immigration stop. Operational protocols, regulations and training should provide detailed and practical guidance for all law enforcement officers on how to carry out their duties in full compliance with non-discrimination standards</p>
<p><b>SR racism (2014), A/69/334 (para.86)</b></p>	<p>The Special Rapporteur welcomes efforts undertaken to train law-enforcement agents, including the police, immigration officers, judges and lawyers, on human rights and non-discrimination. He notes, however, that ethnic profiling and police violence against vulnerable groups are recurring issues in several countries that discourage victims from seeking redress, owing to distrust of the legal system. He encourages States to adopt and strengthen measures to improve diversity within law-enforcement agencies and impose appropriate sanctions against those within the public service found guilty of racially motivated violence or of using hate speech, including prosecutors and judges and also immigration officials and border guards</p>
<p><b>SR racism (2014), A/69/334 (para.99)</b></p>	<p>Ensure that all migrant victims of abuse and exploitation have access to effective remedies, including the possibility of pursuing compensation claims, regardless of their residence status, without fear of retribution. Migrants should be provided with easy access to effective mechanisms for bringing complaints about violations of their rights, including a free phone number they can call to report cases in their own language. National human rights institutions have an important role to play in this respect, and consulates and embassies should also assist their nationals. Complaint mechanisms should be streamlined so that migrants can register their complaints with one Government office. All complaints should be promptly investigated, regardless of the residence status of the migrant</p>
<p><b>SR racism (2013), A/68/329 (para.148)</b></p>	<p>The capacity of law enforcement officers should be improved so that they can better protect the rights of the most vulnerable groups and address occurrences of racially motivated crimes. There is a need for systematic, continuous training and awareness-raising on the anti-discrimination legal framework and practice for all law enforcement officers, prosecutors and judges and also immigration officials and border guards, where appropriate</p>

<p><b>SR racism (2013), A/HRC/23/56 (para.57(c))</b></p>	<p>In particular, States should adopt and implement laws that prohibit discrimination on the basis of race, colour, descent or national or ethnic origin at all levels of education, both formal and non-formal, take all appropriate measures to eliminate obstacles limiting the access of children to education, including through affirmative action programmes of a temporary nature, and ensure that all children, especially those of African descent, minorities, Roma, migrants, refugees and asylum seekers, and the victims of caste-based discrimination have access without discrimination to good-quality education, including higher education. Measures to eliminate obstacles limiting access to quality education include committing appropriate resources to eliminating inequalities in educational outcomes;</p>
<p><b>SR racism (2012), A/67/328 (para.91)</b></p>	<p>Therefore, the Special Rapporteur recommends that States effectively guarantee to these groups, without discrimination of any kind, the right to security and access to justice, including through effective remedies, adequate reparation, legal aid and appropriate information about their rights, as well as the prosecution and adequate sanction of those responsible for racist crimes against them. In this respect, the Special Rapporteur would also like to recall paragraph 88 of the Durban Declaration, in which it is recognized that the media should represent the diversity of a multicultural society and play a role in fighting racism, racial discrimination, xenophobia and related intolerance</p>
<p><b>SR racism (2012), A/67/328 (para.92)</b></p>	<p>Concerns expressed by the Special Rapporteur in his report to the Human Rights Council (A/HRC/20/38) regarding in particular the scapegoating of certain groups, including migrants, refugees and asylum seekers, in the context of the economic crisis, and the nationalistic rhetoric in which some traditional political parties have also engaged were raised in some of the contributions received. The Special Rapporteur reiterates the recommendations made in the aforementioned report regarding the responsibility of political leaders and parties in condemning and refraining from disseminating messages that scapegoat vulnerable groups and incite racial discrimination or xenophobia</p>
<p><b>SR racism (2012), A/67/328 (para.96)</b></p>	<p>Training provided to State agents, including the police and immigration officers, on human rights and non-discrimination and the gathering of information on extremist groups are welcomed by the Special Rapporteur. He encourages States to adopt further measures to sensitize the police on the ideologies of extremist political parties, movements and groups that incite racial discrimination and xenophobia. He further recommends the strengthening of their capacity to address racist and xenophobic crimes and actively engage with groups and individuals particularly vulnerable to racist acts by extremist individuals or groups</p>

<p><b>SR racism (2012), A/HRC/20/33 (para.51)</b></p>	<p>States should develop and implement national action plans to combat racism and racial discrimination and establish specialized bodies and mechanisms. National action plans are vital as they provide a comprehensive approach and roadmap to tackling the problems of racism and racial discrimination in national contexts. Such plans should incorporate a framework of action for the prevention of racism with concrete legal, policy, and programmatic measures specifically targeted at preventing racism, including in the areas of immigration policy, policing and administration of justice. Institutions and specialized bodies established to ensure adequate implementation should be provided with the necessary resources, including human, financial and technical. Human rights training focusing on the prevention of racism and racial discrimination should also be regularly provided to State agents</p>
<p><b>SR racism (2011), A/HRC/17/40 (para.80)</b></p>	<p>The Special Rapporteur recommends that States avoid portraying the situation of Roma migrants as an issue of public security and refrain from implementing security policies targeting Roma migrants in violation of international human rights standards and which lead to their collective expulsions. He calls upon States to respect the rights of Roma migrants as guaranteed by the relevant regional and international human rights instruments</p>
<p><b>SR racism (2010), A/65/295 (para.97)</b></p>	<p>While recognizing the sovereign right of each State to formulate and apply its own legal framework and policies in the area of migration, the Special Rapporteur urges States to ensure that those policies are at all times consistent with applicable international human rights instruments, norms and standards, and that they are free from racism and xenophobia</p>
<p><b>Special Rapporteur on freedom of religion and belief (2018), A/HRC/37/49 (para.87)</b></p>	<p>States are reminded of their obligation to provide protection to refugees and migrants, regardless of their specific religion or belief. The pretext that refugees and migrants would erode the traditional religious make-up of a country amounts to a “territorialization” of religion, which violates the spirit and the letter of the universal right to freedom of religion or belief</p>
<p><b>Special Rapporteur on freedom of religion and belief (2017), A/72/365 (para.74)</b></p>	<p>[T]he gap between commitments to combat intolerant acts and practices and their implementation needs to be addressed through transparent, credible and accountable policies executed at the national and local levels. States must repeal all laws that discriminate on the basis of religion or belief or that undermine the exercise of the right to freedom of religion or belief. Particular attention must be paid to upholding the obligation to protect the rights of members of religious minorities, as well as those of women, children, members of the lesbian, gay, bisexual, transgender and intersex community and others in vulnerable situations, such as migrants, refugees and internally displaced persons</p>
<p><b>Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (2018), A/73/152 (para.81(b))</b></p>	<p>Eliminate abusive requirements as prerequisites for change of name, legal sex or gender... This should extend to ensuring that a person’s criminal record, immigration status or other status is not used to prevent a change of name, legal sex or gender;</p>

<p><b>Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (2010), A/65/261 (para.85)</b></p>	<p>As part of social and cultural integration policies, States should involve migrants in decision-making processes and promote their active participation in public life through adequate representation and participation mechanisms. States should also inform migrants of their rights and duties in the country and promote their active exercise. Migrants are at a particular disadvantage as a result of lack of information. The need for appropriate housing information and advice to prevent housing exclusion and homelessness of migrants is essential, and States have the responsibility to provide it. They should ensure that information and advice on rights and duties relating to housing is available to migrants, including in their native languages. Furthermore, States should foster mutual understanding among local communities and ensure mutual respect for cultural diversity</p>
<p><b>SR adequate housing (2010), A/65/261 (para.94)</b></p>	<p>Education is a fundamental element in combating discrimination. States should provide training to authorities at the policymaking level and to officials working in the housing sector on human rights principles and standards, particularly on the right to adequate housing and on the principles of non-discrimination and equality of all</p>
<p><b>Special Rapporteur on religious intolerance (2001), A/CONF.189/PC.2/22 (para.137)</b></p>	<p>States and the relevant intergovernmental organizations should coordinate their efforts in order to take advantage of the enormous opportunities offered by modern means of mass communication. They should envisage, in particular, using the Internet more widely to promote tolerance and combat racism in schools; they should give greater prominence to the content of education in the fight against discrimination and intolerance by setting up web sites and specific programmes aimed at schools all over the world. The general thrust of these programmes could be concentrated on highlighting the unity of mankind and cultural diversity, the shared values of tolerance and an intercultural approach to the history of civilizations and religions. In the area of education, they could include training and documentation programmes focused on the prevention of discrimination and intolerance. Likewise, they could be particularly useful in raising human rights awareness by disseminating positive information about minorities and immigrants so that school children become less receptive to racist propaganda, xenophobia and intolerant attitudes. In sum, the Internet can also be a valuable tool in fighting discrimination and a formidable defence against the use of the web for propaganda purposes in schools</p>
<p><b>Special Rapporteur on violence against women, its causes and consequences (2001), A/CONF.189/PC.3/5 (para.202(c))</b></p>	<p>Integrate an intersectional analysis. Attention should be given to addressing the intersection of gender and race in the drafting and revision of national legislation and policies. Attention to the role of race or its closely related analogues is necessary in part to ensure that gender mainstreaming is itself fully inclusive of the range of gender experiences. States should strive to integrate a gender perspective into all programmes of action and policies aimed at combating racism, racial discrimination, xenophobia and related intolerance. Similarly, race considerations need to be taken into account when adopting measures to eliminate gender discrimination. States should review all governmental policies and laws, including those on citizenship, nationality and immigration, for their impact on the elimination of all forms of discrimination and the achievement of gender equality, with particular reference to marginalized women. States should establish and/or strengthen legislation and regulations against all forms of racism, including its gender-specific manifestations</p>

<p><b>SR violence against women (2001), A/CONF.189/PC.3/5 (para.202(i))</b></p>	<p>Develop special training programmes to eliminate any racist and sexist stereotypes and prejudice among officials and staff most frequently in contact with marginalized women, such as labour officials, teachers, health professionals, immigration authorities, policemen, judges and other law enforcement officials. It is essential to provide financial and other resources for anti-racist and gender-sensitive training for the judiciary, the police and relevant governmental officials and personnel to increase their sensitivity to racial discrimination in a gender-specific manner</p>
<p><b>Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2013), A/HRC/23/41 (para.76(g))</b></p>	<p>Abolish discriminatory immigration policies that require mandatory testing for health conditions, such as HIV and pregnancy, which are not based on clearly established scientific evidence and violate the right to health;</p>
<p><b>Working Group of Experts on People of African Descent (2014), A/69/318 (para.74)</b></p>	<p>Potential discriminatory effects of certain domestic legislation should be eliminated, in particular with regard to legislation on terrorism, immigration and nationality, as well as legislation that has the effect of penalizing without legitimate grounds certain groups or members of certain communities, including people of African descent, and in any case, respecting the principle of proportionality in its application</p>
<p><b>Independent Expert on human rights and international solidarity (2018), A/73/206 (para.50(f))</b></p>	<p>Delegitimize extremism and populist antagonism against global migrants: Consistent with their obligations under articles 4 and 7 of the Convention on the Elimination of All Forms of Racial Discrimination, States should make greater efforts (within the limits of the rights of everyone to freedom of expression and association) to discourage and delegitimize extremism and populist antagonism and rhetoric against migrants. These ills strongly negate the values of human rights-based international solidarity and run contrary to the proposed draft declaration on the right to international solidarity;</p>

## Guidance from Treaty Bodies

Source	Guidance
<p><b>CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.II.10)</b></p>	<p>Ensure that any measures taken in the fight against terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin and that non-citizens are not subjected to racial or ethnic profiling or stereotyping</p>
<p><b>CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.V.21)</b></p>	<p>Combat ill-treatment of and discrimination against non-citizens by police and other law enforcement agencies and civil servants by strictly applying relevant legislation and regulations providing for sanctions and by ensuring that all officials dealing with non-citizens receive special training, including training in human rights</p>

<p><b>CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.V.24)</b></p>	<p>Regulate the burden of proof in civil proceedings involving discrimination based on race, colour, descent, and national or ethnic origin so that once a non-citizen has established a prima facie case that he or she has been a victim of such discrimination, it shall be for the respondent to provide evidence of an objective and reasonable justification for the differential treatment</p>
<p><b>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.I.4)</b></p>	<p>The use of the term 'illegal' to describe migrant workers in an irregular situation is inappropriate and should be avoided as it tends to stigmatize them by associating them with criminality</p>
<p><b>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.1.22)</b></p>	<p>States parties are also required to take effective measures to fight all manifestations of racism, xenophobia or related intolerance against migrant workers and members of their families, especially those in an irregular situation, such as hate crimes, incitement to hatred and hate speech, including by politicians and in the media, and to raise public awareness about the criminal nature of such acts as well as to promote respect for migrant workers' human rights</p>
<p><b>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.39)</b></p>	<p>States should take all necessary measures to promote a shift in public perceptions so that domestic work becomes widely recognized as work and domestic workers as workers with fundamental rights, including labour rights</p>
<p><b>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.24)</b></p>	<p>Countries of origin must respect and protect the human rights of their female nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following:..(vi) Encourage the media, information and communication sectors to contribute to awareness-raising on migration issues, including on the contributions women migrant workers make to the economy, women's vulnerability to exploitation and discrimination and the various sites at which such exploitation occurs</p>
<p><b>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.A.26)</b></p>	<p>The Committees are of the view that addressing only de jure discrimination will not necessarily ensure de facto equality. Therefore, States parties shall fulfil the rights under the Conventions for children in the context of international migration by adopting positive measures to prevent, diminish and eliminate the conditions and attitudes that cause or perpetuate de facto discrimination against them. They should systematically record incidences of discrimination against children and/or their families in the context of international migration, and investigate and sanction such conduct appropriately and effectively</p>



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This reference tool is part of a larger document that contains guidance for all 23 objectives of the Global Compact for Safe, Orderly and Regular Migration. It is available online at: [quno.org/resource/2018/11/foundations-implementation](https://quno.org/resource/2018/11/foundations-implementation)

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