

Definitions of Race & Ethnicity in the United States



Executive Summary

Race and ethnicity are distinct social constructs that are typically based on physical (race, skin color) features and cultural (ethnicity) characteristics, including national origin and ancestry. While federal and state laws prohibit discrimination based on race, color and national origin, these terms are often used interchangeably and rarely defined. The most widely understood definition of race and ethnicity was developed by the U.S. Office of Management and Budget (OMB) and used in the U.S. Census. Because categorizing race and ethnicity is subjective and loosely defined in statute, there is ambiguity as to whether or not certain practices (e.g., hair discrimination) constitute discrimination based on race or ethnicity.

Highlights

- **Race is subjectively determined** and based on physical characteristics that are commonly associated with a particular group of individuals. Ethnicity is commonly linked to cultural expression and identity.
- **The way that governments and individuals define and report racial and/or ethnic groups changes over time.** For example, there were limited opportunities to record multiple races in government surveys prior to 2000.
- **Federal and state laws prohibit discrimination based on race,** although **legal interpretations of race vary,** including whether or not discriminatory action is defined by disparate intent or impact on an individual or group of individuals.
- Eight states and many cities have recently implemented the **Creating a Respectful and Open World for Natural Hair (CROWN) Act, which prohibits school and workplace discrimination based on natural hair textures and/or protective hairstyles.** The exact language varies by state, although most expand their definition of race to include “traits historically associated with race”, including, but not limited to, hair texture and protective hairstyles.

Research Background

What is race, ethnicity, and culture?

The definition and categorization of racial and ethnic groups varies over time and can be shaped by government policies, economic situations, societal norms and personal interactions.¹ People sometimes change which race or ethnicity best describes them. Race, ethnicity, and culture are often used synonymously, however, the terms refer to distinct characteristics.

This science note was prepared by MOST Policy Initiative, Inc. a nonprofit organization aimed to improve the health, sustainability, and economic growth of Missouri communities by providing objective, non-partisan information to Missouri’s decisionmakers. For more information, contact Dr. Brittany Whitley, Education & Workforce Development Fellow – brittany@mostpolicyinitiative.org or Dr. Jill Barnas, Children, Families & Seniors Fellow – jill@mostpolicyinitiative.org. This was prepared on 4/5/21.

Race: There are no genes that link distinct groups in accord with race categories.^{2,3} The National Academies of Sciences, Engineering & Medicine define race as “*a complex concept and viewed as a subjective social construct based on observed or ascribed characteristics that have acquired socially significant meaning.*”² In other words, race is socially defined by grouping people into distinct groups based on real or stereotyped physical features (e.g., skin color, hair texture).^{1,2}

Ethnicity: Ethnicity is a broader term than race and linked with cultural expression and identity. Ethnicity groups people according to common racial, national, tribal, religious, linguistic, or cultural origin or background.⁴

Culture: Culture pertains to the customs, arts, social institutions, and achievements of a particular nation, people, or other social group. Culture includes shared behaviors, interactions, and cognitive understandings that are learned through socialization.⁵

Federal/state definitions of race and ethnicity

Statutory categorizations of race and ethnicity in the United States can be used to justify persecution, segregation and discrimination, often against non-White individuals. The race recorded on an infant’s birth certificate, for example, was previously assigned based on state definitions of race (e.g., “one-drop rules” for individuals with African ancestry) and used to verify an individual’s race at later stages (e.g., voting, loan applications). Today, some form of racial and ethnic categorization is typically required to identify and report instances of discrimination, racial profiling, hate crimes and other systemic inequities (e.g., health, education).

While federal and state laws contain several anti-discrimination statutes based on race, ethnicity and national origin, these terms are rarely defined, particularly in state statutes. One consequence of the inherent ambiguity in defining race is varying legal interpretations of what constitutes discriminatory action.^{6,7} There have been several legal disputes as to what constitutes race-based discrimination, including whether or not the discrimination is based on physical appearance alone and whether intent or outcome is sufficient to prove discrimination. In some cases (e.g., Title VII employment discrimination), courts rely heavily on statistical evidence of “disparate impact,” regardless of discriminatory intent.⁸

Reporting standards

Federal: The United States Office of Management & Budget (OMB) establishes [standards for classifying race and ethnicity across federal datasets](#) (e.g., Census, administrative forms, research).

The OMB standards “represent a social-political construct designed for collecting data on the race and ethnicity of broad population groups in this country, and are not anthropologically or scientifically based.”⁹

Under the current standards, a minimum of five categories must be included when collecting data on race: (1) American Indian or Alaska Native, (2) Asian, (3) Black or African American, (4) Native Hawaiian or Other Pacific Islander, and (5) White. Ethnicity data is also collected separately and individuals are categorized as "Hispanic or Latino" and "Not Hispanic or Latino." Some forms/surveys may allow individuals to select more than one race. One example of federal reporting using the OMB standards is information collected by the [United States Census Bureau](#).^{REF}

*The US Census uses "a social definition of race recognized in this country and not an attempt to define race biologically, anthropologically, or genetically. In addition, it is recognized that the categories of the race item include racial and national origin or sociocultural groups."*¹⁰

Most research literature uses the same definitions of race and ethnicity as the United States Census which may not be in line with the identity held by individuals and groups.^{1,2} For additional information about how Census categorization of race and ethnicity has changed over time, see [this infographic](#).

State: Most states, including Missouri, do not define their own racial and ethnic categorizations. Some states collect their own information that includes additional race/ethnicity categories, usually depending on regional demographics. The [Hawaii](#) Department of Health, for example, uses ten race/ethnicity categories (Black, Caucasian, Chinese, Filipino, Japanese, Native Alaskan/American Indian, Native Hawaiian, Other Asian, Other Pacific Islander, Other). Hawaii also provides a 36 category race/ethnicity list for specific cases, that is primarily meant to more specifically identify additional Pacific Islander and Asian subgroups (e.g., Fijian, Malaysian, Tongan).

Legal standards

Federal: The U.S. Equal Employment Opportunity Commission (EEOC) define race and color as they relate to discrimination:

Race discrimination involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion.

State: Some states combine race & ethnicity within their anti-discrimination statutes while others list race, color, ethnicity and national origin separately. Many minority business laws define minority groups by racial categories but generally do not specify beyond the OMB categories.

CROWN Act: In most states and cities where the CROWN Act is law, the definition of race includes “traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.”¹¹ However, some states (e.g., Utah) have adjusted the language surrounding the relationship between race, hair texture and protective hairstyles. In Utah Senate Bill 80:

"Protective hairstyle" is a hairstyle necessitated by, or resulting from, the immutable characteristics of hair texture or type; and historically associated with race. "Protective hairstyle" includes braids, locks, afros, curls, and twists. "Race" includes an immutable trait historically associated with, or perceived to be associated with race, including hair texture or type; and a protective hairstyle.

The proposed federal CROWN Act defines hair-based discrimination without redefining race:

No individual in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance, based on the individual's hair texture or hairstyle, if that hair texture or that hairstyle is commonly associated with a particular race or national origin (including a hairstyle in which hair is tightly coiled or tightly curled, locs, cornrows, twists, braids, Bantu knots, and Afros). HR 5309, CROWN Act of 2020

References

1. Liebler, C. A., Porter, S. R., Fernandez, L. E., Noon, J. M., & Ennis, S. R. (2017). America's churning races: Race and ethnicity response changes between census 2000 and the 2010 census. *Demography*, 54(1), 259-284.
2. National Research Council. (2004). *Measuring Racial Discrimination*. Washington, DC: The National Academies Press. Retrieved from <https://doi.org/10.17226/10887>.
3. Witherspoon, D. J., Wooding, S., Rogers, A. R., Marchani, E. E., Watkins, W. S., Batzer, M. A., & Jorde, L. B. (2007). Genetic similarities within and between human populations. *Genetics*, 176(1), 351-359. <https://doi.org/10.1534/genetics.106.067355>
4. Baumann, T. (2004). Defining ethnicity. *The SAA archaeological record*, 4(4), 12-14.
5. Rosaldo, R. I. (2006). Foreword: defining culture. *Redefining culture: Perspectives across the disciplines*.
6. Wright, Jr., L. (1995). Who's Black, Who's White, and Who Cares: Reconceptualizing the United States Definition of Race and Racial Classifications, 48 *Vanderbilt Law Review* 513. <https://scholarship.law.vanderbilt.edu/vlr/vol48/iss2/5>.
7. Hoffman, S. (2004). Is There A Place for Race As a Legal Concept? *Case Western Reserve University School of Law*. 227. https://scholarlycommons.law.case.edu/faculty_publications/227.
8. Ford, C.A. (1994). Administering Identity: The Determination of Race in Race-Conscious Law. *California Law Review*. <https://www.jstor.org/stable/3480910?seq=1>.
9. OMB Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity. 62 *Fed. Reg.* 58782. Oct. 30, 1997. <https://www.govinfo.gov/content/pkg/FR-1997-10-30/pdf/97-28653.pdf>
10. United States Census Bureau. About Race. Retrieved from <https://www.census.gov/topics/population/race/about.html>
11. Whitley, B. (2021). Discrimination based on hair texture/style. *MOST Policy Initiative*. Retrieved from https://mostpolicyinitiative.org/wp-content/uploads/2021/02/ScienceNote_HairDiscrimination.pdf