

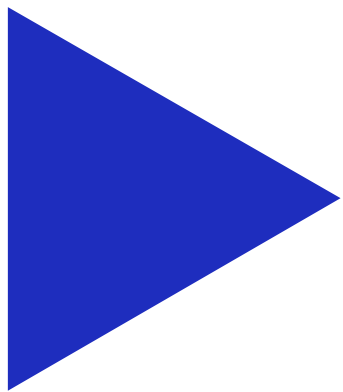


International
Labour
Organization



In conditions of freedom and dignity

Pathways to racial equality
in the world of work



In conditions of freedom and dignity

Pathways to racial equality
in the world of work

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Preface

Promoting equality of opportunity and treatment in employment and occupation has been a long-standing commitment of the International Labour Organization. The Declaration of Philadelphia (1944), which forms part of the ILO Constitution, recognizes that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.”

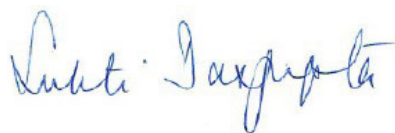
The Discrimination (Employment and Occupation) Convention, 1958 (No. 111), is one of the ILO’s ten fundamental Conventions and has been ratified by 175 Member States. In accordance with the 1998 ILO Declaration on Fundamental Principles and Rights at Work, as amended in 2022, all Members, even if they have not ratified a fundamental Convention, have an obligation to respect, to promote and to realize, in good faith, the principles concerning the fundamental rights which are the subject of these Conventions.

Discrimination in employment and occupation denies a person equal opportunities to develop and realize their potential in the world of work, but its impact is not limited to the individual. It affects workplaces, enterprises, labour markets, societies and economies. Discrimination is a multidimensional phenomenon, and barriers to equal opportunities are often based on multiple and intersecting grounds.

The resolution concerning inequalities and the world of work, adopted by the International Labour Conference in 2021, specifically stresses the need for ILO Member States to strengthen, with ILO support, actions and policies to end racial discrimination as part of overall efforts to promote equality of opportunity and treatment for all. More recently, the Doha Political Declaration adopted by the Second World Summit for Social Development in 2025 not only identified discrimination as an obstacle to social development and social justice but expressed a commitment to stepping up efforts to fight racial discrimination, including through effective legal, policy and institutional measures.

The present report has been prepared to support ILO constituents in tackling discrimination and to promote social dialogue and renewed action towards this goal. It seeks to raise awareness about racial discrimination through data and statistical analyses and reviews of laws and policies seeking to address it, across different countries and socio-economic contexts. The analysis is grounded in the relevant international labour standards and guidance from the ILO supervisory bodies. It is hoped that the report contributes to a broader understanding of how discrimination operates across different and often intersecting grounds, thereby informing more effective and integrated policy responses to address all forms of discrimination.

This report is the result of a close collaboration of the ILO Conditions of Work and Equality Department and the Research Department.



Sukti Dasgupta

Director

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Abbreviations

AI artificial intelligence

CEACR Committee of Experts on the Application of Conventions and Recommendations

ICERD International Convention on the Elimination of All Forms of Racial Discrimination

NAP national action plan

NEP national employment policy

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► Executive summary

The Declaration concerning the aims and purposes of the International Labour Organization (Declaration of Philadelphia), adopted in 1944, proclaims that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.”

Eighty years later, at the United Nations Summit of the Future in 2024, world leaders recognized that “our efforts to redress injustice and to reduce inequalities within and between countries to build peaceful, just and inclusive societies cannot succeed unless we step up our efforts to promote tolerance, embrace diversity and combat all forms of discrimination, including racism, racial discrimination, xenophobia and related intolerance” (UN 2024, para. 14). Following up on this renewed commitment to tackling racial discrimination, this report sheds light on racial inequalities in labour markets and policies intended to address them. Identifying a set of pathways for strengthening action towards racial equality in the world of work, this report seeks to promote social dialogue and policy reforms for ensuring and promoting equality of opportunity and treatment for all.

What is racial discrimination?

As defined by the 1966 International Convention on the Elimination of All Forms of Racial Discrimination, “racial discrimination” is differential treatment on the grounds of race, colour, descent or national or ethnic origin. In the context of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), racial discrimination has been addressed primarily in relation to the prohibited grounds of race, colour and national extraction, all mentioned in that instrument. Convention No. 111 defines discrimination as “any distinction, exclusion or preference” based on a prohibited ground which has “the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation”.

Convention No. 111 recognizes that distinctions, exclusions or preferences based on genuine occupational requirements do not amount to discrimination. Employment decisions based on job-related factors such as experience, skills or efforts (commonly referred to as “merit”) are not only legitimate but essential for business success. However, such decisions should be unrelated to protected personal characteristics such as race, colour or national extraction, unless they are a genuine occupational requirement.

Combating discrimination: A necessity in diverse societies

Racial inequalities in labour markets remain pervasive and persistent. Most countries are ethnically diverse, but populations are also becoming more diverse as a result of human mobility. Migration for work and forced displacement are part of this reality. People find themselves in different social settings and may experience discrimination based on their racial or ethnic identity.

Equality and non-discrimination in employment and occupation is a universal human right. Implementing appropriate policies and measures to tackle racial discrimination in the world of work is indispensable for achieving social justice. Not taking such action has serious consequences for individuals, enterprises, labour markets and societies. Discrimination prevents people from developing their potential, skills and talents, and from being rewarded for their contributions on an equal footing with others, regardless of what type of employment or occupation they aspire to pursue. Discrimination hampers productivity and creates barriers to attracting and maintaining talent.

In contrast, diverse workplaces are more successful. Societies in which employment opportunities are accessible irrespective of racial or ethnic belonging, and where diversity is respected and valued, are better able to reduce inequalities and strengthen social cohesion and ultimately peace and stability.

Leveraging international labour standards for racial equality

Since the adoption of the Declaration of Philadelphia, the ILO has developed a range of international labour standards guiding action to eliminate discrimination in the world of work. Convention No. 111, adopted in 1958, is the first legally binding international instrument wholly dedicated to the elimination of discrimination in employment and occupation. The Convention addresses discrimination based on race, colour, sex, religion, political opinion, national extraction and social origin, while also enabling States to determine additional prohibited grounds, after consulting employers' and workers' organizations.

In addition, specific ILO instruments address the rights of groups particularly vulnerable to racial discrimination, namely migrant workers and indigenous and tribal peoples. Furthermore, ILO standard-setting has focused on closing gaps in social and labour protection by including such groups, for example, through the Domestic Workers Convention, 2011 (No. 189), and the Violence and Harassment Convention, 2019 (No. 190). Chapter 2 of the report presents the key features of Convention No. 111 and other international labour standards that guide action to combat racial discrimination and promote equality.

Understanding racial inequalities in the labour market

In-depth data collection and analysis are crucial for understanding inequalities and discrimination in the labour market. Reliable data provide a solid foundation for identifying trends, forecasting future developments and informing evidence-based policy decisions. Transparency and accessibility of these data are essential for ensuring that labour market interventions are grounded in empirical evidence rather than speculation or assumptions. This also ensures the legitimacy of these interventions and builds public trust.

Chapter 3 examines how different countries collect data disaggregated by race or ethnicity in labour force surveys, highlighting the methodological challenges and implications. Based on an analysis of data disaggregated by race or ethnicity from 47 countries available in the ILO Harmonized Microdata Collection, the chapter then presents empirical evidence on differences in labour market outcomes between different racial or ethnic groups to illustrate these inequalities; discusses different methods for understanding the extent to which discrimination drives labour market inequalities along racial or ethnic lines; and presents results from applying the so-called decomposition method for selected countries to provide insights into the extent to which observed inequalities may be due to racial discrimination.

Across the countries analysed, indigenous and tribal peoples and people of African descent are consistently among the groups experiencing persistent and pronounced inequalities. Members of these and other disadvantaged racial or ethnic groups are more likely to be found in informal employment, elementary occupations and lower-paying jobs, and to experience unequal access to social protection. The decomposition analysis clearly points to racial discrimination being a factor behind inequalities as regards access to employment and earnings.

Prohibiting racial discrimination in employment and occupation

The establishment of an appropriate legal framework prohibiting racial and other forms of discrimination is fundamental to progress towards its elimination and the promotion of equal opportunities for all. Chapter 4 presents the results of a global legal mapping exercise carried out by the ILO. Most countries



have included equality and non-discrimination clauses in their constitutions, with more than 140 constitutions explicitly prohibit racial discrimination. At a global scale, labour legislation is the main vehicle for prohibiting discrimination in the workplace. In 139 of the 187 ILO Member States, labour legislation prohibits racial discrimination. In 21 of these countries, the protection against discrimination is incomplete because the legislation does not prohibit racial discrimination in all areas of employment and occupation. For example, there may be no protection during recruitment. In a range of countries, protection from racial discrimination at work is available under specialized equality legislation or human rights acts, rather than labour legislation.

Legal protection against racial discrimination may also be incomplete because labour or other legislation may not explicitly prohibit and define both direct and indirect discrimination. To date, this is the case in only 47 ILO Member States, the majority of which are in Europe, under the influence of the European Union's Equal Treatment Directives. The legislation of 33 other countries prohibits both direct and indirect discrimination, though without providing a legal definition for these concepts.

In addition, legal protection is often incomplete because the relevant legislation does not include provisions shifting the burden of proof in legal proceedings to the alleged discriminator once a prima facie case is established. Furthermore, the legislation may yet need to be adjusted to specifically address discrimination-based violence and harassment. Knowledge on how existing legislative provisions concerning equality and non-discrimination have been relied on, in practice, to address algorithmic discrimination in employment and occupation remains limited. Such knowledge will be needed to ensure that the legislation is fit for purpose (see Chapter 7).

Proactive measures to tackle structural and systemic discrimination

The persistence of racial inequalities in labour markets points to a need to reflect on ways to more proactively prevent and address racial and other intersecting forms of discrimination. In addition to ensuring effective legal protection for individual victims of discrimination, proactive measures are needed to tackle structural and systemic discrimination as a means of achieving equitable labour market outcomes for all. While the type and mix of measures will need to be tailored to circumstance, the report shows that national employment policies and public procurement policies have been underutilized to promote such objectives (Chapter 6).

A positive development to be noted is the increased attention to promoting equality, diversity and inclusion at the workplace level, including through adopting and implementing equality policies or plans. This is equally an area where more needs to be done to assess existing experiences, share lessons learned and build knowledge on what works in advancing equality of opportunity and treatment for groups vulnerable to racial discrimination (Chapter 5).

Pathways to racial equality: Taking action in the world of work

Racial discrimination is a denial of human rights, freedom and dignity. With the Declaration of Philadelphia as an enduring foundation, taking action against racial and any other discrimination and inequalities in the world of work is at the heart of the ILO's social justice mandate and vision for social progress. The ILO's constituents – governments, employers and workers – all have an important role and responsibility in this regard (see Chapter 8). Building on its findings and drawing on relevant international labour standards, the report proposes eight pathways to racial equality that ILO constituents and policymakers may wish to consider when taking action to promote equality of opportunity and treatment for all (see box ES1).



► **Box ES1. Pathways to racial equality: Taking action in the world of work**

1. Improving data availability

Enhancing the visibility of inequalities in the labour market through comprehensive collection and analyses of labour market data disaggregated by gender, ethnicity and other characteristics does not only require the expansion of labour force and household surveys to include racial or ethnic identifiers, but also the careful design of probabilistic samples to ensure that meaningful inferences can be drawn. With robust data, policymakers will be equipped to assess the extent of labour market inequalities and the impacts of barriers faced by individuals subjected to racism, racial discrimination, xenophobia and related intolerance. This is an essential first step in formulating effective policies for reducing structural inequalities.

2. Strengthening legal protection from racial and other discrimination

It is now timely for countries to review and strengthen their legal frameworks with a view to comprehensively prohibiting racial and other forms of discrimination in employment and occupation, including discrimination-based violence and harassment. Legislative protection should be available for all workers; it should cover indirect discrimination and include rules shifting the burden of proof in discrimination cases. Reforms should be informed by careful assessments of the functioning and effectiveness of existing legislation (including in relation to algorithmic discrimination) and be advanced in consultations with employers' and workers' organizations.

3. Proactively tackling structural discrimination

There is a need to take proactive measures for equality of opportunity and treatment in employment and occupation across a wider range of socio-economic policies – including employment, social protection and labour migration policies – to overcome intergenerational disadvantage and structural labour market inequalities of groups vulnerable to racial discrimination. Tackling structural discrimination involves assessing whether and how existing policies and institutions, including labour institutions, effectively operate to reduce racial inequalities and discrimination. There is a need to develop theoretical and practical frameworks and tools for making such assessments.

4. Making employment policies responsive to racial inequalities

National employment policies need to move beyond general commitments to the principle of non-discrimination and formulate specific measures for labour market inclusion of groups vulnerable to discrimination, including racial or ethnic discrimination. A robust labour market analysis that considers the experiences of groups vulnerable to discrimination can provide a stronger foundation for such policies. Disaggregated labour market statistics by ethnicity (along with gender, disability and other relevant characteristics) is critical, as it highlights the specific challenges faced by different groups vulnerable to discrimination. Ensuring effective access to the measures, services, programmes and interventions for affected groups is crucial and can facilitate access to quality employment, on an equal footing with others. The level to which they do benefit from such access should be monitored through relevant results frameworks.



5. Facilitating economic opportunities

Supporting entrepreneurs from disadvantaged racial or ethnic groups through training and skills development and facilitating access to resources (such as credit and land) and to social public procurement are among the pathways for overcoming labour market exclusion. Documenting and evaluating such programmes, as well as sharing experiences and lessons learned, can play a vital role in strengthening initiatives and facilitating the replication or scaling up of successful interventions.

6. Strengthening workplace policies

Public and private employers around the world are pursuing efforts to promote equality, diversity and inclusion in their organizations and enterprises. In a range of countries, the legislation mandates certain workplace action. More recently, new pay transparency laws and policies – some of which specifically address intersectional pay discrimination – leverage the workplace-level interventions as indispensable for achieving change. Convention No. 190 refers to workplace policies as a means of action for preventing violence and harassment. Developing knowledge and evidence on the functioning and effectiveness of different types of workplace policies and sharing experiences and lessons learned will be critical for further promoting such policies and building appropriate regulatory or other frameworks guiding and supporting their design and implementation.

7. Walking the talk

Advancing racial equality in the world of work calls for efforts to promote equality, diversity and inclusion within the ILO constituents, namely governments and employers' and workers' organizations. As constituents' own institutions and organizations become more diverse and inclusive, and they strengthen their capacities to address equality and non-discrimination issues in the world of work, they can lead by example and foster social dialogue and cooperation to combat discrimination and advance equality, diversity and inclusion.

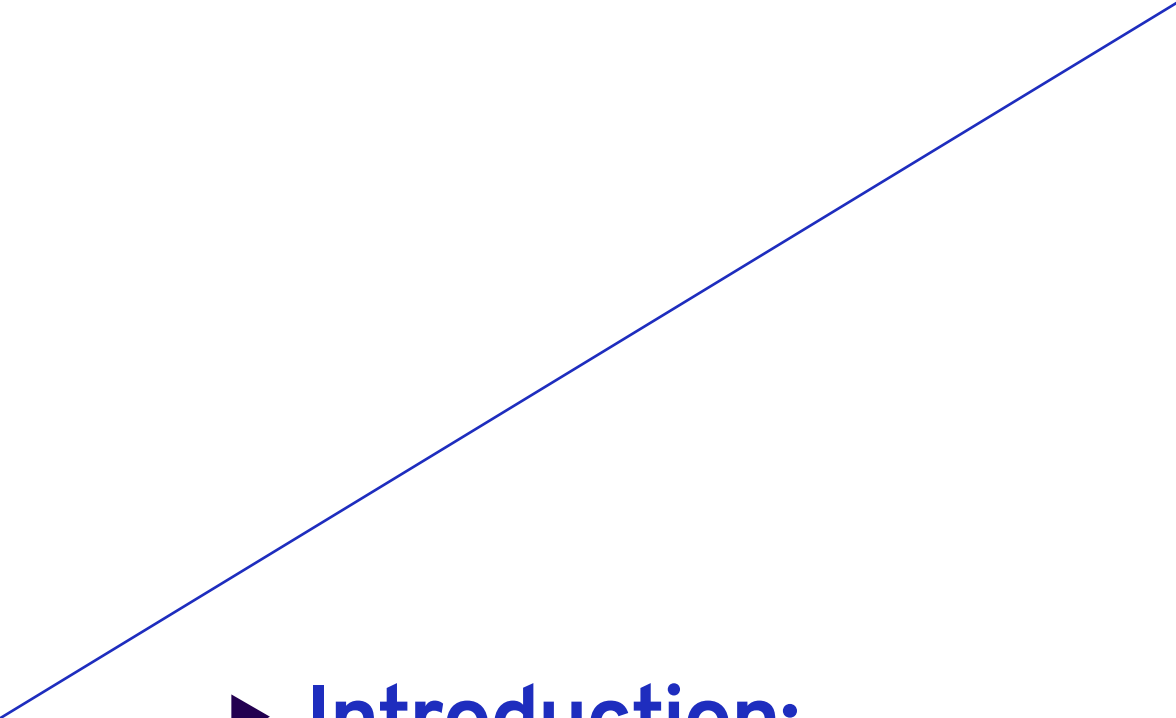
8. Social dialogue, voice and participation

The voice and participation of those affected by racial discrimination are crucial for ensuring policies and decisions address real needs. Their lived experiences provide valuable insights, fostering more equitable solutions. Freedom of association and the right to collective bargaining and the related fundamental ILO Conventions – the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) – are enablers for such voice and participation. The Indigenous and Tribal Peoples Convention, 1989 (No. 169), specifically recognizes the right of indigenous and tribal peoples to consultation and participation. Governments should establish dedicated mechanisms that enable institutionalized dialogue, meaningful consultation and active participation in decisions affecting their lives and communities.



Chapter 1





► Introduction: Setting the scene

1.1. A renewed focus on combating racial discrimination

Over 80 years ago, government, employer and worker delegates to the International Labour Conference of 1944, held in Philadelphia, United States of America, unanimously adopted the Declaration concerning the aims and purposes of the International Labour Organization. Known as the Declaration of Philadelphia, this historic instrument proclaims that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”.¹

The goals of the Declaration of Philadelphia remain highly relevant today. The ILO Centenary Declaration for the Future of Work (ILO 2019a) acknowledged persisting inequalities and the changes transforming the world of work, driven by technological innovations, demographic shifts and globalization. In response, it called for a human-centred approach to the future of work. According to the Centenary Declaration (ILO 2019a, Part I(D)), this puts “workers’ rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies” and that it is imperative to shape a future of work that is fair, secure and inclusive. Equality, diversity and inclusion – including racial equality – are intrinsic to these objectives.

► Recent ILO high-level policy statements stress the importance of action by the ILO and its constituents for the elimination of racial and other forms of discrimination and pursuing a transformative agenda for equality, diversity and inclusion.

Indeed, recent ILO high-level policy statements, such as the *Global Call to Action for a Human-Centred Recovery from COVID-19 Crisis That Is Inclusive, Sustainable and Resilient* (ILO 2021a) and the 2021 resolution on inequalities and the world of work (ILO 2021b), stress the importance of action by the ILO and its

¹ Declaration of Philadelphia, part II(a).

constituents for the elimination of racial and other forms of discrimination and pursuing a transformative agenda for equality, diversity and inclusion.

Combating racial discrimination remains high on the global agenda beyond the ILO. At the 2024 Summit of the Future convened by the United Nations, world leaders recognized that “our efforts to redress injustice and to reduce inequalities within and between countries to build peaceful, just and inclusive societies cannot succeed unless we step up our efforts to promote tolerance, embrace diversity and combat all forms of discrimination, including racism, racial discrimination, xenophobia and related intolerance and all their abhorrent and contemporary forms and manifestations” (UN 2024, para. 14).

1.2. What is racial discrimination?

Racial discrimination as defined under the 1966 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is discrimination against individuals and groups of individuals who are subject to differential treatment on the grounds of race, colour, descent or national or ethnic origin.² In the context of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) addressed racial discrimination primarily in relation to the prohibited grounds of race, colour and national extraction, all referred to in the Convention.³ The CEACR also considered that the term “race” in Convention No. 111 includes discrimination against linguistic communities or minority groups whose identity is based on religious or cultural characteristics or national or ethnic origin (ILO 2012, para. 762; 2019b). Racial discrimination may thus regard ethnic minorities, indigenous and tribal peoples, migrant workers, Afro-descendants and Roma people, among others.

The reference to the concept of race in international instruments such as the ICERD and Convention No. 111, and in national laws and policies should not be construed as implying the existence of “human races” as biologically distinct groups, which has been rejected by the 1978 UNESCO Declaration on Race and Prejudice. Studying and addressing racism and racial discrimination is not dependent of the existence of “races” in a biological sense (Machery and Faucher 2005, 1209). The concept of race has been analysed as a social construct that shapes the organization of political, economic and social power (ECRI 2021; Hochman 2019; Obach 1999).⁴ Because categorizations emerging through processes of racialization lead to discrimination and unequal opportunities, it is thus considered legitimate to rely on race as a concept for tackling racial discrimination and the disadvantage it leads to.⁵

▀▀ Racial inequalities in the labour market remain a pervasive and persistent reality everywhere, with discrimination being one of the root causes.

2 ICERD, Art. 1(1).

3 Convention No. 111, Art. 1(1)(a).

4 The European Commission against Racism and Intolerance (ECRI 2021) has referred to racialization as “the process of ascribing characteristics and attributes that are presented as innate to a group of concern to it and of constructing false social hierarchies in racial terms and associated exclusion and hostility.”

5 In its 2024 resolution concerning work and the care economy, the International Labour Conference called on ILO constituents to “prevent and address all forms of discrimination against care workers, with particular attention to women, migrant workers, racialized groups and persons in situations of vulnerability” (ILO 2024a, para. 30(n)) (emphasis added).



1.3. Racial inequalities in the world of work are pervasive

This renewed focus on the need to step up actions to tackle racial discrimination is indeed relevant and timely. Racial inequalities in the labour market remain a pervasive and persistent reality everywhere, with discrimination being one of the root causes.

A range of recent studies across regions have analysed socio-economic disadvantage and inequalities in the world of work as they affect certain racial or ethnic groups (Ang 2022; Banerjee et al. 2009; FRA 2023; Galarza and Yamada 2014; Grossman and Honig 2017; Kawai 2015; Macdonald and Hasmath 2019; Ñopo, Chong and Moro 2010; Oppel 2021; Uyen 2022; Weiner 2022). “Discrimination testing” studies, a methodology widely used to explore levels of discrimination at the recruitment stage, persistently show that applicants for employment of certain ethnic or racial backgrounds experience higher rejection despite equivalent qualification and skills levels (Banerjee, Reitz and Oreopoulos 2018; Du Parquet and Petit 2019; Quillian et al. 2019; Quillian and Midtbøen 2021; Zegers de Beijl 2000).

Recent ILO research relying on statistical analysis has found gaps in labour market outcomes for workers belong to groups vulnerable to racial discrimination, including migrant workers, ethnic minorities and indigenous and tribal peoples (Amo-Agyei 2020; ILO 2022a; Oelz and Rani 2015; Rani et al. 2013). Indigenous and tribal peoples, on a global scale, tend to have higher employment rates than others but are overrepresented in informal jobs and in low paying sector and occupations (ILO 2019c). Chapter 3 of this report provides data and analysis of racial inequalities in labour markets drawing on latest available data.

1.4. Combating discrimination: A necessity in diverse societies

Most countries around the world are ethnically diverse, though the ethnic composition of the population varies from country to country. But societies are also becoming more diverse as a result of human mobility. Migration for work, but also forced displacement as a result of conflict and crisis, including increasingly climate change, are part of this development. The global stock of international migrants stood at 284.5 million in 2022, 255.7 million where of working age, while 167.7 million were in the labour force (ILO 2024b).

►► Many migrants, refugees and asylum seekers are especially vulnerable to racial discrimination, including in the context of work or employment.

People moving across or within national borders, may find themselves in different social settings and experience negative attitudes and discrimination based on their own racial, ethnic, religious or cultural identity (ILO 2021c; Jiang, Duan and Tang 2023; Rodríguez García and Aguayo Téllez 2023). A recent report by the European Union Agency for Fundamental Rights (FRA 2023) indicates that almost half of people of African descent surveyed across 15 EU Member States experienced racial discrimination, an increase from 39 per cent in 2016 to 45 per cent in 2022.



Many migrants, refugees and asylum seekers are especially vulnerable to racial discrimination, including in the context of work or employment (Amo-Agyei 2020; Hofer et al. 2017; Kofman, Roosblad and Keuzenkamp 2009; OECD 2013; Zegers de Beijl 2000). Migrant workers make important contributions to the economies and societies of their host countries, filling labour shortages in sectors such as agriculture, care and construction (ILO 2024b). These contributions are, however, undermined by racism and racial discrimination in both countries of origin and destination. Hence, efforts to combat racial discrimination, along with adequate migration and integration policies are needed to maximize the positive contributions of migration to socio-economic progress (Bahar, Brough and Peri 2024; Council of Europe 2023a; OECD 2013).

1.5. The cost of inaction

Equality and non-discrimination in employment and occupation is a universal human right. Implementing appropriate policies and measures to tackle racial discrimination in the world of work is indispensable for achieving social justice. Indeed, the persistence of discrimination has serious implications for individuals, enterprises, labour markets and societies as a whole. Discrimination prevents people from developing their potential, skills and talents and being rewarded for their contributions on an equal footing with others, irrespective of what type of employment or occupation they aspire to pursue. Discrimination causes loss of productivity, as it is an obstacle to attracting and maintaining talent. By contrast, diverse workplaces have been found to be more successful (Hunt, Layton and Prince 2015; ILO 2003).

Implementing appropriate policies and measures to tackle racial discrimination in the world of work is indispensable for achieving social justice.

Inclusive and sustainable development for all remains elusive when discrimination in the world of work goes unaddressed, as it produces inequalities in labour market outcomes and places members of certain groups at a disadvantage. Studies have estimated the cost of racial and gender discrimination to amount to significant portions of GDP (see, for example, France Stratégie 2016). Beyond economic loss, racial discrimination undermines social cohesion and ultimately peace and stability.

1.6. About the report

This report seeks to make a contribution to renewed social dialogue and policy reforms for ensuring and promoting equality of opportunity and treatment for all. Understanding racial discrimination as defined in Convention No. 111 and the ICERD (see above), it acknowledges that that groups and persons vulnerable to racial discrimination may face discrimination on multiple and intersecting grounds, including sex, religion, social origin, age, HIV/AIDS or other health status, disability, sexual orientation and gender identity, nationality or other grounds.

Chapter 2 presents the main features of Convention No. 111 and other international labour standards that guide action to combat racial discrimination and promote equality. Chapter 3 explores racial inequalities in labour markets, presenting selected country data available from the ILO microdata repository while also highlighting data challenges and limitations. It discusses methods used to measure discrimination and presents the results of data decompositions carried out for this report, which reveal the extent to which racial disparities may be attributed to discrimination.



Chapter 4 examines the extent to which racial discrimination in employment and occupation is prohibited by law in ILO Member States, based on a legislative mapping exercise conducted by the ILO for this report. Chapter 5 focuses on the role of workplace policies and actions to prevent discrimination and promote equality, including relevant regulatory frameworks.

Chapter 6 highlights the potential national employment and public procurement policies for reducing racial inequalities in the labour market. Chapter 7 addresses the opportunities and risks associated with the rapidly growing reliance on artificial intelligence in the employment context. The role of employers' and workers' organizations in promoting equality and non-discrimination is emphasized in Chapter 8. Finally, Chapter 9 draws out overall policy findings and proposes eight pathways for promoting racial equality in the world of work.



Chapter 2





► International labour standards for racial equality

Action for the elimination of racial discrimination and promoting equality in the world of work should be firmly grounded in the related international labour standards. These standards importantly include the ILO's fundamental Conventions on equality and non-discrimination, namely the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Equal Remuneration Convention, 1951 (No. 100). Furthermore, the 1966 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is the United Nations principle human rights treaty prohibiting all forms of racial discrimination. The very existence of a comprehensive set of international labour and human standards aimed at combating racial and other forms of discrimination in the world of work underscores the universal condemnation of such practices as unacceptable.

► The very existence of a comprehensive set of international labour and human standards aimed at combating racial and other forms of discrimination in the world of work underscores the universal condemnation of such practices as unacceptable.

2.1. An enduring foundation: The Declaration of Philadelphia

The horrors of Nazism and its racist ideology, calls for decolonization and the role played by newly independent States as a driving force against racism underpinned the Declaration of Philadelphia's embrace of equality and non-discrimination in 1944 (Davy 2023; Maul 2020, 205–213). Laws and regulations prohibiting discrimination in employment had started to emerge in a number of states and municipalities in the United States during the Second World War, along with similar legislation emerging in countries such as Brazil, India and Japan (Dublirer 1945; ILO 1957, 24–25).

Reinforcing the ILO's mandate in the context of the post-Second World War international order, the Declaration of Philadelphia broke new grounds. It is the first ever international instrument expressing the principle of equality as a matter of human rights, anticipating even the Charter of the United Nations and the Universal Declaration of Human Rights. In accordance with the Declaration of Philadelphia, human

well-being and development under conditions of freedom and dignity is framed as an overriding goal to which economic and financial policies are to contribute, while by referring to race, sex and creed as grounds of discrimination, the instrument recognizes that a person's identity may operate as a factor of exclusion.

Standard-setting by the ILO throughout the first two decades since its foundation in 1919 had focused on *vertical* equality – that is, equality between employers and workers – through addressing the power imbalance between them. This occurred through regulating various aspects of labour and social protection, basically for workers in the economies of the then major industrializing countries in Europe and the Americas, many of which were colonial powers at the time.⁶ The Declaration of Philadelphia's recognition of equal rights and dignity of *all* human beings, marked the beginning of the ILO's concern for *horizontal* equality, that is equality between different groups of workers, including women and men, workers from different racial or ethnic groups, workers with disabilities, migrant workers or indigenous and tribal peoples (Hepple 1994).

2.2. ILO instruments guiding action against racial discrimination

The ILO's standards-setting activities related to equality and non-discrimination following the adoption of the Declaration of Philadelphia evolved over time. In 1948, a clause prohibiting discrimination based on nationality, race, religion or sex was included in the Migration for Employment Convention (Revised), 1949 (No. 97), and prohibition of forced labour as a means of racial discrimination was included in the Abolition of Forced Labour Convention, 1957 (No. 105).⁷

Convention No. 111 adopted a year later, in 1958, became the first legally binding international instrument wholly dedicated to the elimination of discrimination in employment and occupation. The Convention addresses discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin, while also enabling States to determine additional prohibited grounds, after consulting employers' and workers' organizations.⁸ While Convention No. 111 establishes the main ILO framework for achieving freedom from racial discrimination, subsequent ILO instruments include non-discrimination clauses modelled after Convention No. 111 – for example, the Conventions concerning employment policy, termination of employment and private employment agencies.⁹

In addition, specific ILO instruments address the rights of groups particularly vulnerable to racial discrimination, namely migrant workers and indigenous and tribal peoples. ILO standards setting has furthermore focused on closing gaps in social and labour protection in a manner inclusive of these groups. Convention No. 111 and other ILO instruments are presented briefly below. Table 2.1 lists these and other ILO policy statements relevant for addressing racial discrimination.

6 In the 1930s, the ILO adopted a set of separate international labour standards to regulate “native labour” – that is, standards applicable to the “indigenous workers” of colonies (Rodgers et al. 2009; Rodríguez-Piñero 2005). An effort led by Japan to include a clause on racial equality in the Treaty of Versailles did not succeed (Lake and Reynolds 2008).

7 Convention No. 105, Art. 1(e).

8 Convention No. 111, Art. 1(1)(a) and (b), respectively.

9 See: Employment Policy Convention, 1964 (No. 122), Art. 1(2)(c); Termination of Employment Convention, 1982 (No. 158), Art. 5(d); and Private Employment Agencies Convention, 1997 (No. 181), Art. 5.



Table 2.1. Key ILO instruments and policy statements guiding action against racial discrimination

Year	Instrument
1944	Declaration of Philadelphia
1949	Migration for Employment Convention (Revised) (No. 97) and Recommendation (Revised) (No. 86)
1951	Equal Remuneration Convention (No. 100)
1957	Abolition of Forced Labour Convention (No. 105)
1958	Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111)
1975	Migrant Workers (Supplementary Provisions) Convention (No. 143) and Recommendation (No. 151)
1977	Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
1989	Indigenous and Tribal Peoples Convention (No. 169)
1998	ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up
2008	ILO Declaration on Social Justice for a Fair Globalization
2011	Domestic Workers Convention (No. 189) and Recommendation (No. 201)
2019	Violence and Harassment Convention (No. 190) and Recommendation (No. 206) ILO Centenary Declaration for the Future of Work
2021	Global Call to Action for a Human-Centred Recovery from the COVID-19 Crisis that is Inclusive, Sustainable and Resilient Resolution concerning inequalities and the world of work

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Convention No. 111 is one of the ILO's ten fundamental Conventions.¹⁰ Approaching universal ratification, only 12 out of 187 ILO Member States have still to ratify it.¹¹ Ratifying countries have obligations under international law to take specific measures to give effect to the Convention's provisions and the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and other ILO supervisory bodies are providing continuing guidance in this regard.¹²

10 The nine other fundamental Conventions are: Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Abolition of Forced Labour Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138); Occupational Safety and Health Convention, 1981 (No. 155); Worst Forms of Child Labour Convention, 1999 (No. 182); and Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

11 For a list of ratifying countries, see <https://normlex.ilo.org>.

12 A list of the countries which have ratified the ICERD is available from the [UN Treaty Collection](https://treaties.un.org). For the list of countries for which Convention No. 111 is in force, see https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312256.



Furthermore, as stated in the ILO Declaration on Fundamental Principles and Rights at Work (1998), all ILO Member States have an obligation to respect, to promote and to realize the principles concerning the fundamental rights which are the subject of the ILO's fundamental Conventions, "even if they have not ratified the Conventions in question".¹³ The 1998 Declaration calls for special attention to workers with special needs, such as the unemployed and migrant workers.

Convention No. 111 requires ILO Member States to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating discrimination.¹⁴ For the purpose of Convention No. 111, discrimination refers to "any distinction, exclusion or preference" based on a prohibited ground which has "the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation".¹⁵ The Convention also provides that differential treatment that is made on the basis of inherent job requirements does not constitute discrimination.¹⁶ This means that employment decisions based on job-related factors such as experience, skills or efforts (commonly referred to as "merit") are not only legitimate but essential for business success. However, employment decisions should be unrelated to protected personal characteristics such as race, sex or religion (unless those characteristics are a genuine occupational requirement). Similarly, special measures of assistance are not considered to be discrimination.¹⁷ Several provisions of the Convention stress the key role of employers' and workers' organizations in its application, by requiring cooperation and consultations with them.¹⁸

►► National policies on equality should also promote and ensure access to material goods and services required to carry out an occupation, such as access to land, credit and other productive resources.

Convention No. 111 broadly addresses discrimination "in employment and occupation", covering all workers and all sectors of employment, both public and private. The term "employment and occupation" includes access to vocational training, access to employment and to particular occupations, and terms and conditions of employment. This encompasses: access to education, vocational guidance and training; access to waged employment, self-employment and specific occupations; access to placement services; career advancement and security of job tenure; equal remuneration for work of equal value; and other conditions of work, including working time, leave, occupational safety and health measures, as well as social security measures and welfare facilities and benefits provided in connection with employment.¹⁹ It has also been recognized that national policies on equality should also promote and ensure access to material goods and services required to carry out an occupation, such as access to land, credit and other productive resources (ILO 2012, paras 749–761).

13 [ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up \(1998\)](#), as amended in 2022, para. 2. Beyond the ILO's normative system, the prohibition of racial discrimination is considered a peremptory norm of international law applicable to and binding for all States (UN 2022, 87).

14 Convention No. 111, Arts 1(1)(a) and 2.

15 Convention No. 111, Art. 1(1).

16 Convention No. 111, Art. 1(2). Distinctions based on genuine occupational requirements, merit – that is, who is best qualified for the job – or based on performance or productivity do not amount to discrimination.

17 Convention No. 111, Art. 5.

18 Convention No. 111, Arts 1(1)(b), 3(a) and 5(2).

19 Convention No. 111, Art. 1(3), and Recommendation No. 111, para. 2(b).



Instruments concerning migrant workers

The ILO's concern for migrant workers is grounded in its Constitution, which commits the ILO to the "protection of the interests of workers when employed in countries other than their own".²⁰ This commitment found further expression in specific standards for the governance of labour migration and protection of migrant workers, including especially Convention No. 97, mentioned above, and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143),²¹ the latter being understood to be supplementary to both Convention No. 97 and No. 111. Conventions Nos 97 and 143 can thus be understood as a specific application of the principles of equality and non-discrimination already recognized by Convention No. 111 in the context of the particular challenges imposed by labour migration, including distinctions based on nationality (ILO 2016a, para. 84).

Under Convention No. 97, States must apply no less favourable treatment between nationals and migrant workers lawfully in the territory, and do so without discrimination based on nationality, race, religion or sex. This implies repealing discriminatory legal provisions or administrative practices in respect of terms and conditions of work, membership in trade unions, accommodation, social security, employment taxes and access to judicial proceedings.²²

Because migrant workers experience prejudice and discriminatory attitudes, Convention No. 143, going beyond prohibiting less favourable treatment in national legislation or administrative practice, requires States to pursue and implement a national policy to promote and guarantee equality of opportunity and treatment in respect to employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory. It aims to promote equality of opportunity and eliminate discrimination, in law and in practice, against regular status migrant workers,²³ with only some exceptions allowed to restrict migrant workers' free choice of employment.²⁴ The Convention specifically recognizes the need to preserve the national and ethnic identity, and cultural ties of migrant workers and their families with their country of origin.²⁵ Convention No. 143 also requires States to respect the basic human rights of all migrant workers, including non-discrimination, regardless of status.²⁶

Instruments concerning indigenous and tribal peoples

The ILO developed the first comprehensive international instruments concerning indigenous peoples, the Indigenous and Tribal Populations Convention and Recommendation (No. 104), 1957. A revision of Convention No. 107 to overcome its integrationist approach culminated in the adoption of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), which today is the only binding international instrument open to ratification that specifically and comprehensively addresses the rights of indigenous and tribal peoples, including their freedom from discrimination.²⁷

Convention No. 169 establishes self-identification as a fundamental criterion for the identification of indigenous and tribal peoples, and recognizes their distinct identity, culture and institutions. Calling for measures to ensure the full realization of their economic, social and cultural rights with respect for their

20 ILO Constitution, preamble.

21 These Conventions are accompanied, respectively, by the Migration for Employment Recommendation (Revised), 1949 (No. 86), and the Migrant Workers Recommendation, 1975 (No. 151).

22 Convention No. 97, Art. 6(1); ILO (2016a, para. 332).

23 Convention No. 143, Art. 10; ILO (2016a, para. 332).

24 Convention No. 143, Art. 14.

25 Convention No. 143, Art. 12(f). See also Recommendation No. 151, para. 7(1)(c).

26 Convention No. 143, Art. 1; ILO (2016a, paras 276 and 290).

27 Convention No. 107 is considered as outdated. As a result of its revision, which led to the adoption of Convention No. 169, Convention No. 107 is closed for ratification. The ILO Governing Body and CEACR have invited Members States for which Convention No. 107 remains in force to consider ratifying Convention No. 169.



social and cultural identity,²⁸ the Convention includes specific provisions on land and natural resources, consultation and participation in decision-making.²⁹ One of the central principles of Convention No. 169 is equality of opportunity and treatment.³⁰

Closing labour protection gaps for groups vulnerable to racial discrimination

Workers from disadvantaged racial or ethnic groups face barriers to formal employment and are frequently found in employment with poor working conditions (see Chapter 3), including low pay, and lack social protection, with racial, gender and intersecting forms of discrimination being a driver and root cause. Such decent work deficits, in turn, reinforce their socio-economic vulnerabilities, including cycles of poverty and exclusion. Strengthening access to employment and labour and social protections, along with combating discrimination, is therefore key for advancing racial equality.

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Several more recent international labour standards contribute to addressing racial or ethnic discrimination by extending or strengthening labour and social protection. The instruments on decent work for domestic workers – the Domestic Workers Convention (No. 189) and Recommendation (No. 201), 2011 – are a case in point. In many contexts, domestic work has been, and continues to be, performed primarily by women from disadvantaged racial or ethnic groups, including indigenous and tribal peoples; and very often, and in some cases exclusively, they are migrant workers (ILO 2021d; Oelz and Rani 2015). While, historically, domestic work has been subject to a racialized and gendered social construction that led to its *de jure* or *de facto* lack of recognition as work and to structural inequality and disadvantage (Blackett 2011), the ILO instruments on decent work for domestic workers recognized domestic work as work, and those performing it as holders of labour rights. In this way, the instruments seek to address the inequalities and the multiple forms of discrimination that many domestic workers face (ILO 2010, para. 54).

The recent Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, understand violence as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm”.³¹ Persons belonging to groups vulnerable to racial discrimination may also be more vulnerable to violence and harassment at work and the Convention requires Members to “adopt laws, regulations and policies ensuring the right to equality and non-discrimination in employment and occupation, including for women workers, as well as for workers and other persons belonging to one or more vulnerable groups or groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work.”³²

When rooted in race or ethnicity, violence and harassment in the world of work constitute a form of discrimination-based violence and harassment, reflecting racial discrimination in employment and

28 Convention No. 169, Art. 2(2)(b).

29 Convention No. 169, Arts 6, 7 and 13 to 19.

30 Convention No. 169, Arts 3 and 20; ILO (2013, 2019c).

31 Convention No. 190, Art. 1(1)(a).

32 Convention No. 190, Art. 6.



occupation (ILO 2019b, 2021e). Under Convention No. 190, Member States are to adopt “an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment”, including adoption of “laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment..., and in particular, so far as is reasonably practicable”, the adoption and implementation of workplace policies, in consultation with workers and their representatives.³³

Instruments such as the Human Resources Development Recommendation, 2004 (No. 195), and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), call for specific attention to the needs of indigenous and tribal peoples and ethnic minority groups, as well as migrants and refugees. The Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), and the Social Protection Floors Recommendation, 2012 (No. 202), establish non-discrimination as a guiding principle, the latter especially recognizing that “social security is an important tool to prevent and reduce poverty, inequality, social exclusion and social insecurity, to promote equal opportunity and gender and racial equality”.³⁴

2.3. Key concepts and approaches for advancing racial equality

The elimination of discrimination and the promotion of equal opportunities for all, including disadvantaged racial or ethnic groups is complex and challenging. Drawing on international labour and human rights standards, the work of the ILO Committee of Experts, as well as academic literature, this section explores key concepts and approaches that can be leveraged for informing research, policy development and evaluation in this regard. It first discusses how a substantive conception of equality is conducive to transformative change. Then, related to this, it explores the notion of indirect discrimination and the need to identify and address systemic and structural forms of discrimination. It then stresses that effective policies for equality include proactive measures and address multiple and intersectional forms of discrimination.

►► The elimination of discrimination and the promotion of equal opportunities for all, including disadvantaged racial or ethnic groups is complex and challenging.

Pursuing a substantive conception of equality

Under a formal conception of equality, everyone should be treated the same without any distinction based on personal characteristics such as ethnicity or race. This approach is founded on the premise that rules, procedures and practices that shape social organization are neutral and that treatment based on merit will suffice to avoid discrimination. Yet, merit is not an absolute nor a static concept, but rather a dynamic and relative one. The value attached to certain competencies or attitudes are indeed socially constructed. The behaviours, skills and competencies that are deemed desirable and crucial to success correspond to those displayed by those who occupy positions of power (Tomei 2003). They can be biased by social values and beliefs, including racial prejudices and stereotypes, and can neglect the value of different experiences and work histories. Relying on merit as if it was an objective concept can also ignore

33 Convention No. 190, Arts 4 and 9.

34 Recommendation No. 202, Preamble.



the accumulation of disadvantage resulting from systemic, often intergenerational, racial discrimination (Fredman 2016a, 719; ILO 2003, 22).

By contrast, a substantive conception of equality involves being concerned with the outcomes of norms, practices, social patterns and labour market institutions, unveiling the discriminatory nature or impact they may have. A focus on substantive equality addresses both equality in law and in practice. Under a substantive equality approach, racial equality cannot be achieved by merely prohibiting racial discrimination and making sure that racial considerations are excluded from work-related processes with the support of complaint-based remedial mechanisms. When the objective is reaching better outcomes for those left behind, the focus shifts to identifying and addressing situations of indirect discrimination and removing systemic and structural barriers to equality. From such a perspective, equality policies and measures are about achieving a transformation of existing patterns of social behaviours, organization and institutions, so as to achieve equality (Albertyn 2007; Biholar 2014; Fredman 2016a).

Equality policies and measures are about achieving a transformation of existing patterns of social behaviours, organization and institutions, so as to achieve equality.

Indirect discrimination

Treating everyone in the same manner without considering their diverse needs and characteristics may invertedly lead to disproportionate negative impacts or unequal outcomes for certain individuals or groups with characteristics that are protected under equality and non-discrimination provisions. Such situations may amount to *indirect* discrimination. In the context of Convention No. 111, the CEACR has noted that (ILO 2012, para. 745):

Indirect discrimination refers to apparently neutral situations, regulations or practices which in fact result in unequal treatment of persons with certain characteristics. It occurs when the same condition, treatment or criterion is applied to everyone, but results in a disproportionately harsh impact on some persons on the basis of characteristics such as race, colour, sex or religion, and is not closely related to the inherent requirements of the job.

Convention No. 111 thus emphasizes outcomes rather than intent (ILO 1988; Tomei 2003).

Where indirect discrimination is detected, the norm, policies and practices that are at its origin need to be revised. When workplace policies are concerned, reasonable accommodation is a possible response. To enable members of ethnic minority groups to enjoy equality of opportunities in practice, reasonable accommodation consists of making certain adjustments to the work or workplace. In doing so, the dignity of and respect for workers' diverse identities is upheld while avoiding disproportionate or undue burden on the employer. Examples include adjustments concerning dress requirements or rules concerning holidays accommodating religious practice (ILO 2014, 2016b).

Systemic and structural discrimination

The concept of indirect discrimination has played a crucial role towards acknowledging the systemic and structural nature of discrimination (ILO 2012, para. 745; 2021b, para. 20; 2022b; Sheppard 2012). Discrimination is considered systemic when it is pervasive and persistent and deeply entrenched in social



behaviour and organization. The UN Committee on Economic, Social and Cultural Rights (UN 2009a, para. 12) defines systemic discrimination as consisting of “legal rules, policies, practices or predominant cultural attitudes in either the public or private sector which create relative disadvantages for some groups, and privileges for other groups.”³⁵

The notions of systemic or structural discrimination assist in understanding how discrimination, and marginalization caused by it operates, and in devising integrated and comprehensive responses.³⁶ They highlight the construction of policies, norms and institutions that cater primarily to the needs and preferences of dominant ethnic or racial groups, leaving others at a disadvantage. Structural barriers and discrimination as regards education, health or in the world of work are linked to the fact that norms, procedures, policies, practices and institutions have been historically shaped around the needs and preferences of a dominant ethnic or racial group. Disadvantage in one area, for example housing or education, impacts on opportunities in other areas, for example employment or health (Agudelo-Suárez et al. 2009; Firpo, França and Portella 2021; ILO 2023a; Kline, Rose and Walters 2022; Pager and Shepherd 2008).

▀▀ **Structural barriers and discrimination as regards education, health or in the world of work are linked to the fact that norms, procedures, policies, practices and institutions have been historically shaped around the needs and preferences of a dominant ethnic or racial group.**

Structural racial discrimination is used as a lens to address the intergenerational legacy of slavery, conquest, colonialism, dispossession and apartheid (Duncan, Gootman and Nalamada 2024; Naidoo, Standwix and Yu 2014; Perea 2011). The persisting marginalization and impoverishment of people of African descent and indigenous and tribal peoples, including in particular women from these groups, are increasingly being understood as a result of systemic or structural racial discrimination (CEPAL 2018; ILO 2023a; UN 2023a).

Structural racial discrimination in the world of work may manifest itself in various ways, including within organizations and institutions. Recruitment procedures concentrating on certain schools or carried out through informal word of mouth selection excludes often ethnic minority groups who do not have access to those networks. Workplace appearance standards may reflect culturally specific practices and views of appropriateness, discriminating against those whose cultural practices do not align with those norms. Aptitude tests, seniority-based systems and redundancy policies may disproportionately impact certain racialized or migrant groups, particularly when such criteria do not take into account their unique their experiences and challenges (McCrudden 1982).

Another form of discrimination arises from systemic racial stereotyping, which may be intertwined with sexist stereotypes. For example, systemic stereotyping concerning the personality of African American women (Motro et al. 2022) and East Asian men and women (Berdahl and Min 2012) judged as unsuited to

35 Albania has defined in its national equality legislation “structural discrimination” as the “form of discrimination that refers to rules, norms, practices, patterns of attitudes and behaviours in institutions and other social structures that, intentionally or unintentionally, represent obstacles to groups or individuals in achieving the same rights and opportunities as others, which contribute to less favourable results to them, compared to others” (Law No. 10.221 of 2010, amended by Law 124/2020, section 3(6)).

36 See, for example, examining opportunities to tackle structural racism and ethnicity-based discrimination in recovering and rebuilding from the COVID-19 pandemic (Linós et al. 2022).



managerial and leadership roles has been found to explain their under-representation in those positions in Northern America. Even not conforming with the imposed stereotype can be disadvantageous for certain groups, since it can lead to greater vulnerability to racial harassment or some form of backlash, as it challenges the power structures that stereotyping is meant to preserve (Berdahl and Min 2012). At the same time, the definition of what are the requisites of a good leader are culturally and gender determined. Biased migration narratives and laws criminalizing irregular migration may foster public stereotyped perceptions that migrant workers with irregular status are more susceptible to crime or violence, or unfair competitors for jobs and social benefits, thereby fuelling anti-migrant discourses, xenophobia and discrimination (de Haas 2024; ILO 2016a, 2022c).

The United Nations Special Rapporteur on the rights of migrants has noted that discrimination against migrant workers can occur in both their work and daily lives on intersecting grounds, including gender, race, nationality, ethnicity, religion and other grounds; and that temporary labour migration programmes can further entrench multiple and intersecting forms of discrimination against low-wage migrant workers, and that racial and ethnic stereotypes applied to low-wage migrant workers and the structural conditions of such programmes reinforce stereotypical associations between certain types of work and specific nationalities (UN 2023b, paras 21 and 22).

Discrimination against migrant workers can occur in both their work and daily lives on intersecting grounds, including gender, race, nationality, ethnicity, religion and other grounds.

Addressing multiple and intersectional discrimination

While efforts to end discrimination have often focused on discrimination based on a single ground, such as sex, race or disability, the experiences and lived experiences of victims of discrimination often show that their identities reflect multiple personal characteristics that overlap and interact. Discrimination may thus occur in relation to more than one ground, creating cumulative disadvantage. For example, when workers from disadvantaged racial groups face barriers in accessing and maintaining work, racial minority workers with disabilities will meet additional challenges and discrimination (Gould, Mullin and Harris 2021). This is referred as multiple discrimination (Fibbi, Midtbøen and Simon 2021; ILO 2023b, para. 66; Lee and Piper 2013; Sheppard 2011).

Intersectional discrimination is a form of multiple discrimination. It occurs when several grounds of discrimination uniquely and inextricably interact. For example, dismissing a female worker because she wears a hijab at work could constitute a situation of intersecting discrimination based on sex and religion. Similarly, the intersection of factors such as race, religion, gender or disability increases the risk of violence and harassment, particularly in respect of young women from an ethnic or racial minority (ILO 2019b). Intersectional discrimination is an experience which is different and more profound than the mere sum of discrimination based on each distinct ground (Fredman 2016b; Weichselbaumer 2020). The CEACR has continually drawn attention to the need to address multiple and intersecting forms of discrimination in the framework of Convention No. 111 (ILO 2012, 2019b). An approach aiming at substantive equality will need to take into account and address the effects of multiple and intersecting forms of discrimination.



Proactive measures

Addressing the systemic and structural entrenched nature of discrimination and long-standing socio-economic inequalities resulting from it requires taking proactive measures (ILO 2019b). Such measures may take various shapes or forms, taking into account the specific circumstances and contexts and specific objectives pursued. Tripartism and social dialogue, collective bargain and workplace cooperation play an indispensable role in the design implementation and monitoring proactive measures to promote equality of opportunity and treatment. Social partners play a critical role in identifying discriminatory practices, promoting policies addressing them and fostering workplace environments that uphold diversity and equal opportunity (see Chapter 8).

Tripartism and social dialogue, collective bargain and workplace cooperation play an indispensable role in the design implementation and monitoring proactive measures to promote equality of opportunity and treatment.

Proactive measures such as awareness-raising and information campaigns, and equality and non-discrimination training and education are key for combating prejudice. Skills development and entrepreneurship support can specifically target racial or ethnic groups disadvantaged by discrimination to enhance their access to decent and productive employment. National action plans and strategies on racial discrimination that include specific actions regarding employment and occupation can contribute to policy coordination and accountability for implementation. Businesses implement voluntary diversity programmes and reporting of employment diversity, including racial or ethnic representation. Awards and recognition programmes can create incentives for taking such actions. In some countries, equality legislation also provides a framework for proactive measures in the form of workplace actions and policies, encouraging or mandating such measures, while ensuring a level playing field, transparency and accountability (see Chapter 5).

While proactive measures are generally permanent features of a country's national equality policy as required under Convention No. 111, some of them may be temporary in nature, namely those referred to in international law on equality and non-discrimination as *temporary special measures*.³⁷ Such special measures tend to involve preferential treatment such as quotas or reservations and are referred to in some national contexts as affirmative action (Dupper and Sankaran 2014; Faundez 1994; Jain, Sloane and Horwitz 2003; Teklé 2014; Tomei 2005). They aim to redress the effects of past and present discrimination and realize social, cultural and institutional transformation to achieve equality of opportunity and treatment (ILO 2019c; UN 2009b, 2014). They have a temporal nature, in the sense that they are to be discontinued when their objectives have been sustainably achieved. To this end, they should be regularly reviewed. To ensure that such temporary special measures are well designed and have a clear objective, Convention No. 111 requires that such measures should be taken in consultation with employers' and workers' organizations.

37 Convention No. 111, Art. 5(2); ICERD, Arts 1(4) and 2(2); 1979 Convention on the Elimination of All Forms of Discrimination against Women, Art. 4(1).



Chapter 3





► Understanding racial inequalities in the labour market

In-depth data collection and analysis are crucial for understanding inequalities and discrimination in the labour market. Reliable data provide a solid foundation for identifying trends, forecasting future developments and informing evidence-based policy decisions. Transparency and accessibility of these data are essential for ensuring that labour market interventions are grounded in empirical evidence rather than speculation or assumptions, and it ensures their legitimacy and builds public trust.

This chapter examines how various countries collect and utilize data disaggregated by race or ethnicity in labour force surveys, highlighting the methodological challenges and implications. It then presents empirical evidence on labour outcome disparities across different racial or ethnic groups to illustrate these inequalities; discusses different methods for understanding the extent to which discrimination is driving labour market inequalities along racial or ethnic lines; and presents the findings from the decomposition method for select countries to offer insights about the level to which the observed disparities may be due to racial discrimination.

3.1. Data disaggregation by race and ethnic groups: Approaches and challenges

Although racial and ethnic groups concerned vary across countries, which may pose a challenge to establishing uniform international standards for data disaggregation by race or ethnicity,³⁸ the importance of collecting such disaggregated data, and building national level capacity for doing so,³⁹ is now emphasized. The Global Indicator Framework for the Sustainable Development Goals encourages disaggregating data by race and ethnicity where relevant (see UN 2017, annex), and the United Nations has issued guidance on how data disaggregated by race or ethnicity can be collected consistent with

38 See <https://unstats.un.org/unsd/demographic/sconcerns/popchar/popcharmethods.htm>.

39 Sustainable Development Goal target 17.18 reads as follows: “By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.”

human rights principles (OHCHR 2018). During the second recurrent discussion on labour protection at the International Labour Conference in 2023, constituents stressed the need for increasing the availability of data disaggregated by sex, age, disability, race, ethnicity, migrant status and geographic location (ILO 2021b, para. 24(e)) and called for knowledge development and capacity-building in this regard (ILO 2023c, para. 24(a)).

To assess the availability of ethnicity-disaggregated data and analyse the labour force indicators by ethnicity, a review of labour force surveys, household income and expenditure surveys, and censuses from ILO Member States was undertaken, relying on the ILO's microdata repository. Two types of variables are used: first, country-specific variables collected by the ILO in its microdata repository; and second, harmonized variables processed by the ILO and included in the ILO Harmonized Microdata Collection.⁴⁰

Surveys use various methods to collect data on racial or ethnic groups. Some surveys employ explicit questions about ethnic background. Survey questions often ask respondents whether they belong to a generic or specific racial or ethnic group and/or subgroup, hence relying on self-identification. Other questions inquire about characteristics such as skin colour, depending on the country's context (ILO 2023d). Variables such as religion, language and nationality can also serve as proxies for ethnicity. However, the quality of the proxies varies according to the specific ethnic demographics of each country.

▀ ▀ Among the 187 ILO Member States, 47 countries collect and report data disaggregated by race or ethnicity to the ILO.

Among the 187 ILO Member States, 47 countries collect and report data disaggregated by race or ethnicity to the ILO. Of these, 15 countries provided data for only a single year, while 32 countries provide racial or ethnic group data for multiple years, allowing for trend analysis. Several challenges arise when analysing data disaggregated by race or ethnicity available in the ILO's microdata repository. Firstly, even when a race or ethnicity question is included in a survey, the specific variable might not be publicly available, as the particular country has not provided the data to the ILO, limiting a comprehensive analysis. Secondly, the race or ethnicity question might be included in certain years or removed in others, or the categories might be revised in a particular country making data interpretation and trends analysis difficult. Thirdly, it is not uncommon for data on racial or ethnic identifiers to be available but unusable due to insufficient or "unrepresentative" sampling; and fourthly, different categorization approaches across countries, limits the possibility for presenting racial or ethnic disparities at regional or global levels. This chapter presents data for select number of countries for which data are available either for a single year or multiple years.

The extent to which racial or ethnic disparities are revealed in labour outcome variables depends on how these categories are defined within the survey. Factors such as the number of categories used, the merging of subcategories, framing of the question, and whether respondents can select single or multiple options can all influence the results. The way countries frame survey questions on race or ethnicity tends to evolve over time. For example, the United States revised its racial and ethnic categories in surveys in March 2024 to acknowledge increasing diversity and ensure the equitable assessment of government programmes.⁴¹ Box 3.1 compares two ways of framing the question relating to race and ethnicity in Uruguay.

40 See <https://ilostat.ilo.org>.

41 See <https://www.census.gov/newsroom/blogs/random-samplings/2024/04/updates-race-ethnicity-standards.html>.



► Box 3.1. Capturing ethnicity in official surveys: The case of Uruguay

The 2022 Encuesta Continua de Hogares survey shows the complexities of ethnic classification based on self-identification. In the survey, the first question asked was: “Which ethnic ancestry do you have?” This allowed ethnic-racial ancestry to be identified from categories such as Afro/Black, Asian, White and Indigenous, with the option to select multiple ethnicities. The second question then followed: “Which one do you consider as the main of those declared?” This required respondents to choose a single, primary ethnic category from their previous selections.

The division of the survey questions into two parts has significant implications for understanding the multifaceted nature of ethnic identity. Firstly, by allowing respondents to select multiple ethnicities, the survey acknowledges the complexity and fluidity of ethnic identities, which can encompass a blend of various ancestries. This approach enables a more nuanced and inclusive representation of the population’s ethnic composition, which has also been recommended by the UN Statistics Division. Secondly, the subsequent question asking respondents to identify their primary ethnic category is crucial for statistical clarity and focus. By combining both the broad spectrum of ethnic identities and the primary affiliations, the survey aims to capture a more accurate and comprehensive portrait of ethnic demographics.

This survey reveals interesting insights into the complexities of ethnic identity. While 60 per cent of respondents with both Afro/Black and White ancestry identify as White, 40 per cent identify as Afro/Black. Conversely, among those with Afro/Black and Indigenous ancestry, there is an even split: 50 per cent identify as Afro/Black and 50 per cent as Indigenous. These findings demonstrate that individuals with mixed ethnicities may be more likely to identify with one ethnicity over another, and this tendency varies depending on the specific ancestral combination.

The data show that ethnic self-identification is a complex and layered concept, heavily shaped by the framing of survey questions. The stark differences in responses, based on whether individuals were permitted to acknowledge multiple ethnicities or had to select a single, primary one, highlight the fluid nature of ethnic identity. This suggests that rigid or singular categorizations of ethnicity may not adequately reflect the diverse and evolving ways people perceive and relate to their ethnic backgrounds.

3.2. Labour market participation of different racial or ethnic groups

Access to employment is a fundamental indicator for assessing racial or ethnic disparities in the labour market. Statistical analyses reveal clear racial or ethnic patterns in employment outcomes globally (Amo-Agyei 2020; CEPAL 2018; ILO 2019c). Freeman (2012) finds that the Black/White unemployment ratio has worsened over time in the United States, while the Hispanic/White ratio has improved. Gemelas et al. (2022) find that Black, Asian American and Hispanic/Latino workers experienced more severe employment losses than White workers during the COVID-19 pandemic, with variations between frontline and non-frontline sectors. These disparities likely have broader implications for health outcomes and resource allocation. Furthermore, research by Fairlie and Meyer (1996) identifies substantial differences in self-employment rates across ethnic and racial groups, even after controlling for factors such as age, education and immigrant status. They observe a positive correlation between group self-employment rates and the earnings differential between self-employment and wage/salary work, suggesting that economic factors may partially explain these disparities.

The employment-to-population ratio, which represents the proportion of the working-age population within each ethnic and racial group that is employed, serves as a key indicator of access to employment. A high ratio suggests strong labour market participation within a racial or ethnic group, while a low ratio indicates that a significant proportion of the population is either unemployed or outside of the labour force entirely.



Figure 3.1 illustrates employment-to-population ratios across various ethnic and racial groups in different countries, revealing disparities in access to employment and highlighting the disproportionate impact of economic downturns on certain groups. Persistent gaps in these ratios across ethnic and racial groups suggest enduring barriers to employment for some groups, potentially stemming from discrimination, including unequal access to education and resources, or other structural factors.

The Global Recession (2008–09) for example, had a significant impact on employment across all ethnic and racial groups in the countries analysed. In the United States, for example, all groups experienced a decline in the employment-to-population ratio. The magnitude of the decline varied, revealing the differential vulnerability of certain groups to economic shocks. This disparity likely reflects the concentration of different ethnic and racial groups in sectors that were more severely affected by the recession.

▶▶ Access to employment is a fundamental indicator for assessing racial or ethnic disparities in the labour market.

South Africa reveals a more dynamic picture. Between 2010 and 2019, employment-to-population ratios fluctuated across ethnic and racial groups. The White population experienced a gradual decline in employment, while for the Coloured and African/Black population, it marginally increased between 2012 and 2018, and then declined quite sharply for Coloured and gradually for African/Black population groups. The evolution for the Indian/Asian populations was almost stable, with small declines and increases in the employment-to-population ratios, and it declined sharply from 2016. However, there was an impressive rebound among both Indian/Asian and Coloured groups in 2022. The COVID-19 pandemic disproportionately affected vulnerable groups including women, African/Black, youth and less educated individuals, leading to significant job losses and exacerbating existing inequalities (Ranchhod and Daniels 2021).

As shown by the data for the Plurinational State of Bolivia, Panama and Peru, indigenous peoples and Afro-descendants have higher employment-to-population ratios than others. This is consistent with earlier ILO estimates showing that in lower-middle-income and low-income countries⁴² indigenous and tribal populations tend to have a higher labour force participation but are overrepresented in low quality jobs and among the poor (ILO 2019c).

In Viet Nam, a persistent disparity in the employment-to-population ratio exists across Kinh and other ethnic groups when taken together. This disparity remained relatively stable over time, indicating unequal employment opportunities. These findings align with existing research highlighting the problem of underemployment among ethnic minority groups, particularly in rural and mountainous regions where agriculture and forestry dominate (Pham Thi Phuong Thai et al. 2020). Despite ongoing efforts by the Government to boost employment in these areas, unemployment rates remain high and their incomes continue to lag behind national average incomes (Uyen 2022).

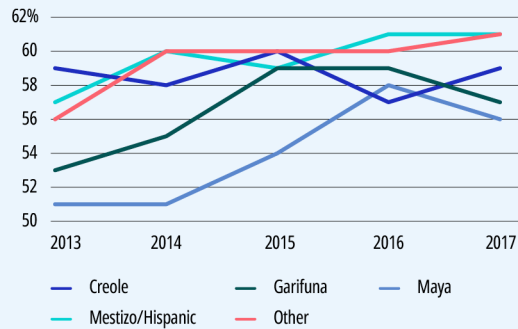
Analysing data disaggregated by both gender and ethnicity is crucial because men and women within the same ethnic and racial group may have distinct experiences and outcomes in the labour market. These differences can stem from gender-based discrimination leading to occupational segregation.

42 See Appendix II for the country income level classification.

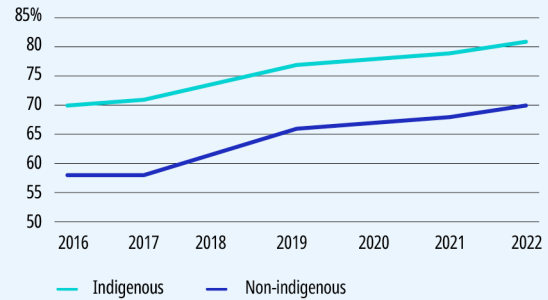


► **Figure 3.1. Employment-to-population ratio trend by ethnicity, multi-year data availability (percentage)**

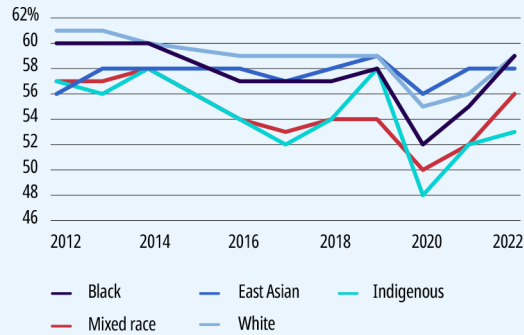
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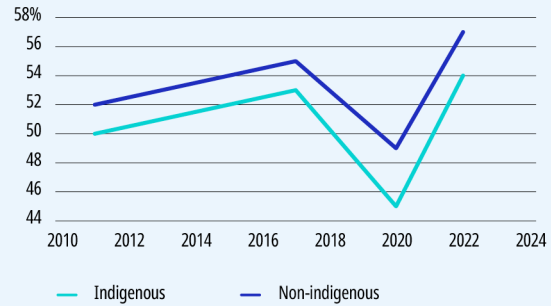
► **Plurinational State of Bolivia**



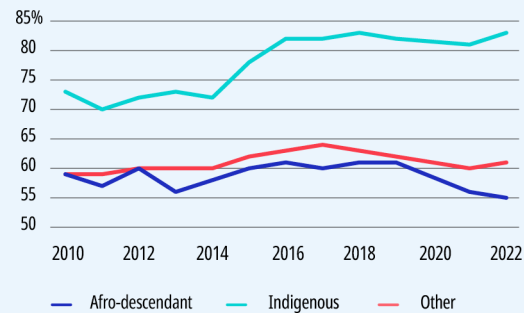
► **Brazil**



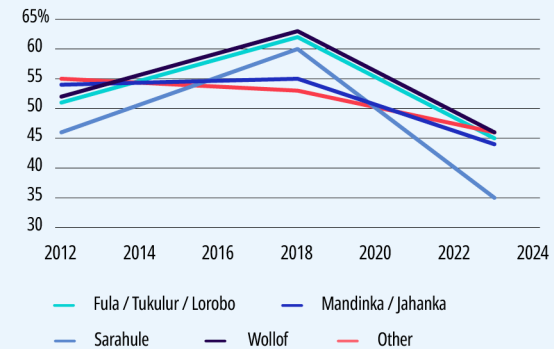
► **Chile**



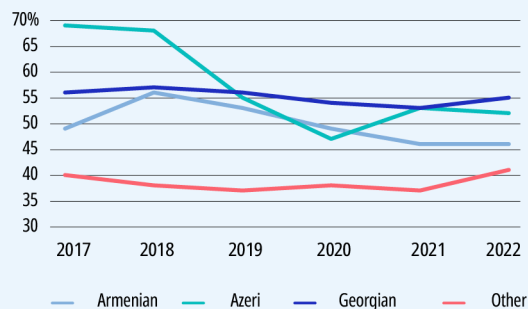
► **Ecuador**



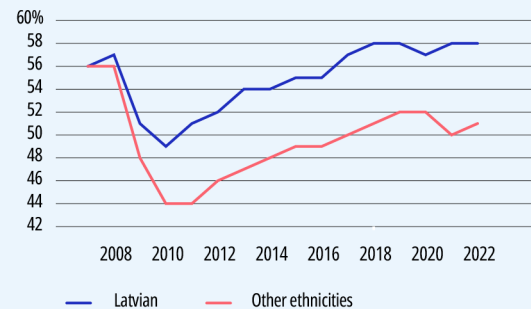
► **Gambia**

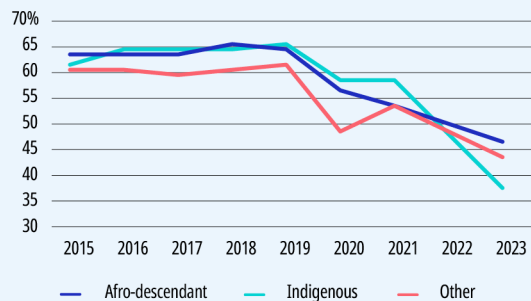
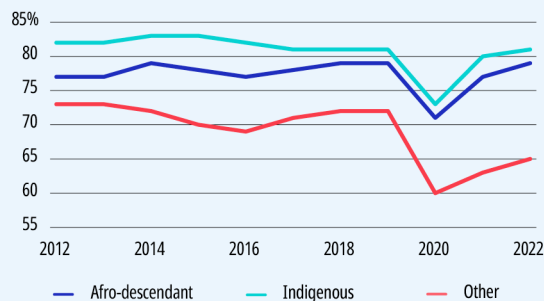
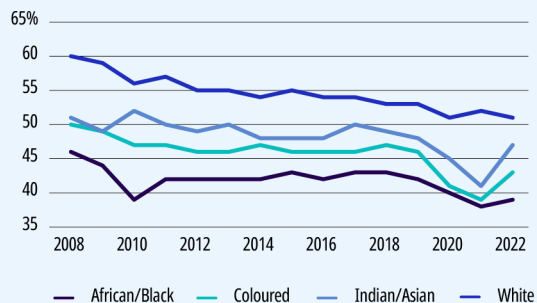
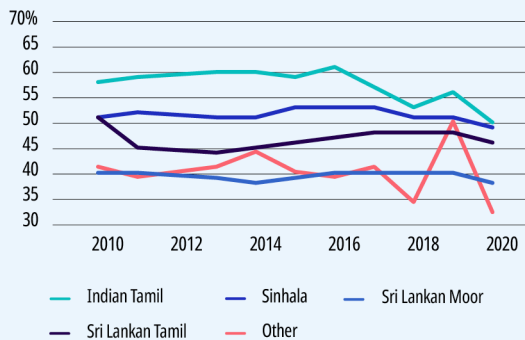
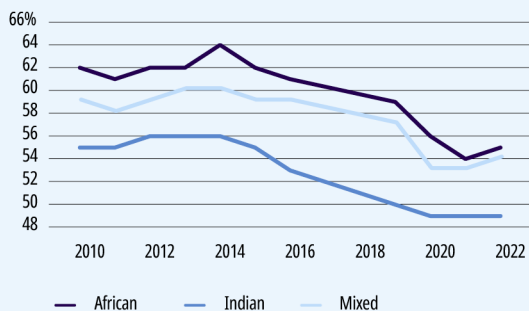
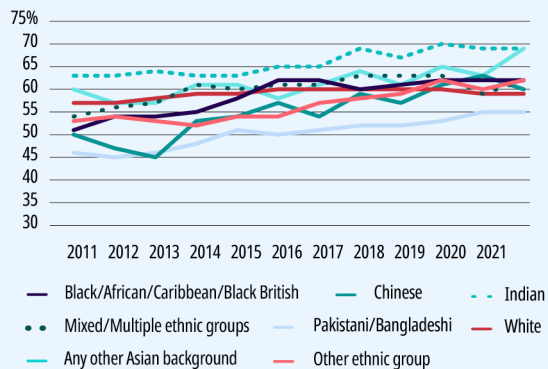
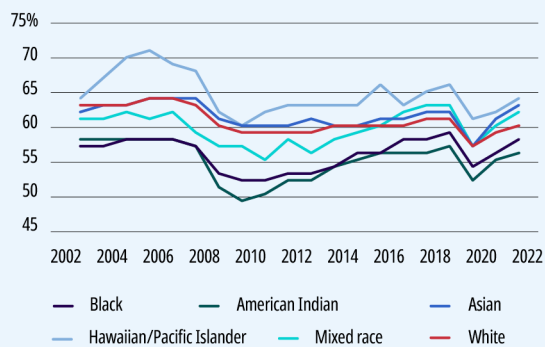
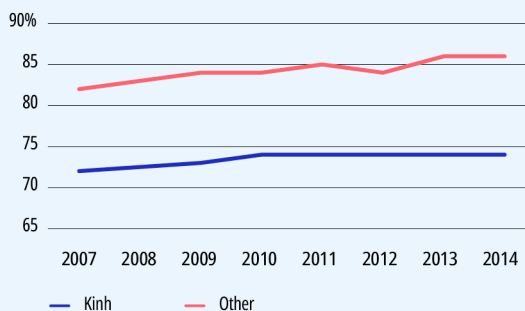


► **Georgia**



► **Latvia**



► **Figure 3.1. (continued)**► **Panama**► **Peru**► **South Africa**► **Sri Lanka**► **Trinidad and Tobago**► **United Kingdom**► **United States**► **Viet Nam**

Source: ILO calculations based on surveys listed in Appendix I.

Figure 3.2 (see also Appendix III) illustrates employment-to-population ratios by gender and ethnic and racial groups across various countries and by levels of income. The data reveal significant gender and ethnic disparities in employment rates across all countries with different income levels, highlighting the intersecting influence of these factors on labour market outcomes. While both gender and ethnicity play a role in shaping employment opportunities their relative prominence varies by country and income levels. In most high-income countries, the distribution between males and females within each ethnic and racial group is quite similar. The variations between gender are much higher in Guyana and Trinidad and Tobago, followed by Chile, Latvia, the United Kingdom and the United States.

►► **Analysing data disaggregated by both gender and ethnicity is crucial because men and women within the same ethnic and racial group may have distinct experiences and outcomes in the labour market.**

The same is true in upper-middle-income and low-income countries. However, in upper-middle-income countries, the largest employment gap is among the Afro-descendant population, with men having considerably higher employment rates than women, especially in Colombia and Ecuador. The differences in gender gap among indigenous populations is comparatively smaller in Ecuador and Peru, while it is quite pronounced in Brazil and Colombia. Among lower-middle-income countries, the gender gaps in employment are quite high in Nepal, Nicaragua, Sri Lanka and Tajikistan among all ethnic groups. While in the Plurinational State of Bolivia and Viet Nam, these gaps are smaller; and in the Plurinational State of Bolivia, women have higher employment rates compared to men among the Afro-descendant population.⁴³

3.3. Labour market outcomes for different racial or ethnic groups

While access to employment is crucial, racial discrimination extends beyond simply having a job to encompass the quality of that employment. The quality of employment is measured here using decent work indicators and guidelines from the *Handbook on Measuring Quality of Employment* (UNECE 2015). These indicators highlight disparities in:

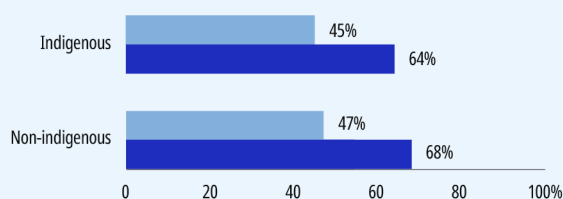
- Employment status: Examining the proportions of employees, self-employed individuals or unpaid family workers within different ethnic and racial groups.
- Occupational segregation: Identifying the overrepresentation or under-representation of certain racial groups in specific occupations, such as managerial positions or low-skilled jobs.
- Participation in informal employment: Assessing the disproportionate concentration of certain racial groups in informal work, which often lacks social protection and legal rights.
- Access to social security: Analysing disparities in access to benefits, such as unemployment insurance, health insurance and pensions, across racial groups.
- Wage gaps: Evaluating significant pay differences between racial groups, even after accounting for factors such as age, sex, education, experience, industry and occupation.

43 Please note that the sample is small for Afro-descendant population (40 and 20 people in each sex).

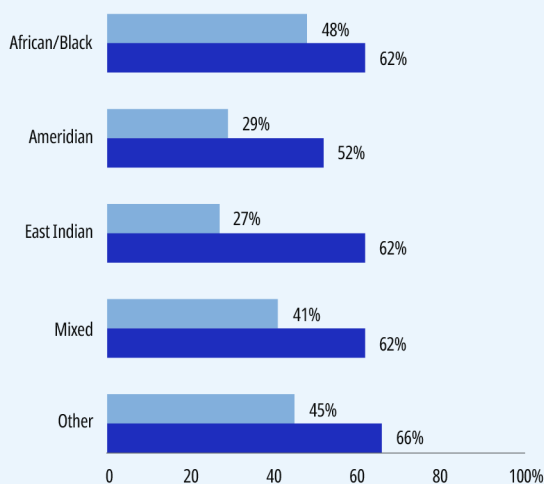


► **Figure 3.2. Employment-to-population ratio by ethnicity, sex and country income level, latest available year (percentage)**

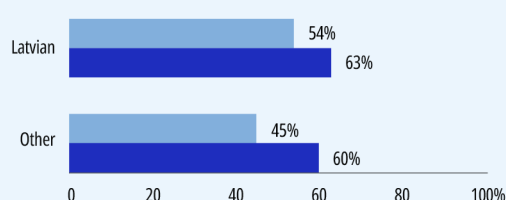
► **Chile, 2022**



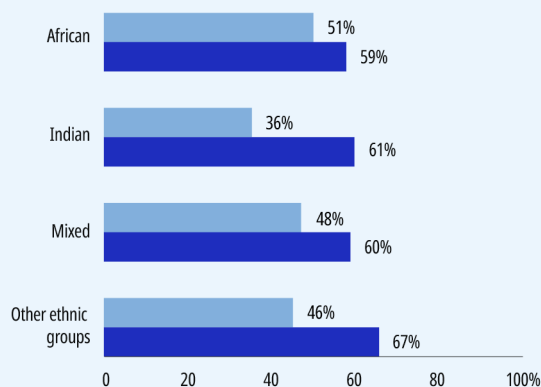
► **Guyana, 2019**



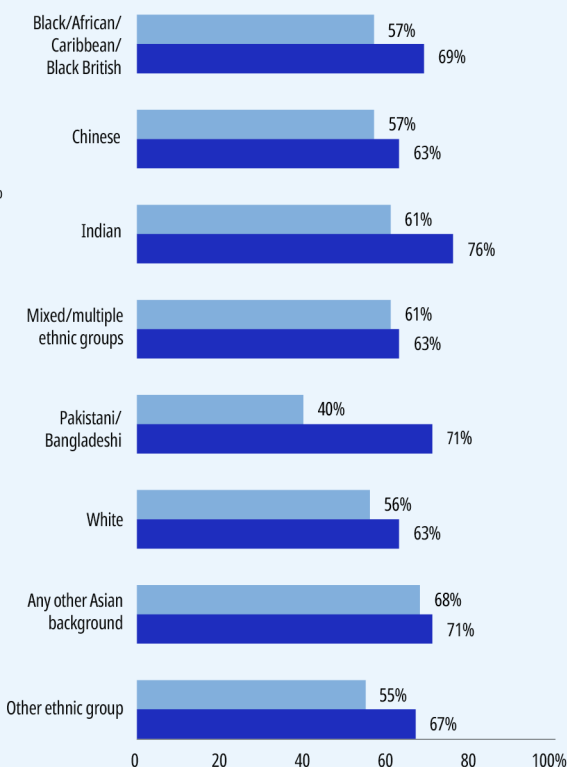
► **Latvia, 2022**



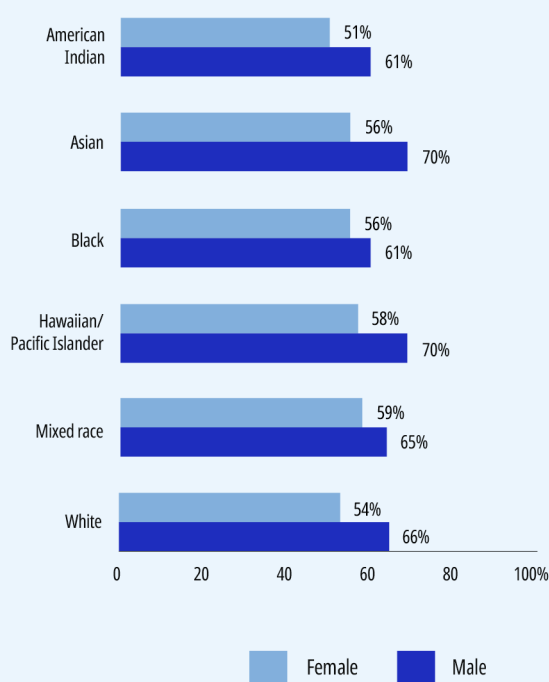
► **Trinidad and Tobago, 2022**



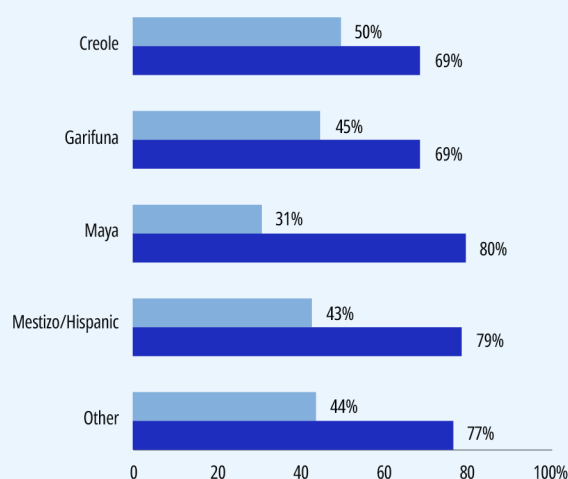
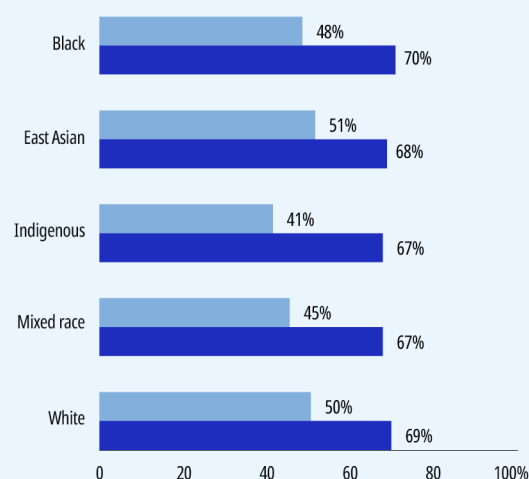
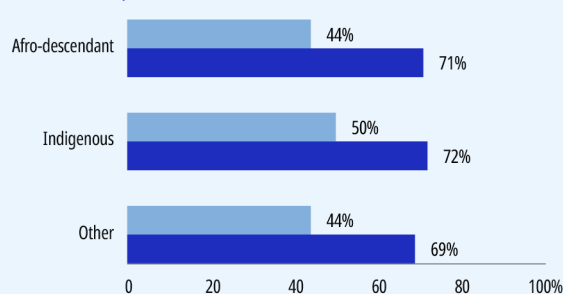
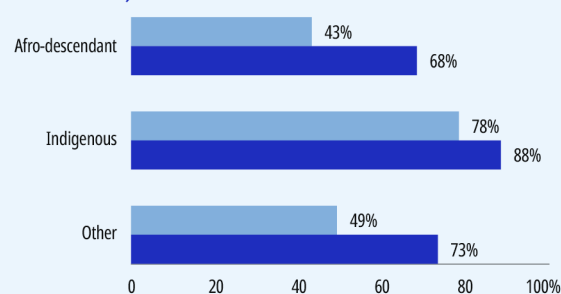
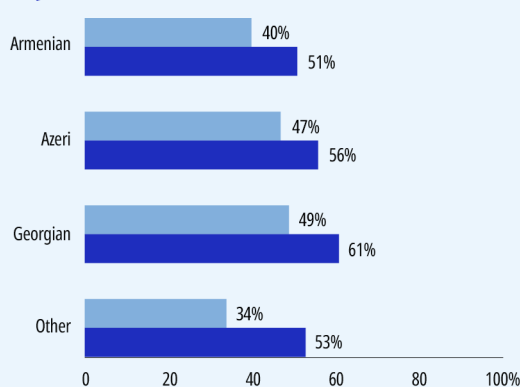
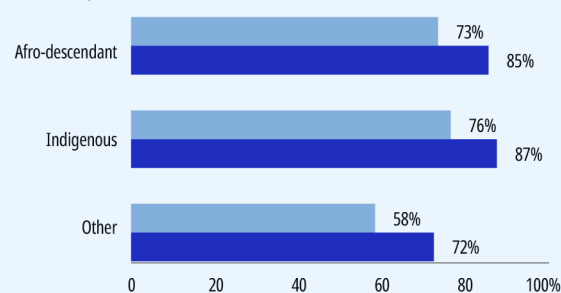
► **United Kingdom, 2022**



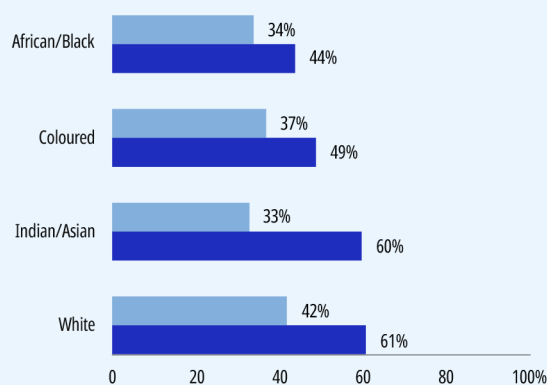
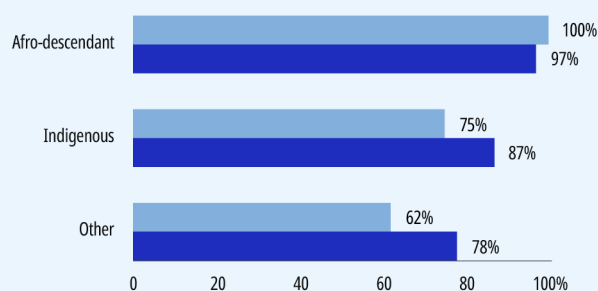
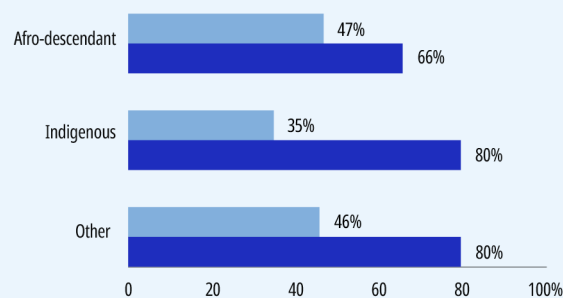
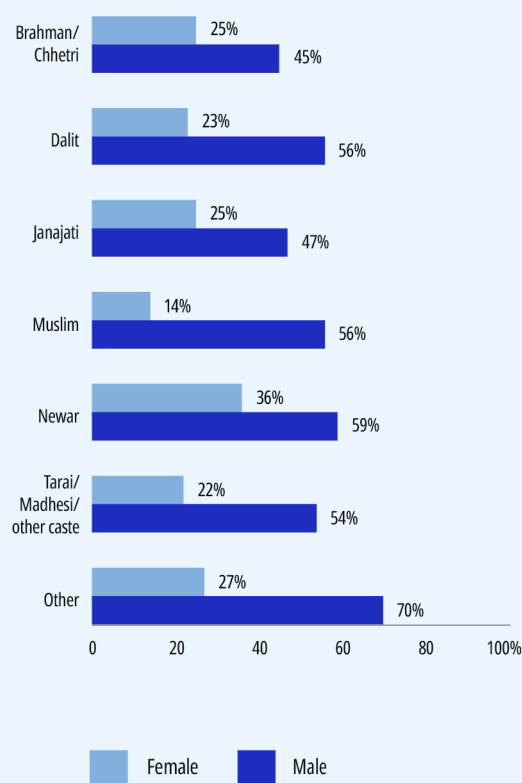
► **United States, 2022**

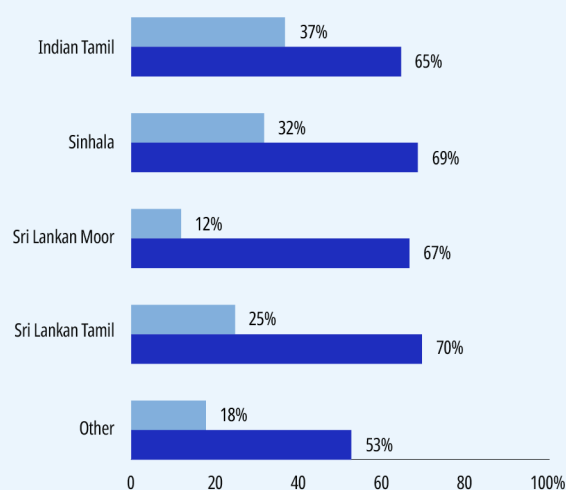
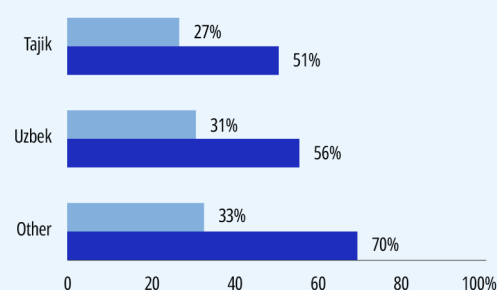
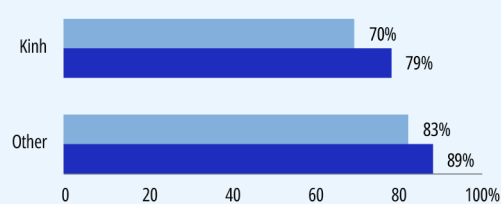
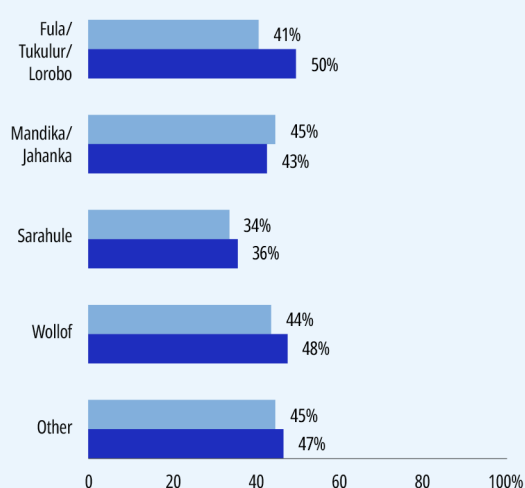


Female Male

► **Figure 3.2.** (continued)**Upper-middle-income**► **Belize, 2017**► **Brazil, 2022**► **Colombia, 2022**► **Ecuador, 2022**► **Georgia, 2022**► **Peru, 2022**

Female Male

► **Figure 3.2.** (continued)**Upper-middle-income**► **South Africa, 2022****Lower-middle-income**► **Plurinational State of Bolivia, 2022**► **Nicaragua, 2014**► **Nepal, 2017**

► **Figure 3.2. (continued)****Lower-middle-income**► **Sri Lanka, 2020**► **Tajikistan, 2009**► **Viet Nam, 2014****Low-income**► **Gambia, 2023**

Female Male

Source: ILO calculations based on surveys listed in Appendix I.

Employment status

Disparities along racial or ethnic groups are evident within different employment status categories across various labour markets. Studies have shown that certain racial or ethnic groups are often overrepresented in self-employment (ILO 2019c). Several factors may contribute to this disparity, including discrimination in hiring and promotion practices that disadvantage minority groups, and cultural factors, such as preferences for certain communities for self-employment, which can provide an opportunity for social mobility (Fairlie and Meyer 2000).

The figure in Appendix IV shows the distribution across employment status categories (employees versus own-account workers) by ethnicity and sex. The data reveal a clear pattern based on a country's income level. High-income countries generally have a larger share of employees, while low-income countries have a higher proportion of own-account workers (see Appendix IV). This reflects the differences in the structure of the labour force between high-income and low-income countries. Though there are some exceptions — the labour force structure in Guyana and Trinidad and Tobago is similar to that of middle-income countries. In high-income countries, the labour force structure is quite similar between men and women as well as the ethnic groups, except for in Guyana and Trinidad and Tobago. Interestingly in Trinidad and Tobago, a higher proportion of women are employees compared to men, with a higher proportion of men being own-account workers. This trend is similar across the different ethnic groups.

In upper-middle-income countries, the proportion of employees is higher in Brazil and South Africa compared to other countries. In South Africa, among women, a higher proportion of them are employees in all ethnic groups except for African/Black. A higher proportion of the African/Black population are own-account workers compared to other ethnic groups. In Brazil, the distribution across the different employment categories for different ethnic groups is quite similar. In all other countries, there are some differences along gender or ethnic groups, such as Armenian in Georgia, indigenous in Colombia and Ecuador, or Maya in Belize, where a higher proportion of workers are either own-account workers or contributing family members.

There is quite a bit of variation in lower-middle-income groups between gender and ethnic groups, and no clear pattern can be discerned.

Informal employment

Informal employment characterizes persons who are engaged as: own-account workers, employers and members of cooperatives, employed in their own informal sector enterprises; and employees who hold informal jobs, whether employed by formal sector enterprises, informal sector enterprises or as paid domestic workers by households. These workers often do not have a written employment contract, are not covered by social security system, and are not entitled to paid annual or sick leave.

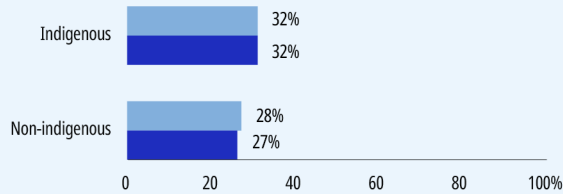
Figure 3.3 presents the share of informal employment by ethnicity and gender. While the informal employment represents a smaller share of employment in high-income countries, ethnic disparities persist. In some cases, individuals from particular backgrounds, especially women, are more likely to engage in informal employment. This pattern becomes more pronounced in upper-middle-income countries, where informal employment is significantly more prevalent than in high-income countries. The data reveal substantial differences in informal employment rates across ethnicities, with certain groups disproportionately concentrated in informal employment. A gender gap is also evident within ethnicities, with women generally experiencing higher rates of informal employment.



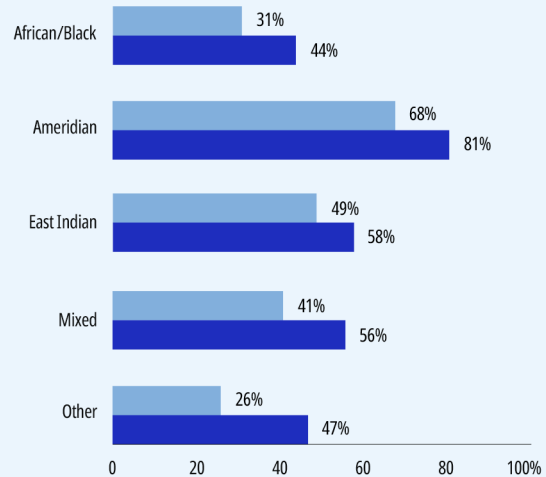
► **Figure 3.3. Share of workers in informal employment by ethnicity, sex and country income level, latest available year (percentage)**

High-income

► Chile, 2022

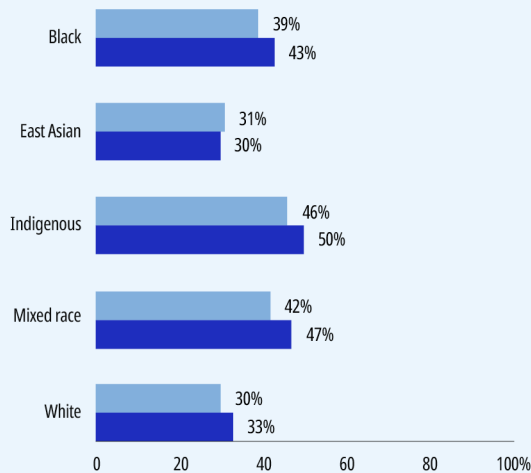


► Guyana, 2019

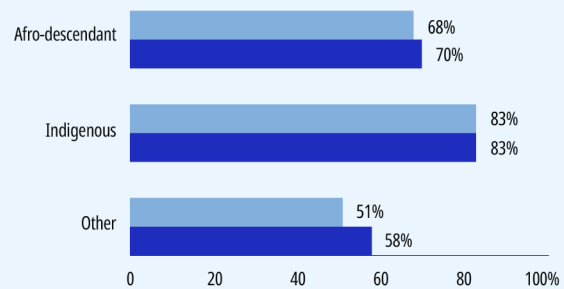


Upper-middle-income

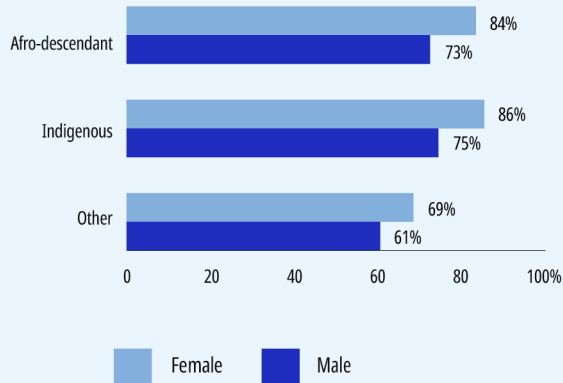
► Brazil, 2022



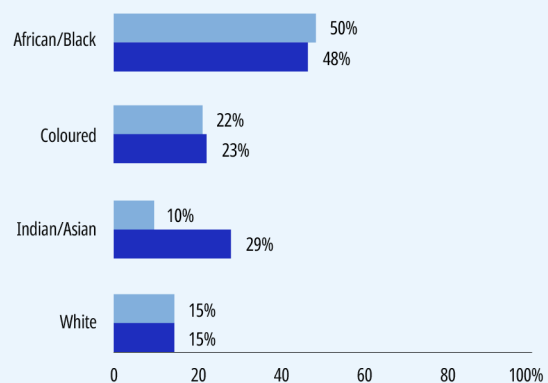
► Colombia, 2022

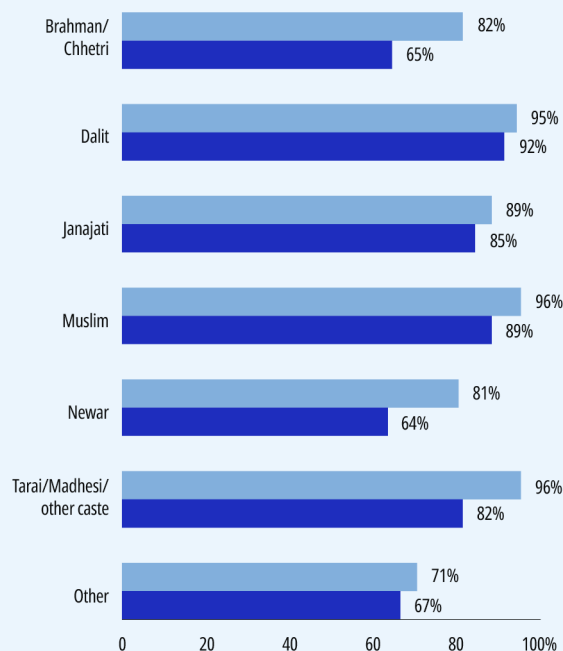
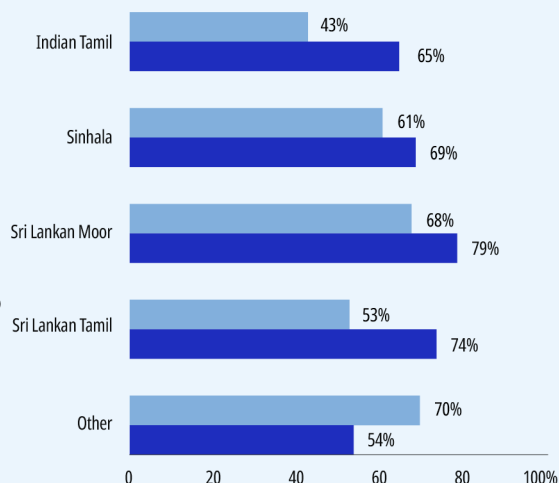
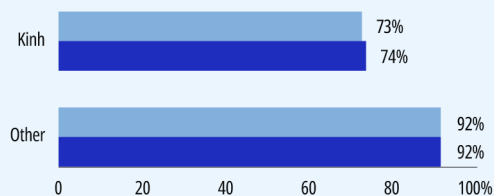
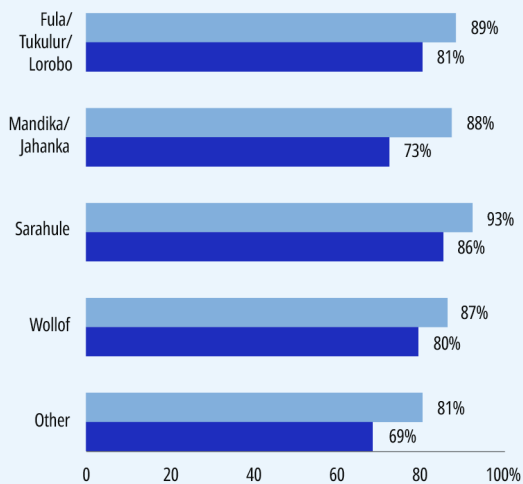


► Peru, 2022



► South Africa, 2022



► **Figure 3.3. (continued)****Lower-middle-income**► **Nepal, 2017**► **Sri Lanka, 2020**► **Viet Nam, 2014****Low-income**► **Gambia, 2023**

Female Male

Source: ILO calculations based on surveys listed in Appendix I.

In lower-middle-income and low-income countries, informal employment constitutes a substantial proportion of the overall workforce. The data show that informality is quite pervasive across ethnic groups, with limited variation between them. However, a consistent gender gap persists across all ethnicities, with women consistently experiencing higher rates of informal employment than men. In addition, as observed from the data and some studies, certain racial and ethnic groups are overrepresented in informal work, which is the case with indigenous and tribal peoples.

►► The disproportionate representation of workers in informal employment suggests systemic barriers and potential discriminatory practices that restrict their access to formal employment.

The disproportionate representation of workers in informal employment suggests systemic barriers and potential discriminatory practices that restrict their access to formal employment. This perpetuates a cycle of disadvantage, hindering economic mobility and access to decent work opportunities with fair and safe working conditions. Discrimination can manifest in various ways, including through practices deeply ingrained in social structures. For example, hiring based on informal referrals or within-network recruitment common in both formal and informal sectors often reinforces ethnic discrimination, as employers tend to seek recommendations from within their own networks (Munshi and Rosenzweig 2006).

Occupational segregation

Occupational segregation is another manifestation of racial and ethnic disparities in the labour market. Ethnic minority, indigenous and migrant groups often face barriers to formal employment, leading to their overrepresentation in informal and low-wage jobs (Amo-Agyei 2020; ILO 2019c; Tesfai 2020). This pattern is evident in various countries. In China, rural migrants primarily fill low-skilled positions in sectors such as manufacturing, construction and services (Pryce, Chen and Wang 2021). In Spain, international migrants from countries including Colombia, Ecuador, Morocco, Romania, and sub-Saharan Africa, are concentrated in sectors such as construction, hospitality, domestic service and agriculture (Agudelo-Suárez et al. 2009). Interestingly, the relationship between migrant status and skill level varies between high-income and low-income countries. In high-income countries, migrant workers are disproportionately concentrated in low-skilled and unskilled jobs compared to non-migrant populations (Amo-Agyei 2020). In contrast, in some lower-middle-income countries, migrant workers may be more likely to hold high-skilled jobs than local workers (Amo-Agyei 2020).

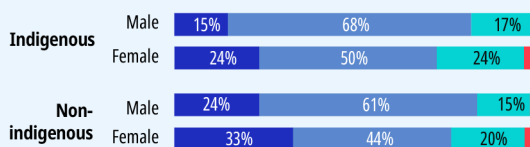
Figure 3.4 illustrates the distribution of employees across three occupational categories – managerial, professional and technical, mid-level and elementary – by ethnicity and sex. The data reveal a clear pattern of racial disparities, mirroring the disparities observed in overall access to employment. For instance, in Brazil, the Black, indigenous and mixed-race populations are overrepresented in elementary occupations, while Asian and White populations have a significantly higher share of managerial, professional and technical positions. This gap is even more pronounced when comparing women from the Black, indigenous and mixed-race populations, with women from Asian and White populations. Similar disparities are evident in South Africa, with the African/Black and Coloured populations concentrated in elementary occupations, while the White and Indian/Asian populations have a significantly higher share in managerial, professional and technical positions.



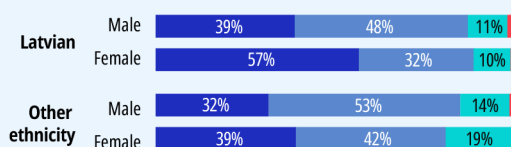
► **Figure 3.4. Occupation type by ethnicity, sex and country income level, latest available year (percentage)**

High-income

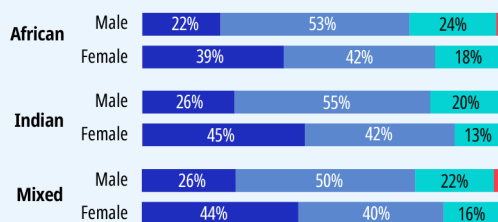
► Chile, 2022



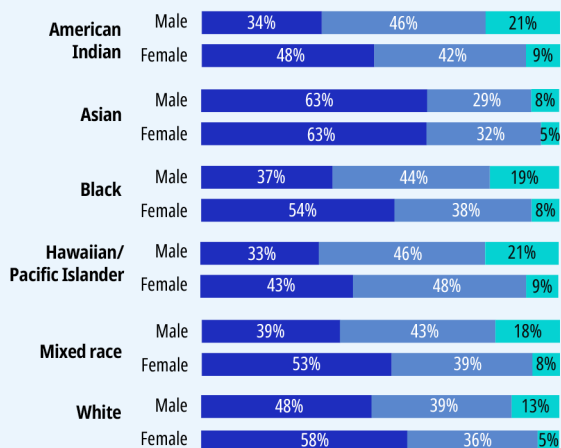
► Latvia, 2022



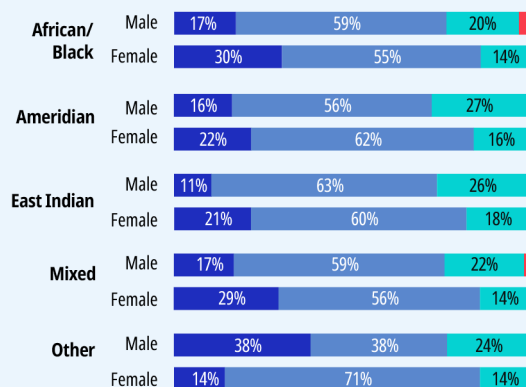
► Trinidad and Tobago, 2022



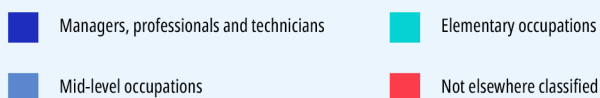
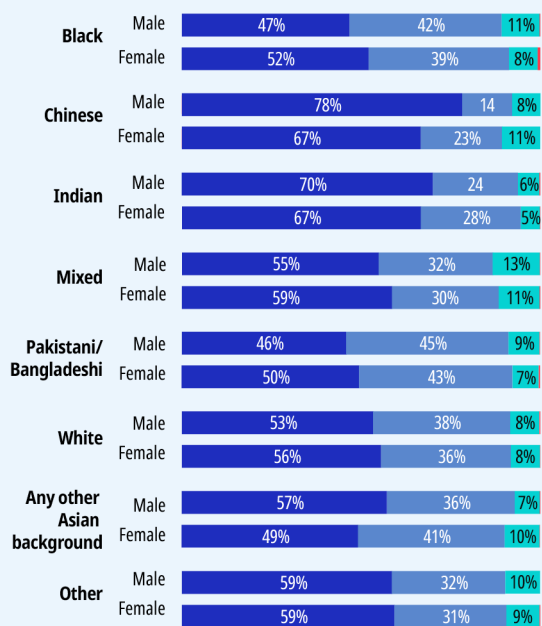
► United States, 2022

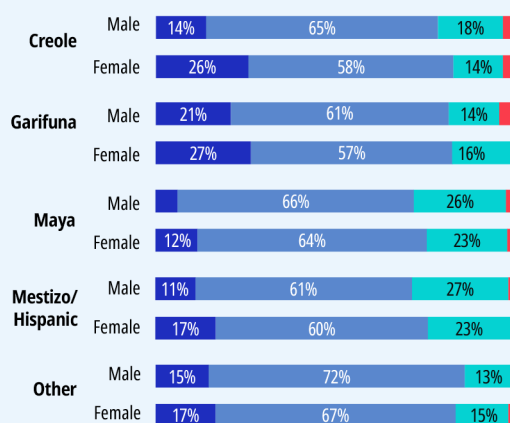
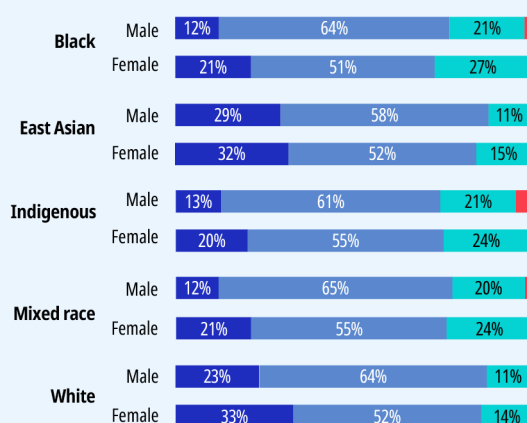
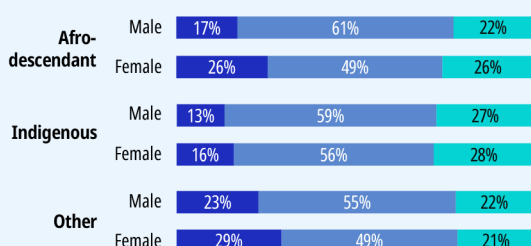
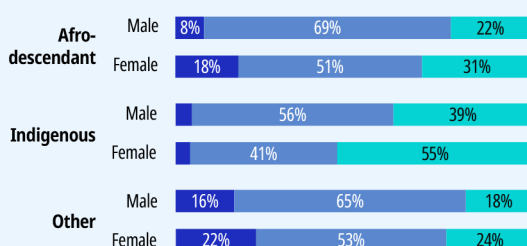
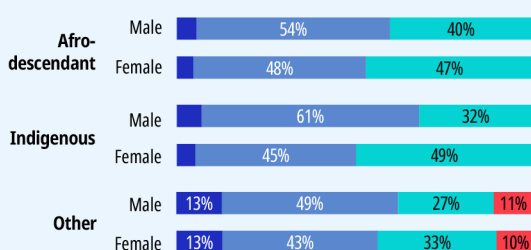
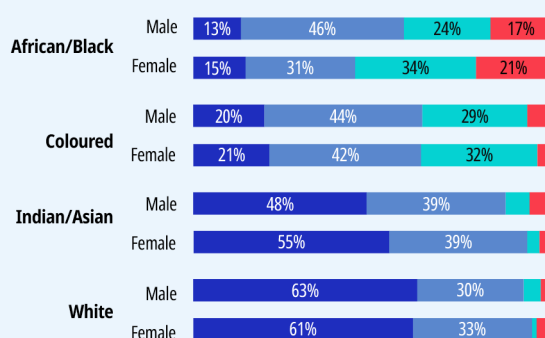


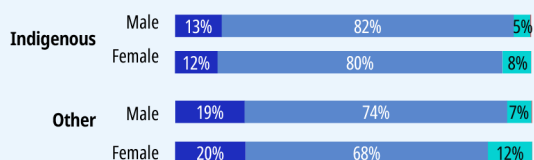
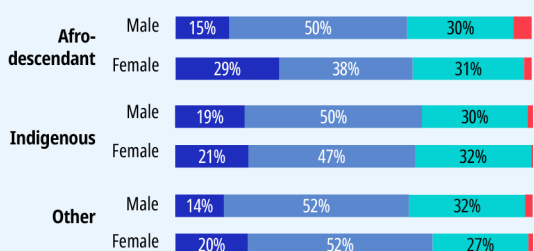
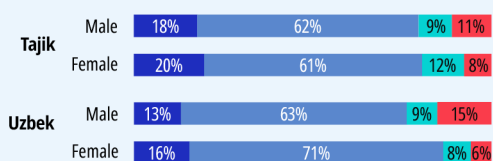
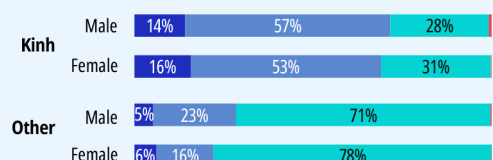
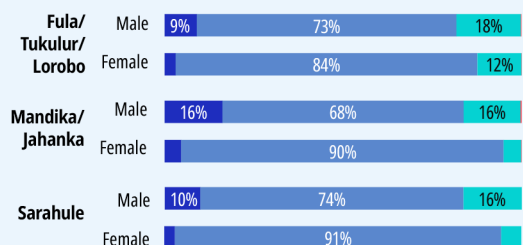
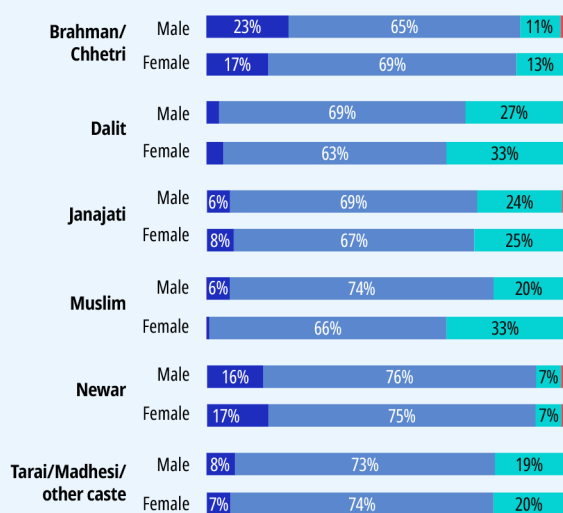
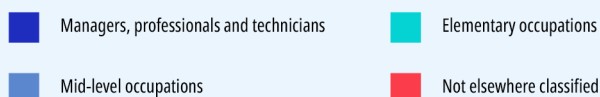
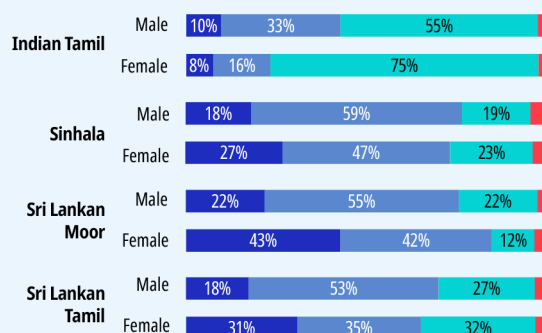
► Guyana, 2019



► United Kingdom, 2022



► **Figure 3.4. (continued)****Upper-middle-income**► **Belize, 2017**► **Brazil, 2022**► **Colombia, 2022**► **Ecuador, 2022**► **Peru, 2022**► **South Africa, 2022**

► **Figure 3.4. (continued)****Lower-middle-income**► **Plurinational State of Bolivia, 2022**► **Nicaragua, 2014**► **Tajikistan, 2009**► **Viet Nam, 2009****Low-income**► **Gambia, 2023**► **Nepal, 2017**► **Sri Lanka, 2020**

Source: ILO calculations based on surveys listed in Appendix I.

While disparities in employment access and occupational segregation for disadvantaged groups are not always solely attributable to racial discrimination – factors such as limited access to education and differing experience levels also play a role – however, stark differences persist even when controlling for education. This suggests that race, ethnicity and nationality continue to significantly influence access to labour market opportunities.

For example, in the Netherlands, while 81 per cent of native-born individuals are active in the labour market, only 27 per cent of sub-Saharan African immigrants participate (Confurius, Gowricharn and Dagevos 2019). The traditional human capital model, which posits a direct relationship between education and employment outcomes, only explains 9 per cent of this gap. Furthermore, even within the sub-Saharan African immigrant population, the impact of education and training on labour market outcomes varies, indicating that educational access alone is not the sole determinant of economic well-being (Confurius, Gowricharn and Dagevos 2019).

Social security

Disadvantaged racial and ethnic groups often encounter barriers to accessing social security through their work, encompassing social security, health coverage and pensions and other contributory benefits. The high rates of informality among these groups often result in limited or no access to opportunities to pension schemes or retirement savings plans. For example, in Latin America, Afro-descendants and indigenous peoples have lower rates of affiliation with pension schemes, leading to inadequate or non-existent pension benefits upon retirement (Abramo 2021; ILO 2022a).

Disadvantaged racial and ethnic groups often encounter barriers to accessing social security through their work, encompassing social security, health coverage and pensions and other contributory benefits.

To distinguish between workers with and without social security coverage, data on access to social security with employment status differentiating between employees and own-account workers were combined.⁴⁴ Figure 3.5 illustrates the resulting distribution of workers across employment types and social protection statuses, disaggregated by ethnicity and sex.

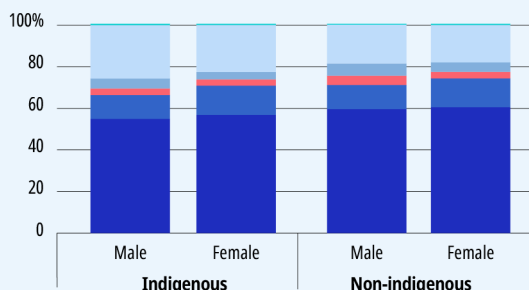
44 The social security indicator in this report refers to the entitlement to the contributory pension programme in all countries except in South Africa, in which the social security includes unemployment and health insurance.



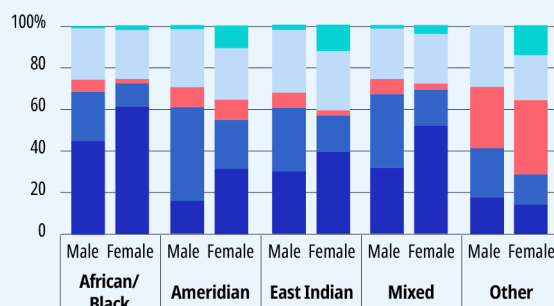
► **Figure 3.5. Employment status and social security by ethnicity, sex and country income level, latest available year (percentage)**

High-income

► **Chile, 2022**

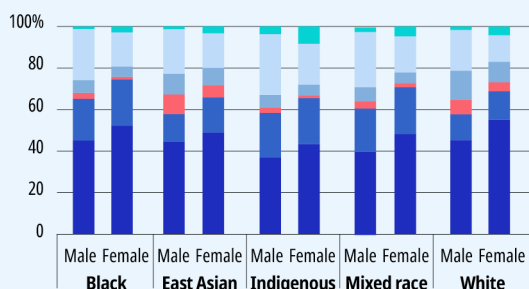


► **Guyana, 2019**

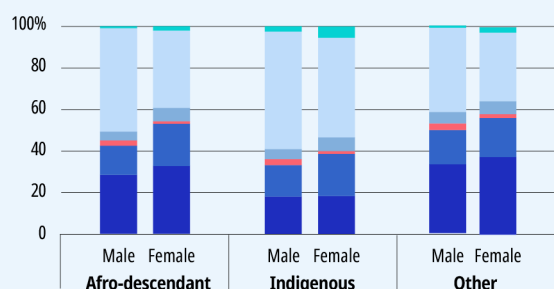


Upper-middle-income

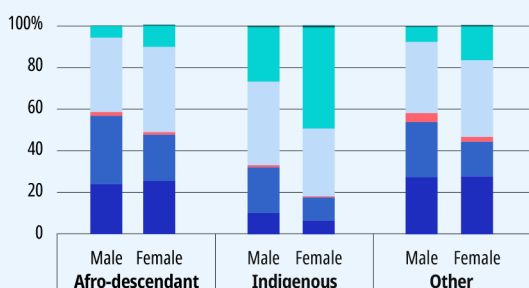
► **Brazil, 2022**



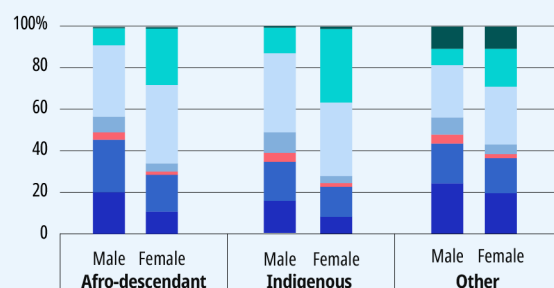
► **Colombia, 2022**



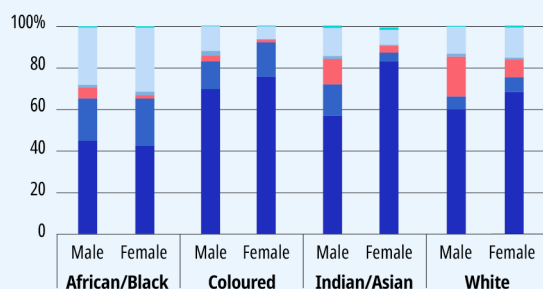
► **Ecuador, 2019**



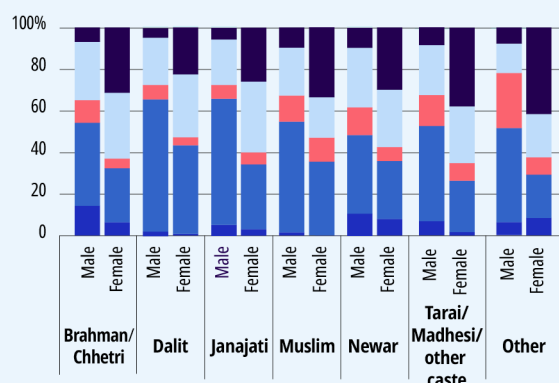
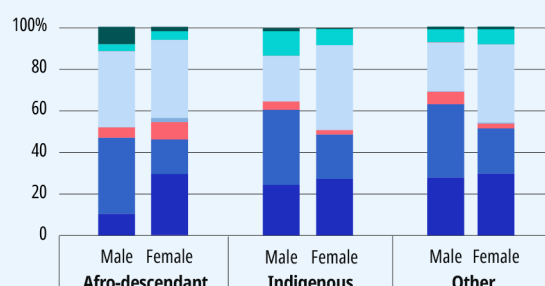
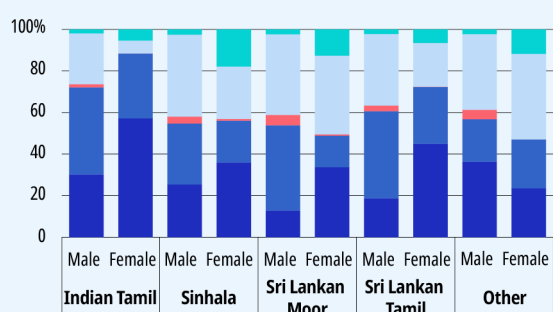
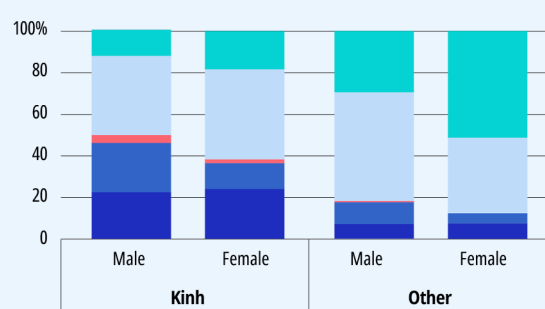
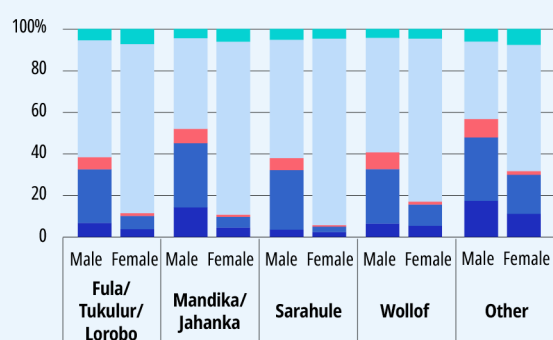
► **Peru, 2022**



► **South Africa, 2020**



- Workers not classifiable by status
- Contributing family workers
- Own-account workers without social security
- Own-account workers with social security
- Employers
- Employees without social security
- Employees with social security

► **Figure 3.5. (continued)****Lower-middle-income**► **Nepal, 2022**► **Nicaragua, 2014**► **Sri Lanka, 2020**► **Viet Nam, 2014****Low-income**► **Gambia, 2023**

- Workers not classifiable by status
- Contributing family workers
- Own-account workers without social security
- Own-account workers with social security
- Employers
- Employees without social security
- Employees with social security

Source: ILO calculations based on surveys listed in Appendix I.

The analysis reveals that, compared to employees, own-account workers are more likely to lack social security coverage. However, the magnitude of gender and ethnic disparities in social security access vary across countries. In Brazil, among those having access to contributory social benefit coverage (covers access to benefits, such as unemployment insurance, health insurance and pensions), the data show no significant gender or ethnic and racial disparities. However, given their overrepresentation in informal employment,⁴⁵ workers from Black, mixed-race and indigenous population groups are more likely to rely on non-contributory social protection, thus they will not have the broad risk coverage of social security and will receive lower value benefits such as social assistance. In contrast, South Africa's indicator encompasses unemployment and health insurance, revealing substantial ethnic and racial disparities. In addition, the gender gap in social security access varies across ethnic and racial groups. The White population has the highest proportion of employees with social security coverage. Interestingly, the Indian/Asian population exhibits the largest gender gap, with a higher proportion of female employees having access to social security compared to their male counterparts.

Gaps in earnings

Globally, significant wage gaps exist among ethnic and racial minority, migrant and indigenous communities. Across regions and income levels, indigenous peoples earn 18.5 per cent less than their non-indigenous counterparts. Notably, indigenous men face a larger wage gap (nearly 25 per cent) than indigenous women compared to their non-indigenous counterparts. The wage gap for indigenous communities is most pronounced in Latin America and the Caribbean (31.2 per cent) and smallest in Northern America (7.9 per cent) (ILO 2019c). Even controlling for factors such as education, experience, gender, number of dependants, location and age, indigenous peoples in Latin America are still likely to earn approximately 10 per cent less than their non-indigenous counterparts (World Bank 2015).

▲▲ Across regions and income levels, indigenous peoples earn 18.5 per cent less than their non-indigenous counterparts.

To examine wage gaps among ethnic groups, figure 3.6 presents average monthly earnings disaggregated by ethnicity and gender for selected countries.⁴⁶ A consistent pattern emerges across all the countries analysed: men generally earn more than women within each ethnic group. The magnitude of the wage gap differs between ethnic groups within the same country and varies significantly between countries. In the United Kingdom, the gap between men and women's median income appears smaller for the "other ethnic group" category compared to the "Indian" or "Pakistani/Bangladeshi" groups. While in the United States, the difference appears slightly larger for "White", "American Indian" and "Asian" compared to other groups. A narrower but persistent gap exists in Brazil with women earning approximately 15–20 per cent less than men across all ethnicities. The gender income gap seems widest for the "White" followed by "Black", "Mixed race" category, "East Asian" and "Indigenous" group.

45 Informal employment is defined as persons who are engaged as own-account workers, employers and members of cooperatives, employed in their own informal sector enterprises; and employees who hold informal jobs whether employed by formal sector enterprises, informal sector enterprises or as paid domestic workers by households. These workers often do not have written employment contracts, are not covered by social security system and are not entitled to paid annual or sick leave.

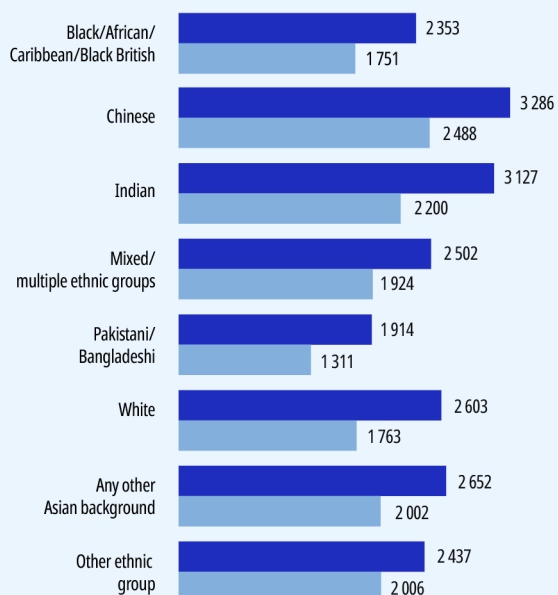
46 The analysis is limited to countries with available data on salaried employees and self-employment incomes for both primary and secondary jobs. To mitigate the influence of outliers, a logarithmic transformation was applied when calculating average monthly earnings.



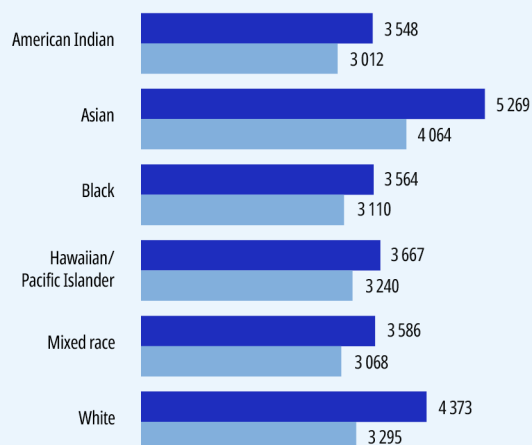
► **Figure 3.6. Average monthly earnings by ethnicity, sex and country income level, latest available year (local currency)**

High-income

► United Kingdom, 2022 (British pound sterling)

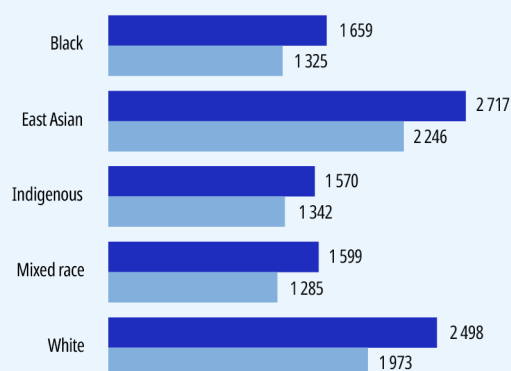


► United States, 2022 (US dollar)

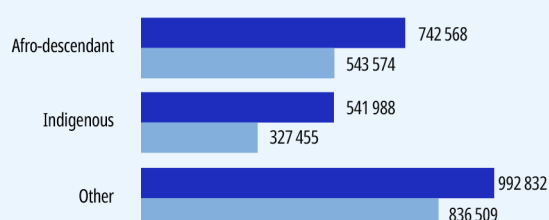


Upper-middle-income

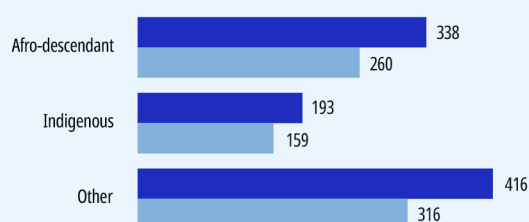
► Brazil, 2022 (Brazilian real)



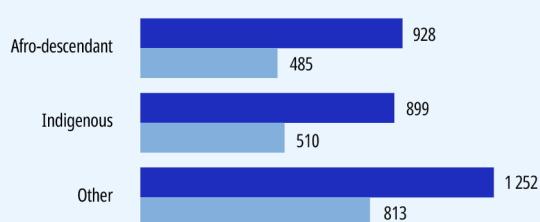
► Colombia, 2022 (Colombian peso)



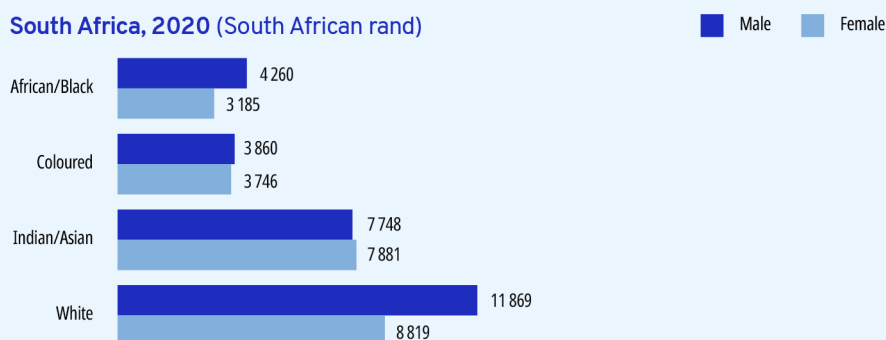
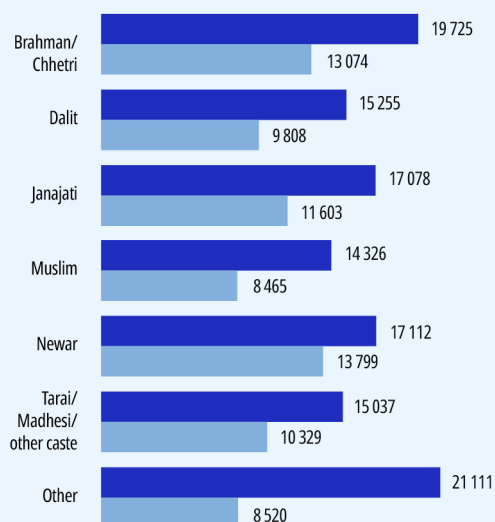
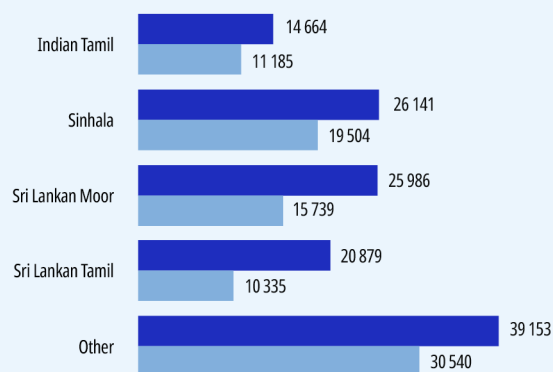
► Ecuador, 2022 (US dollar)



► Peru, 2022 (Peruvian sol)



■ Male ■ Female

► **Figure 3.6. (continued)****Upper-middle-income**► **South Africa, 2020 (South African rand)****Lower-middle-income**► **Nepal, 2017 (Nepalese rupee)**► **Sri Lanka, 2020 (Sri Lankan rupee)**

Source: ILO calculations based on surveys listed in Appendix I.

Among the countries analysed here, the gender pay gap is most pronounced in Peru, Nepal and Sri Lanka. In Peru, women earn 48 per cent and 43 per cent less than their male counterparts in the Afro-descendants and indigenous groups, respectively. These gaps are significantly larger than the gender pay gap observed among non-indigenous and non-Afro-descendant populations. The gender pay gap is also substantial in Colombia, with women in the indigenous category earning 40 per cent less than men. In Ecuador, the gender pay gaps are significantly higher among Afro-descendant (23 per cent) and indigenous groups (18 per cent).

The figures also reveal significant earnings disparities among ethnic groups within each country. In Brazil, White and East Asian individuals report the highest earnings. The “other” category, typically encompassing non-indigenous and non-Afro-descendant populations, earns more than indigenous and Afro-descendant populations in Colombia, Ecuador and Peru.

Finally, the gender wage gap for the “White” population appears similar in South Africa and Brazil than in the United Kingdom, or the United States. The gap for “Indigenous” people appears much larger in Peru than in Ecuador or Brazil.

These findings underscore the deeply entrenched inequalities across ethnic, racial and gender lines. Systemic discrimination and unequal access to opportunities are likely significant drivers of these persistent gaps (see the analysis in section 3.4).

Variations in earnings among ethnic groups within each country also highlight the role of historical and cultural factors in shaping economic hierarchies. In Brazil, the higher earnings of White and East Asian individuals likely reflect historical advantages in access to resources and social capital. Similarly, in Colombia, Ecuador and Peru, the “other” category, often encompassing those of European descent, likely benefits from a social hierarchy rooted in colonial times.

Within the labour market, occupational segregation frequently confines indigenous and Afro-descendant individuals to lower-paying sectors such as agriculture and informal work. Discriminatory hiring and promotion practices further perpetuate wage disparities. Even within the same occupation, these groups may encounter a “glass ceiling”, which limits their career advancement and the potential to earn more. Addressing these deeply entrenched inequalities demands a multifaceted approach. Proactive and targeted interventions at various levels are needed to promote the representation of marginalized groups in education and employment (see Chapter 4). Ultimately, achieving economic equity necessitates tackling both the historical legacies of discrimination and the persistent structural barriers that perpetuate these disparities.

Addressing deeply entrenched inequalities demands a multifaceted approach. Proactive and targeted interventions at various levels are needed to promote the representation of marginalized groups in education and employment.

Gaps in education

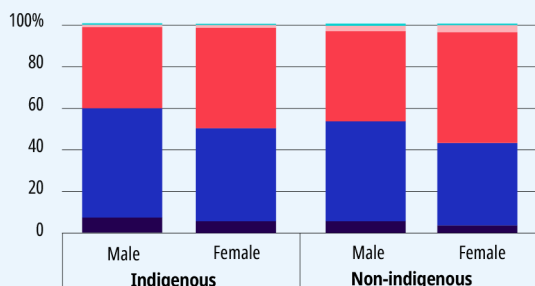
It is important to note that the analysis on racial or ethnic earnings gaps presented above does not directly show the prevalence of racial discrimination. This is because other factors such as education, age and experience can also contribute to earnings gaps which are experienced by ethnic and racial groups. Differences in education, may also reflect unequal opportunities and systemic or structural discrimination, which can be consistently seen across the countries analysed. Figure 3.7 illustrates education levels by gender and ethnicity within the employed population, and highlights such disparities. A clear pattern emerges from the countries analysed, where it is very often persons from one or two specific racial or ethnic groups who are more likely to be without any basic education. These groups are also less likely to have advanced education.



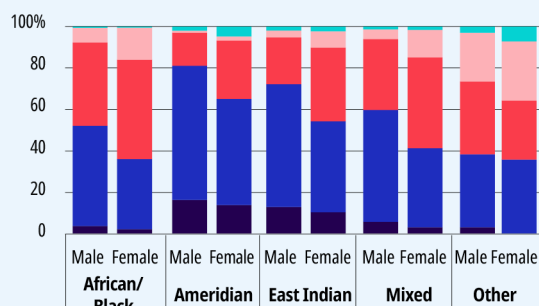
► **Figure 3.7. Education of the employed population by ethnicity, sex and country income level, latest available year (percentage)**

High-income

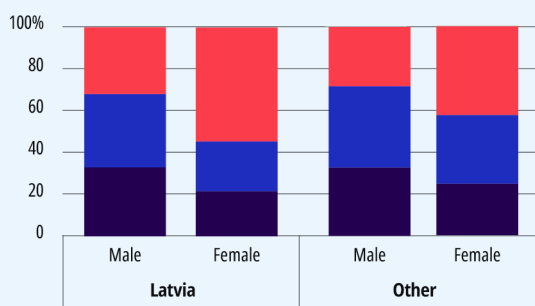
► Chile, 2022



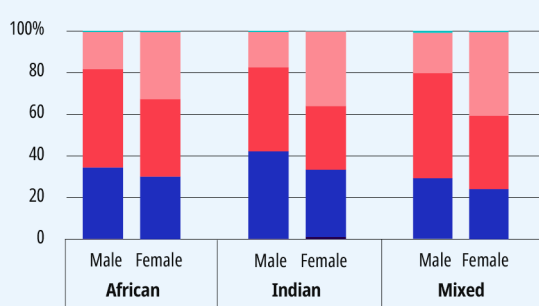
► Guyana, 2019



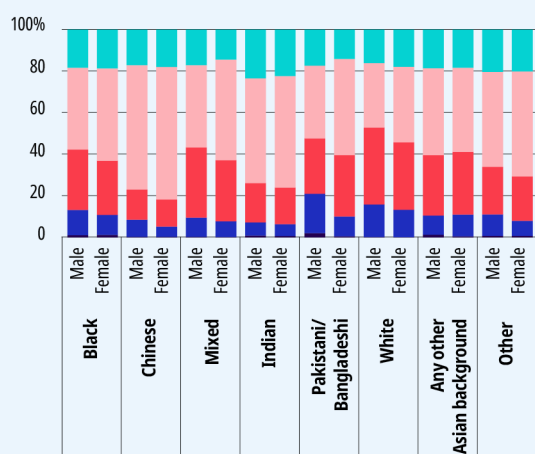
► Latvia, 2022



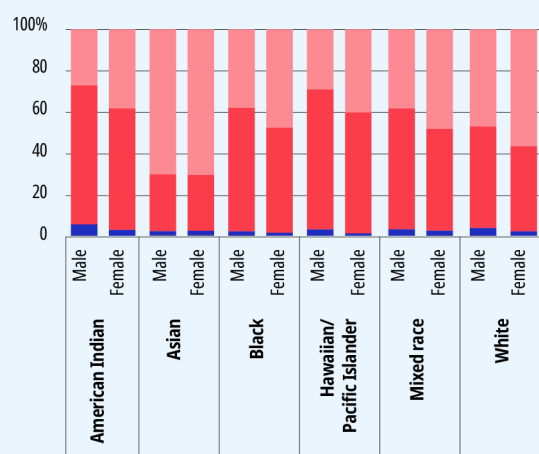
► Trinidad and Tobago, 2022



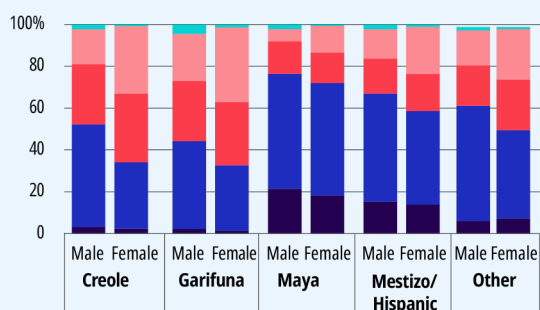
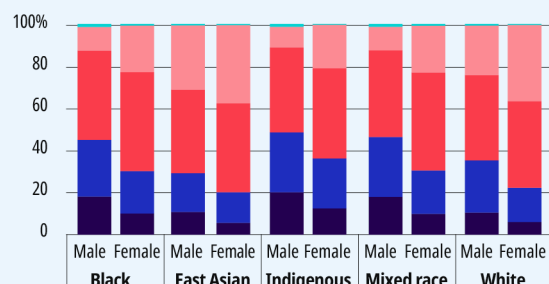
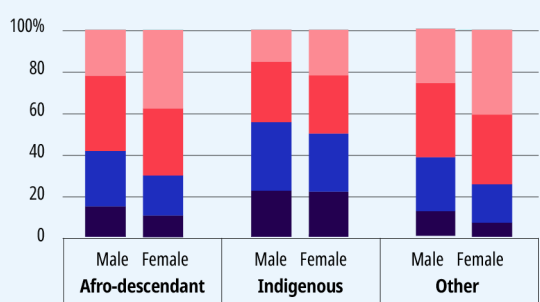
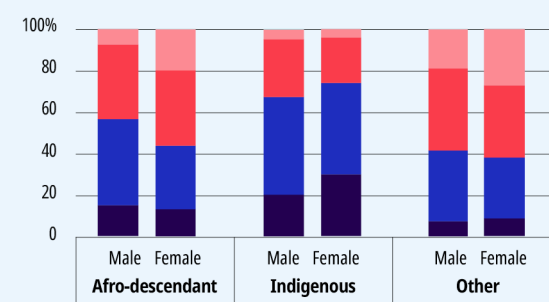
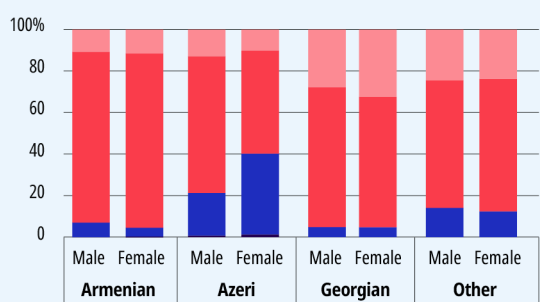
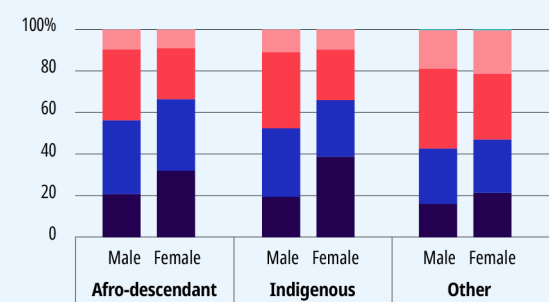
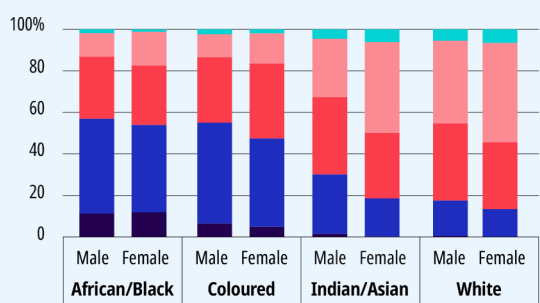
► United Kingdom, 2022

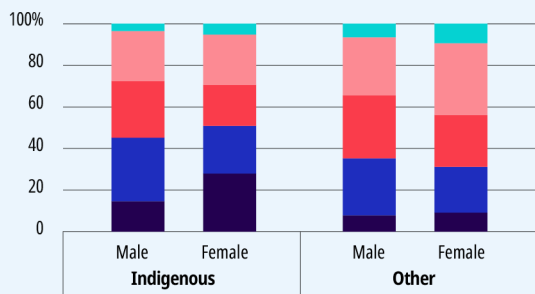
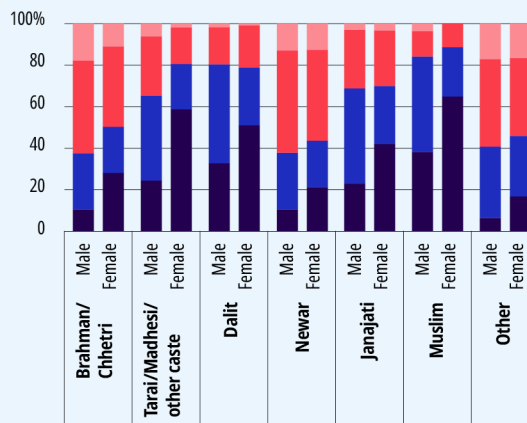
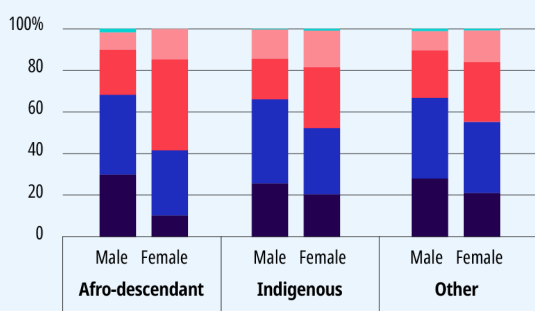
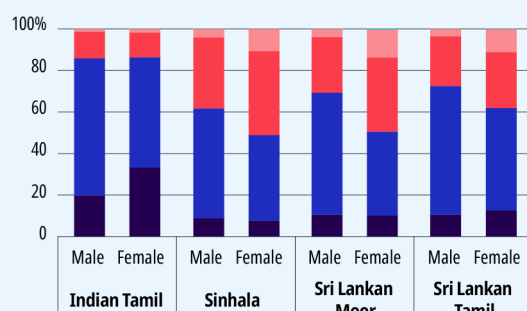
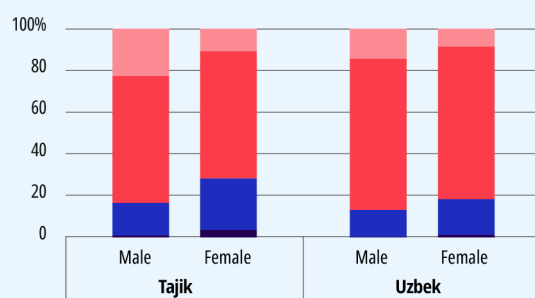
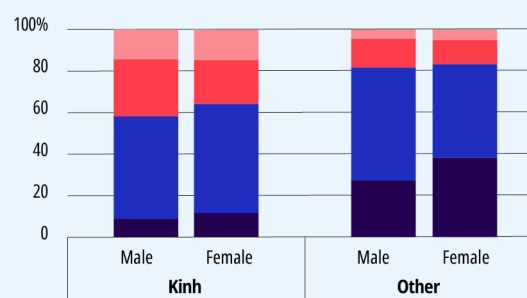


► United States, 2022

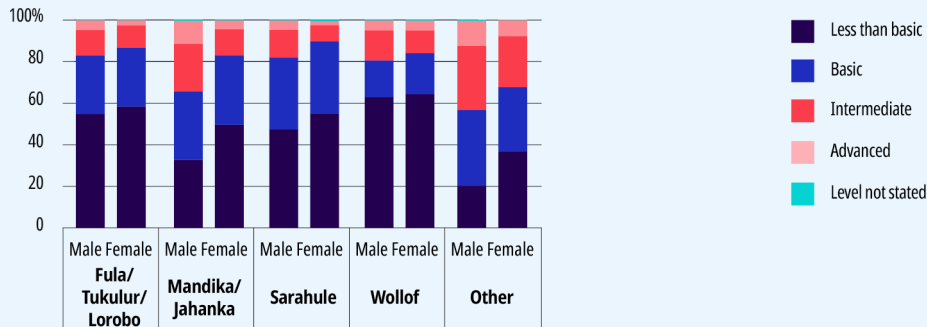


Less than basic
 Basic
 Intermediate
 Advanced
 Level not stated

► **Figure 3.7. (continued)****Upper-middle-income**► **Belize, 2017**► **Brazil, 2022**► **Colombia, 2022**► **Ecuador, 2022**► **Georgia, 2022**► **Peru, 2022**► **South Africa, 2022**

► **Figure 3.7.** (continued)**Lower-middle-income**► **Plurinational State of Bolivia, 2022**► **Nepal, 2017**► **Nicaragua, 2014**► **Sri Lanka, 2020**► **Tajikistan, 2009**► **Viet Nam, 2014**

Less than basic
 Basic
 Intermediate
 Advanced
 Level not stated

► **Figure 3.7. (continued)****Low-income**► **Gambia, 2023**

Source: ILO calculations based on surveys listed in Appendix I.

3.4. Measuring racial discrimination in the labour market

A review of methods and approaches

Most labour analysis on discrimination begins by identifying disparities in labour market outcomes between ethnic groups. Although these gaps cannot be as such ascribed to discrimination – because, among other things, they do not account for potential differences in productivity – they do offer a valuable context for understanding the socio-economic situations. The extent of these disparities is important from a broader economic perspective, particularly in relation to welfare, social justice, poverty and inequality. For instance, when analysing inequality, understanding the proportion of overall societal inequality attributable to between-group versus within-group differences is crucial. In such analyses, the magnitude of the disparities themselves is key, regardless of whether discrimination is the primary cause.⁴⁷

Yet, exploring the level of racial discrimination in the labour market is critical, too, as insights into this will be important for informing the design of policy responses. Racial discrimination has been widely researched and documented from the perspectives of various disciplines, including sociology, psychology, economics and increasingly through interdisciplinary methodologies (Bohren, Hull and Imas 2022; Fugazza 2003; Lang and Spitzer 2020; Roberts and Rizzo 2021; Salter, Adams and Perez 2018; Small and Pager 2020).

►► The methods applied for understanding racial discrimination in the context of employment include statistical analysis, perceptions surveys, field experiments, qualitative research such as victim interviews and the analysis of specific instances of discrimination.

47 See Stewart et al. (2005) for a discussion of various approaches used to measure horizontal inequalities, which also contains some illustrative examples from Indonesia, South Africa and the United States. Leivas and dos Santos (2018) measure horizontal inequalities in Brazil without measuring or reflecting on the component that could be attributed to discrimination.

The methods applied for understanding racial discrimination in the context of employment include statistical analysis, perceptions surveys, field experiments, qualitative research such as victim interviews and the analysis of specific instances of discrimination, for example analysis of discrimination cases brought before the courts (Fibbi, Midtbøen and Simon 2021; Pager and Shepherd 2008; Zegers de Beijl 2000). There are a number of approaches that have been identified in the literature which measures and examines ethnic and racial discrimination (see box 3.2 for a review).

Some countries directly measure experiences of racial discrimination within labour force surveys. This approach captures the perspectives of those who are potentially discriminated against and offers valuable insights. However, it is essential to acknowledge the complexities inherent in subjective measures: individuals might experience discrimination without consciously recognizing it, especially if their understanding of discrimination is limited to overt or intentional acts. Conversely, non-discriminatory practices might be misconstrued as discriminatory. Similarly, individuals might misidentify the actual grounds upon which they experience discrimination. The 2021 European Union Labour Force Survey included a module on the labour market experiences of migrants, including second generation migrants asking respondents whether they had faced discrimination in their current job, and if so, on which grounds. Figure 3.8 illustrates the most common reasons cited for workplace discrimination highlighting “foreign origin” as the leading factor. These data underscore the importance of capturing subjective experiences to understand the nuanced ways in which discrimination manifests in the workplace.

The most widely used empirical approach for analysing labour market discrimination is the Oaxaca–Blinder decomposition method, first introduced by Blinder (1973) and Oaxaca (1973). Despite the limitation of the Oaxaca–Blinder method, as it does not provide a precise measure of discrimination, it still offers valuable insights into the magnitude of disparity, as well as the explained and unexplained factors. It also helps to distinguish between disparities attributable to observable characteristics (for example, education) and those that remain unexplained, potentially indicating discrimination. Similarly, despite its limitations in isolating discrimination, the Oaxaca–Blinder method offers advantages in scale and scope. It can be applied to various contexts and across time, using readily available labour market data collected by national statistical offices. In addition, there exist several different variations and implementation of these methods, with a helpful discussion provided by Jann (2008). For a comprehensive overview of these methods, their applications and recent methodological advancements (including applying decompositions to other distributional statistics), see Fortin, Lemieux and Firpo (2011).



► Box 3.2. Measurement methods: A review of different approaches

Oaxaca–Blinder decomposition method

The Oaxaca–Blinder decomposition method decomposes the average outcome gap between two groups into two components. The explained component, sometimes called the “endowment effect”, reflects differences in the average levels of productivity-related characteristics included in the model. The unexplained component represents the residual difference between the total average gap and the explained component. While there has been criticism that the unexplained component is sometimes interpreted as reflecting discrimination, this interpretation is not technically accurate for several reasons. Despite these limitations, decomposition methods remain widely used for analysing group differences in empirical studies, particularly when using survey or administrative data.

Experimental or audit approach

Another approach for measuring labour market discrimination is the experimental or audit approach, which involves sending matched pairs of individuals, known as “auditors”, from different demographic groups to apply for the same jobs. This method aims to isolate the effects of discrimination by controlling for other relevant factors. Researchers carefully match pairs of auditors to be as similar as possible in terms of qualifications, such as education and experience, while varying their race or gender. By comparing the experiences of these matched pairs, one can estimate differences in several key outcomes: the likelihood of securing an interview; receiving the job offer; and the wages and benefits offered to people from different groups (Pager 2007; Banerjee et al. 2009; Booth, Leigh and Varganova 2012; Galarza and Yamada 2014; Lemieux 2006).

Despite its potential, the audit approach is also confronted with challenges. Conducting robust audit studies requires substantial time and resources to collect sufficiently large datasets. In addition, researchers face the complex task of identifying “similar” pairs of individuals and determining the most relevant characteristics to match, which can be subjective and context dependent. For in-depth discussions of the key considerations in designing labour market audit studies, see Bertrand and Duflo (2017) and Heckman and Siegelman (1993).

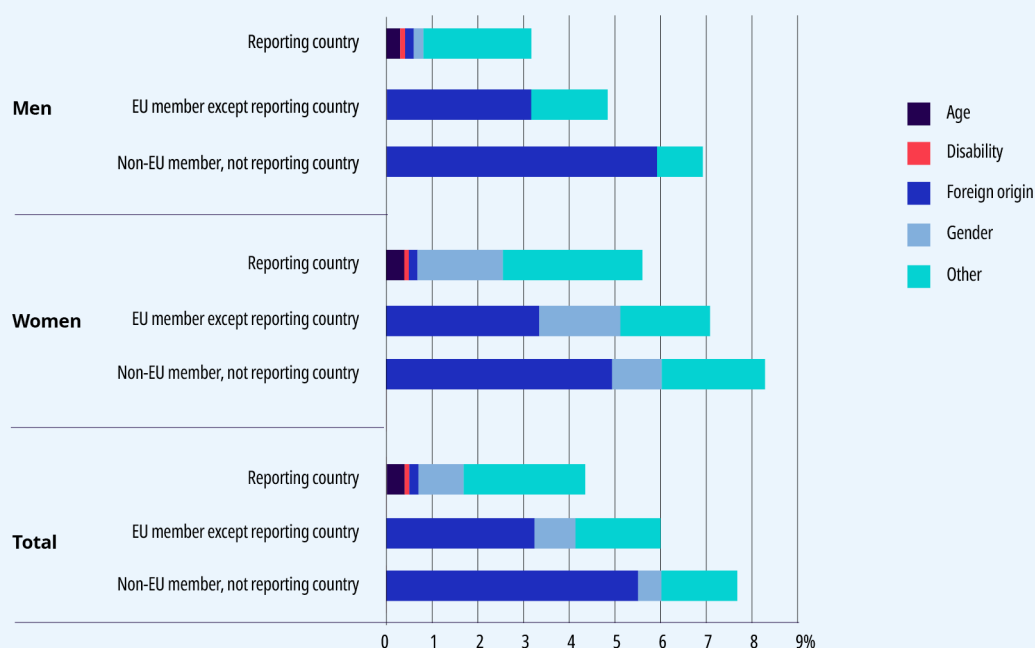
Correspondence studies

Another method for analysing discrimination, building upon the principles of audit studies is the correspondence studies (also known as curriculum vitae (CV) experiments or discrimination testing). The ILO has been at the forefront of developing and applying such methods for measuring “discrimination testing” in the labour market through field experiments (Bovenkerk 1992). In this approach, researchers create fictitious CVs/resumes and respond to real job postings. The key difference is that no real people are involved in the application process. Instead, researchers randomly assign characteristics such as race or gender to the resumes and track the callback rates for interviews (List and Rasul 2011; Riach and Rich 2002). This method offers a controlled way to isolate the effects of specific demographic attributes on hiring decisions.

The strength of experimental studies lies in the ability to control key variables, ensuring that employers receive comparable information across racial groups. This control allows for credible estimates of discrimination’s impact on specific outcomes, such as callback rates. Quillian, Lee and Oliver (2020) analyse 12 field experiments across 8 countries and find that while majority applicants received 53 per cent more call-backs, they received a staggering 145 per cent more job offers than comparable minority applicants. However, field experiments have also limitations. For example, they do not enable studying decisions involving pre-existing relationships which are common in labour markets. Nor do they explore discrimination that may occur post-hiring, such as regarding remuneration and promotions.



► **Figure 3.8. Employed people reporting discrimination at work by main reason, sex and country of birth (percentage)**



Note: Percentage of employment for the age group 15 to 74.

Source: ILO calculations based on Eurostat, 2021.

Decomposing employment and earnings: Oaxaca–Blinder method

This section goes beyond describing outcome differences between groups by investigating the extent to which disparities in employment and earnings can be explained by relevant factors. Oaxaca–Blinder decompositions are employed to analyse both the probability of employment and, among those employed, their earnings.

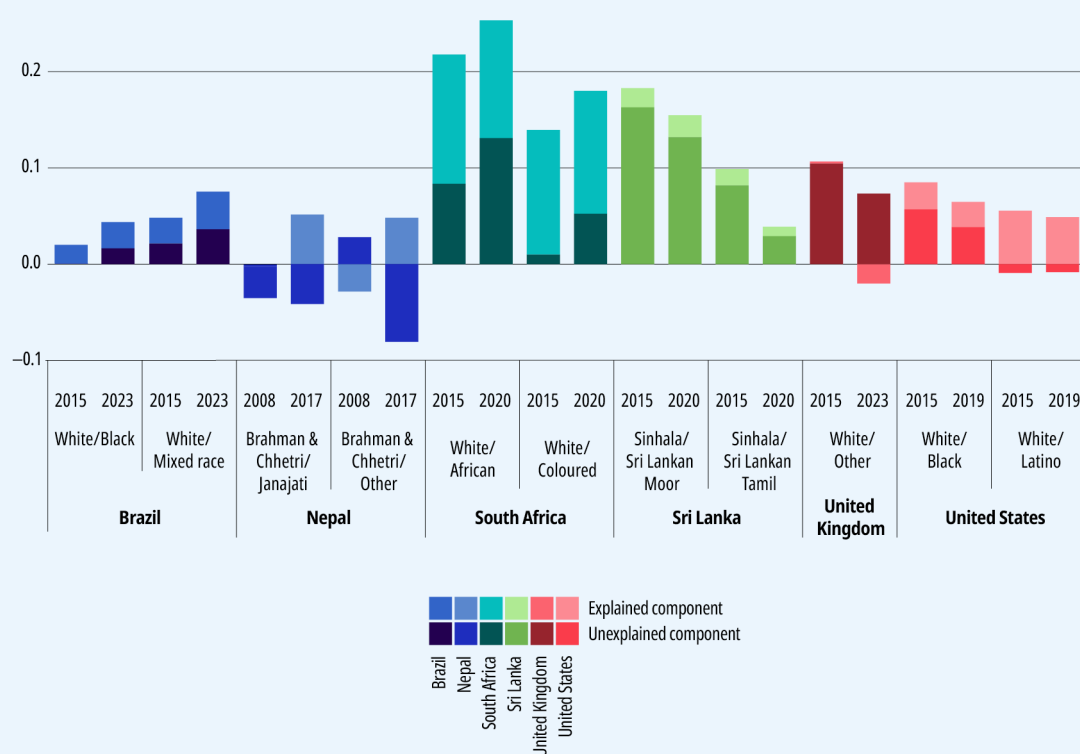
The employment decompositions are analysed for six countries – Brazil, Nepal, South Africa, Sri Lanka, the United Kingdom and the United States – for which detailed labour force survey data were available for multiple years. The analysis includes the following covariates: age (in five-year brackets); gender; educational attainment; hours worked; and urban/rural location.⁴⁸ Earnings decompositions use the same covariates, with additional analyses that incorporate industry and occupation as factors.

It is important to note that the decomposition results for Nepal and Sri Lanka exhibit implausibly large changes between years, likely due to the data limitations discussed earlier. Therefore, the focus here is less on the findings of these countries and do not interpret changes over time.

Figure 3.9 presents employment decompositions by ethnic and race groups for both years in all the countries. In all cases, the dominant ethnic group serves as the baseline for comparison with the two other major ethnic groups analysed individually.

48 The inclusion of hours worked is essential in data where the earnings outcome variable is not at the hourly level. Urban/rural location was not available in the United Kingdom or the United States. For the categorical variables, age 25 to 29 years, male, no schooling and urban location were used as respective baseline categories.

► Figure 3.9. Decompositions of employment differentials by race, 2008/2015 and latest year



Note: All estimates based on samples of 25- to 59-year-olds. Decompositions were performed using the pooled option of the Oaxaca command in Stata. The outcome variable is a dummy indicator for employment. Gaps are decomposed into a component explained by covariates (age, gender, educational attainment, hours worked and urban/rural location) and the remaining unexplained component.

Source: ILO calculations based on surveys listed in Appendix I.

The height of each stacked bar represents the total employment gap between the baseline group and the comparison group. The explained and unexplained components illustrate the factors contributing to the employment gap. When both components are positive, they contribute additively to the gap, with the baseline group having higher employment than the comparison group.

However, in some cases, the explained and unexplained components have opposite signs. For example, in the United Kingdom (2023) the unexplained component is positive, while the explained component is negative. In such instances, the positive unexplained component indicates the hypothetical gap if the comparison group did *not* have more favourable characteristics (for example, higher education levels) than the baseline group. The negative explained component, then, represents the extent to which these favourable characteristics *reduce* the overall gap. For example, in the United Kingdom (2023), the unexplained component is 7 percentage points (positive), while the explained component is -2 percentage points (negative). Therefore, the total gap between “White” and “other” groups is 5 percentage points. This suggests that the gap would have been 7 percentage points if not for the “other” group’s more favourable characteristics, which effectively closes the gap by 2 percentage points.

In other instances, the unexplained component is negative, while the explained component is positive (for example, White/Latino gap in the United States). This indicates that the observed gap is smaller than what would be predicted based solely on differences in observable characteristics. The negative unexplained component represents the extent to which other, unmeasured factors are reducing the disparity.

It is crucial to remember that the outcome variable in these decompositions is a binary indicator, (“employed” versus “not employed”), which means the underlying regressions are linear probability models. For example, the 0.25 total gap between White and African/Black workers in South Africa (2020) indicates that the White employment rate is 25 percentage points higher than that of the African/Black population. This represents the largest gap observed among the case study countries. Other substantial gaps are evident in Brazil (White/Mixed race), Sri Lanka (Sinhala/Sri Lankan Moor), and the United States (White/Black).

Dividing the explained (or unexplained) component by the total gap reveals the proportion of the disparity attributable to those factors. In South Africa, Sri Lanka, the United Kingdom and the United States (White/Black), less than 50 per cent of the employment gap is explained by the included covariates. Conversely, in Brazil, Nepal and the United States (White/Latino), differences in observable characteristics primarily drive the employment gap.

Figure 3.10 presents earnings decompositions for the same ethnic groups across countries. The interpretation of the stacked bars remains consistent with figure 3.9, with the height representing the total earnings gap. However, figure 3.10 incorporates two explained components: “explained component, other factors”, which represents the proportion of the gap explained by covariates excluding industry and occupation; and “explained component, with industry and occupation categories”, which demonstrates the additional explanatory power gained by including industry and occupation as covariates. Summing the “unexplained component” and the “explained component with industry and occupation categories” (typically the two lower segments visually) reveals the proportion of the gap that remains unexplained without controlling for industry and occupation.

■ ■ In South Africa (2020), White workers earn more than double what African/Black workers earn.

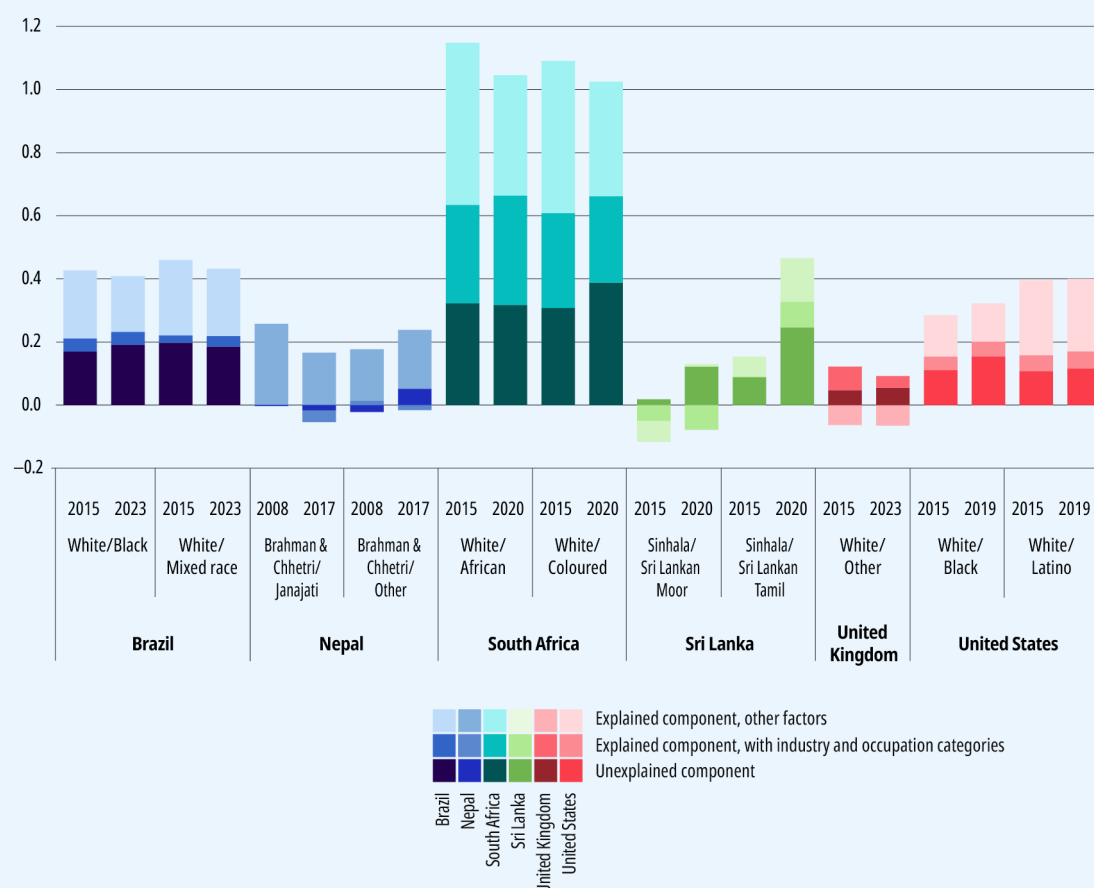
The outcome variable in these earnings decompositions is log earnings, meaning each 0.1 increment on the y-axis represents a 10 percentage point difference in earnings. In South Africa (2020), the White/African earnings gap is at a staggering 1.04, indicating that, on average, White workers earn more than double what African/Black workers earn.⁴⁹ These findings are similar to that of Burger and Jafta (2010) for the previous decade. This gap far exceeds those observed in other countries. The next largest disparities are in Brazil, where White workers earn 40 per cent or more than Black and Mixed-race workers, and the United States, where White workers earn 40 per cent more than Latino workers and 32 per cent more than Black workers (for 2019).

In South Africa, even after controlling for industry and occupation, over 30 percentage points of the White/African earnings gap remain unexplained. Substantial unexplained gaps are also evident in Brazil, Sri Lanka and the United States. Notably, industry and occupation explain a larger proportion of the overall earnings gap in South Africa compared to other countries. Nepal presents a contrasting picture, where nearly all of the earnings gaps are explained by the included covariates, suggesting that differences in education and other characteristics can explain the earnings differences between the ethnic groups.

49 The data do show a small reduction in the magnitude of the gap over time, but it cannot be said that this is statistically significant.



► Figure 3.10. Decompositions of earnings differentials by race, 2008/2015 and latest year



Note: All estimates based on samples of 25- to 59-year-olds. Decompositions were performed using the pooled option of the Oaxaca command in Stata. The outcome variable is a dummy indicator for employment. Gaps are decomposed into a component explained by covariates (age, gender, educational attainment, hours worked and urban/rural location) and the remaining unexplained component.

Source: ILO calculations based on surveys listed in Appendix I.

In South Africa, industry and occupation explain 33 per cent of the earnings gap, compared to around 14 per cent in the United States and less than 10 per cent in Brazil, using the most recent data. This aligns with research highlighting the persistent occupational segregation by race in South Africa (Gradín 2019).

The United Kingdom presents a unique case, as its explained component is negative. This suggests that while the “other” group possesses higher average levels of education (or other favourable characteristics) compared to the White population, they still earn less due to occupational and sectoral sorting, as well as other unexplained factors. This average pay gap favouring White workers aligns with the finding by Brynin and Guveli (2012), which is also highlighted by the significant heterogeneity in minority groups as it consists of Black British and Pakistani/Bangladeshi and Indians, and the Black British and Pakistani/Bangladeshi have lower positions and earnings than Indians, for example.

The analysis for the United States reveals a larger unexplained component than many other studies. This can be partially attributed to the covariates used in the decompositions. Unlike many US studies that include aptitude tests (which capture unobserved factors such as school quality and upbringing that influence skill development as discussed by Neal and Johnson 1996), this analysis relies on more readily

available data. However, the results are consistent with the review by Lang and Lehmann (2012), which reported an unexplained White/Black wage premium of approximately 10 per cent.⁵⁰

Intersectional decomposition: Exploring the combined effects of race and gender

The analysis has revealed substantial racial disparities in employment and earnings, with a significant proportion of these gaps remaining unexplained by observable characteristics. Given the potential for compounded disadvantage, it is likely that women within disadvantaged racial groups face particularly severe employment challenges due to their exposure to inequalities and discrimination based on both race and gender.

It is likely that women within disadvantaged racial groups face particularly severe employment challenges due to their exposure to inequalities and discrimination based on both race and gender.

To examine this intersectional disadvantage, decompositions of employment and earnings for specific race and gender combinations were conducted. For each country, using the most recent data available, an intersectional decomposition is presented comparing the group hypothesized to be most advantaged (men of the dominant racial group) to the group anticipated to be most disadvantaged (women of minority racial group).

It is important to note that one cannot statistically compare the gaps or components between different decompositions or definitively determine whether groups facing both racial and gender discrimination experience an additional penalty due to the interaction of these factors. This is because the decompositions are based on distinct regression models and utilize varying estimation samples. The analysis focuses on visually comparing the magnitude of the gap and the unexplained component for the intersectional decomposition with those from the separate race and gender decompositions. While this approach does not provide definitive statistical evidence, it offers insights into potential trends.

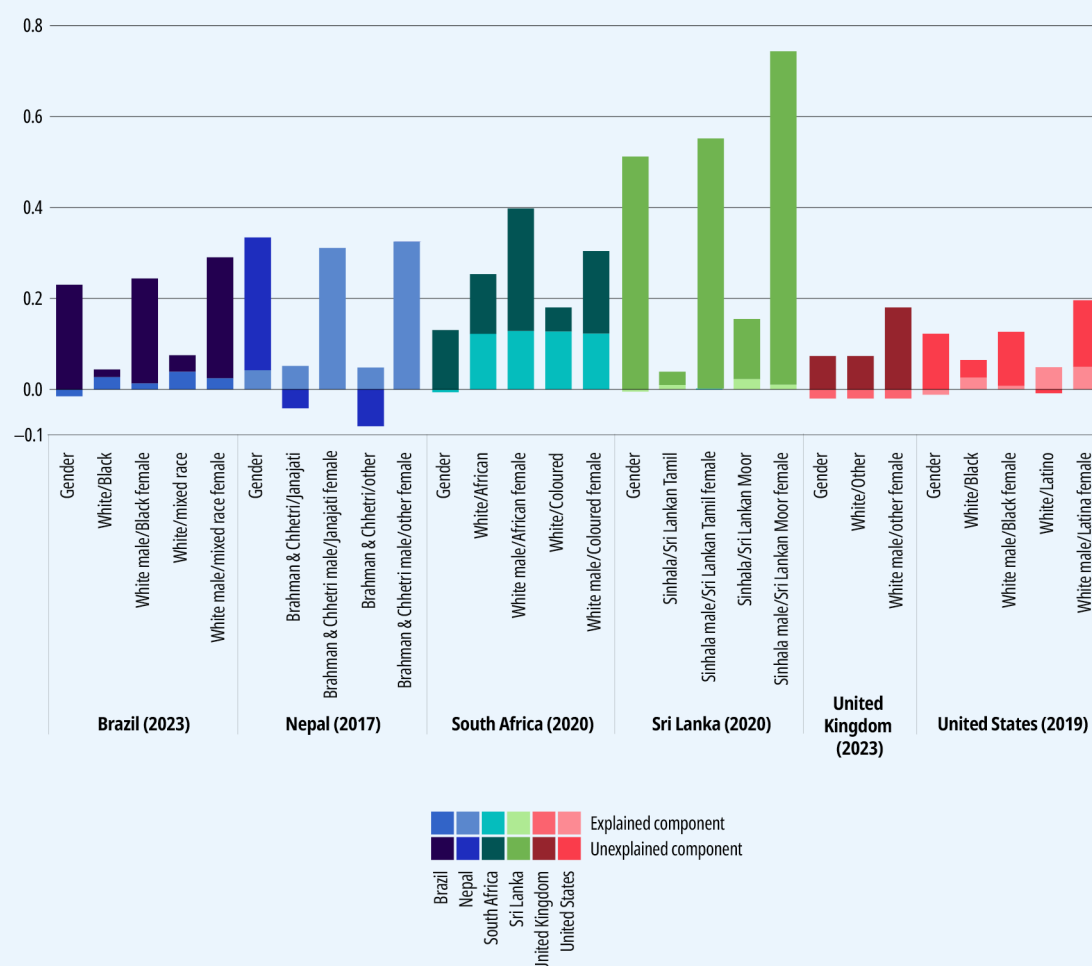
Understanding the interplay of these different dimensions of discrimination is crucial but complex. The study of intersectional discrimination is relatively new in economics, and developing robust tools to analyse the compounding or counteracting effects of privilege and discrimination remains an important frontier.

Figure 3.11 illustrates the impact of women's higher educational attainment (as previously discussed) in several countries. The explained component in the gender decompositions is either zero or slightly negative for all countries except Nepal and South Africa. This indicates that differences in education and other covariates cannot account for the higher employment rates observed among men across all countries. In fact, in several cases, women possess attributes and experience that would predict a slight advantage in their employment levels compared to men.

50 No comparable studies of gaps by ethnicity in Nepal could be identified. The observation of large unexplained gaps in Sri Lanka is at odds with the finding by Ajwad and Kurukulasuriya (2002) that after controlling for human capital and other factors, ethnicity was not a significant determinant of wages (in 2002). However, due to the issues with these data (discussed earlier), there is insufficient confidence in these results to merit highlighting or interrogating this discrepancy.



► Figure 3.11. Decompositions of employment by race and sex, latest year



Note: All estimates based on samples of 25- to 59-year-olds. Decompositions were performed using the pooled option of the Oaxaca command in Stata. The outcome variable is a dummy indicator for employment. Gaps are decomposed into a component explained by covariates (age, educational attainment, hours worked and urban/rural location) and the remaining unexplained component.

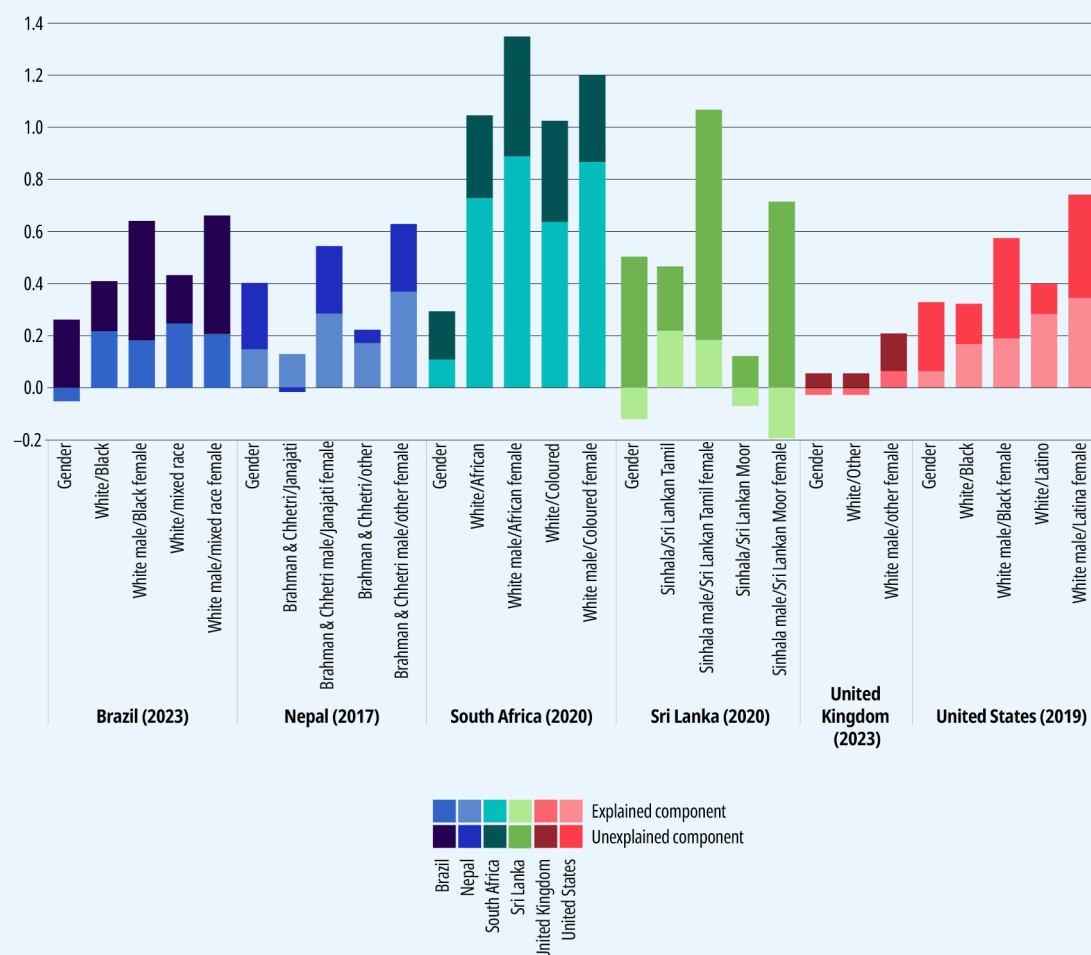
Source: ILO calculations based on surveys listed in Appendix I.

In all cases the employment gap experienced by the intersectional group (women of a minority race) is larger than either the gender gap or the racial gap alone.⁵¹ Excluding Sri Lanka, where large gender gaps drive the intersectional disparity, the most severe intersectional gap is found in South Africa, where African/Black women are 40 percentage points less likely to be employed than White men. Similarly stark intersectional gaps of around 30 percentage points are also observed in Brazil and Nepal.

Another noteworthy finding is that, except for the United Kingdom, the explained component in the intersectional decomposition is positive, despite being negative in the gender decompositions. This suggests that, on average, differences in characteristics such as education and rural/urban location that contribute to racial inequalities outweigh the advantages women might have in these areas.

51 This applies where both the gender and race gap are positive. Nepal is an exception due to negative race gaps being observed.

► Figure 3.12. Decompositions of earnings by race and sex, latest year



Note: All estimates based on samples of 25- to 59-year-olds. Decompositions were performed using the pooled option of the Oaxaca command in Stata. The earnings outcome variable is the log of total annual earnings. All earnings decompositions include industry and occupation as covariates, along with age, educational attainment, hours worked and urban/rural location.

Source: ILO calculations based on surveys listed in Appendix I.

Figure 3.12 presents the same intersectional decompositions, but this time focusing on earnings rather than employment, with industry and occupation included as covariates. The results reinforce the pattern observed in employment: individuals belonging to both a disadvantaged racial group and a disadvantaged gender group experience larger earnings gaps (compared to dominant group) than either group considered in isolation.

In South Africa, the earnings gap between White men and African/Black women is a staggering 130 per cent. All other countries except for the United Kingdom, also exhibit substantial intersectional earnings penalties exceeding 50 per cent.

While the explained components in gender decompositions is now sometime positive (for example, in the United States, which likely reflects women's concentration in lower-paying occupations), these positive values are outweighed by the positive racial components in all countries except the United Kingdom, mirroring the pattern observed in the employment analysis.⁵² This indicates that differences in observable characteristics associated with race contribute more strongly to the overall disparity.

52 The only unusual instance in the graph is in the United Kingdom, where the explained component is positive in the intersectional decomposition, despite it being negative in both the race and gender decompositions. This is probably related to the aforementioned challenges with grouping ethnicities in the United Kingdom due to the combination of many small minority groups with highly heterogeneous characteristics.



Chapter 4





► Prohibiting racial discrimination in employment and occupation: A global review of legislation

As the data and findings presented in Chapter 3 illustrate, labour market inequalities along racial, ethnic and gender lines are significant and persistent. While the causes for such inequalities are complex, persisting practices and patterns of discrimination against persons from disadvantaged racial or ethnic groups are among the causes. Discrimination is a complex, deeply rooted and constantly evolving social phenomenon. Effectively tackling it thus requires continuous action. However, the measures aiming to address discrimination also need to be appropriately designed and effectively implemented to achieve the intended results.

►► Discrimination is a complex, deeply rooted and constantly evolving social phenomenon. Effectively tackling it thus requires continuous action.

The measures which address discrimination should be regularly reviewed with a view to strengthening them as may be required (ILO 2012, para. 846). Chapters 4 to 7 review and discuss laws, policies and institutions in place for combating racial discrimination in the world of work, and explore gaps as well as recent developments. Without attempting to present a comprehensive or exhaustive picture of the status quo, the data and information presented here are meant to encourage additional research, social dialogue and renewed efforts to strengthen national frameworks for racial equality.

This chapter presents an overview of national laws, policies and institutions addressing racial discrimination and promoting equality in the 187 ILO Member States, drawing on a global mapping

exercise carried out by the ILO between 2022 and 2024. The mapping focuses on certain features of national policies for equality under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), that have been identified by the ILO supervisory bodies as important (ILO 2012, 2019b). Firstly, the chapter examines the status of legal prohibition of and protection from racial discrimination in employment and occupation. It then reviews national legislation establishing requirements for the prevention of discrimination and the promotion of equality. Finally, it addresses access to justice and effective enforcement.

4.1. Legislating the prohibition of racial discrimination in employment and occupation

The law is a fundamental instrument of social organization and contributes to change towards the elimination of discrimination and making societies more inclusive. The fact that countries across the world are granting and seeking to enforce legal rights to equality and non-discrimination attests to such social change being seen as important, and the law is indispensable in this regard. While the focus here is protection from discrimination under the law, it is also acknowledged that the law alone, or in itself, is insufficient for ending discrimination and achieving equality (Böcker 2020; Crenshaw 1988; Munalula 1995; Naidoo 2002).

■ ■ The law is a fundamental instrument of social organization and contributes to change towards the elimination of discrimination and making societies more inclusive.

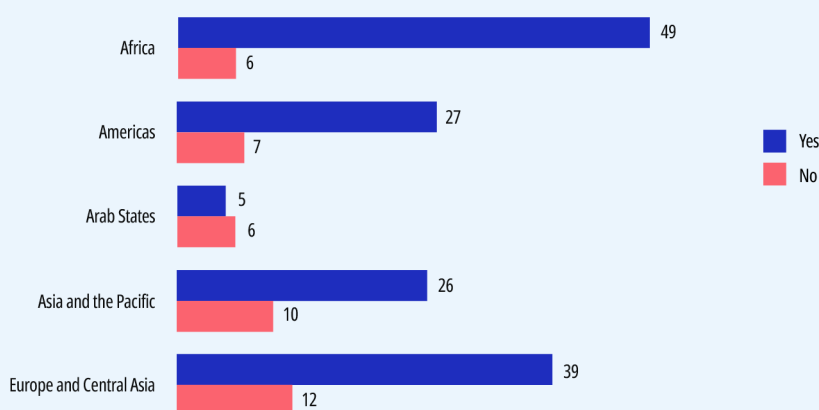
Establishing legal rights to equality and providing for legal protection against discrimination signal that discriminatory acts or processes are not acceptable, allow victims to seek remedies and create the basis for sanctioning those found to have engaged in discrimination. Equality and non-discrimination legislation also defines the responsibilities of the actors expected to provide protection or to promote equality. Legal protection from racial discrimination flows from constitutions, ordinary laws or other regulatory acts, and the processes and institutions through which the right to equality and non-discrimination is implemented and enforced.

Constitutional prohibitions of racial discrimination

The basic principles upon which societies are built and the fundamental rights and freedoms that the state must guarantee are enshrined in national constitutions. Clauses establishing equality before the law and establishing the principle of non-discrimination are commonly included in constitutions. According to a mapping of national constitutions carried out by the ILO for this report, 146 out of the 187 ILO Member States explicitly prohibit racial discrimination in their constitutions (see figure 4.1). Among those, several Member States also make specific reference to employment, and occupation in their constitutional non-discrimination clauses. For example, some constitutions specifically prohibit racial discrimination in respect of access to public employment, as regards recruitment more generally or concerning conditions of work and advantages, or broadly in employment and occupation or in relation to one's work.



► **Figure 4.1. Explicit prohibitions of racial discrimination in national constitutions, by region**



Note: “Yes” indicates Member States whose constitutions include equality and non-discrimination provisions explicitly prohibiting discrimination based on race, colour, national extraction, national origin, and ethnicity or ethnic origin (one or more of these grounds). “No” indicates Member States whose constitutions do not include such provisions.

Source: ILO calculations for 187 Member States based on an ILO mapping and analysis of national constitutions.

Constitutional protection against racial discrimination is fundamental as a framework for holding the state accountable for discriminatory acts, including directly or indirectly discriminatory laws, regulations and administrative acts of policy measures and programmes. The jurisprudence of constitutional courts has contributed to advancing critical dimensions of the right to equality or non-discrimination, such as indirect discrimination (see below box 4.5).

The case for comprehensive legal frameworks to combat discrimination

While enshrining equality and non-discrimination principles into national constitutions is essential, ensuring effective legal protection from racial and other forms of discrimination requires additional laws and regulations. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) stresses the need for comprehensive legislation defining and prohibiting discrimination on all the ground covered by Convention No. 111 (ILO 2012, para. 854),⁵³ and more specifically with regard to racial discrimination (see box 4.1).

The Violence and Harassment Convention, 2019 (No. 190), requires ratifying countries to “adopt laws, regulations and policies ensuring the right to equality and non-discrimination in employment and occupation”.⁵⁴ Under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), States parties are required to “prohibit and bring to an end, by all appropriate means, including

53 As regarding the inclusion of appropriate definition of discrimination in the legislation, see, for example, the following CEACR comments addressed to individual ILO Members: CEACR observations concerning Convention No. 111 (Bahrain, 2022; Bangladesh, 2022; Cameroon, 2023; China, 2021; China, 2022; Côte d’Ivoire, 2022; Democratic Republic of the Congo, 2023; Gabon, 2020; Lebanon, 2022; Libya, 2020; Madagascar, 2022; Russian Federation, 2022; Switzerland, 2021; United Arab Emirates, 2021); CEACR direct requests concerning Convention No. 111 (Comoros, 2023; Congo, 2022; Greenland, 2022; Haiti, 2021; Suriname, 2022; Yemen, 2022).

54 Convention No. 190, Art. 6. Under Article 7 of the Inter-American Convention against All Forms of Discrimination and Intolerance (2013), which came into force in February 2020, “States Parties undertake to adopt legislation that clearly defines and prohibits discrimination and intolerance, applicable to all public authorities as well as to all individuals or natural and legal persons, both in the public and in the private sectors.”

► **Box 4.1. Legislation prohibiting racial discrimination in employment and occupation: Guidance from the ILO Committee of Experts on the Application of Conventions and Recommendations**

“[G]iven the persisting patterns of discrimination on the grounds of race, colour and national extraction, in most cases there is a need for comprehensive legislation containing explicit provisions defining and prohibiting discrimination in all aspects of employment and occupation, in order to ensure full application of [Convention No. 111]. These definitions should include direct and indirect discrimination, and discrimination-based harassment as a serious form of discrimination, in particular racial harassment.”

Source: CEACR general observation concerning Convention No. 111 (2018).

legislation as required by circumstances, racial discrimination by any persons, group or organization”.⁵⁵ The Committee on the Elimination of Racial Discrimination and other UN human rights treaty bodies have consistently called for the adoption of comprehensive non-discrimination legislation (OHCHR and Equal Rights Trust 2023).

The prohibition of racial discrimination in labour legislation

In 139 out of the 187 ILO Member States, the labour legislation prohibits racial discrimination based on one or more of the following grounds: race, colour, national extraction, national origin, ethnicity or ethnic origin. The labour legislation of 118 of these 139 countries prohibits racial discrimination broadly in all areas of employment and occupation, including access to vocational training, access to employment and to particular occupations, and terms and conditions of employment. Among these 118 countries prohibiting racial discrimination in their labour laws, 41 are in Africa, 19 in the Americas, 4 in the Arab States, 13 in Asia and the Pacific and 41 in Europe and Central Asia (see figure 4.2). The prohibition of discrimination is specifically addressed to the employer in 33 of them, in 16 others it is specifically addressed to both employers and workers. In the remaining countries, the prohibition is articulated generally, without identifying a particular norm addressee.

► In 139 out of the 187 ILO Member States, the labour legislation prohibits racial discrimination based on one or more of the following grounds: race, colour, national extraction, national origin, ethnicity or ethnic origin.

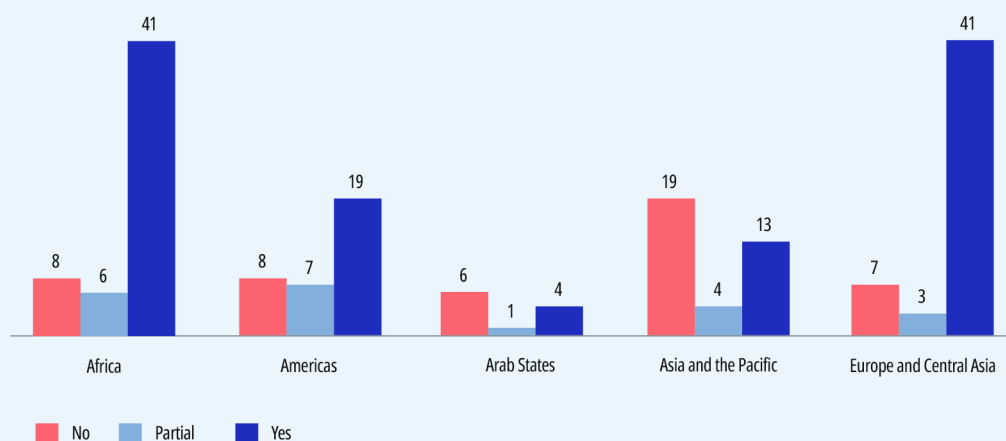
In 21 additional countries, the labour legislation only partially prohibits racial discrimination in the sense that they do not prohibit discrimination regarding all aspects of employment and occupation. For instance, some of these countries lack protection against racial discrimination during the recruitment stage. Others only forbid discrimination, including racial discrimination, concerning termination of employment or specific aspects of working conditions, such as remuneration. In some cases, such protection gaps under the labour legislation are filled by other laws. For example, the Labour Code of Türkiye of 2003 does not prohibit racial or other discrimination at the recruitment stage.⁵⁶ However, the Law on the Human Rights and Equality Institution of Türkiye (Law No. 6701), adopted in 2016, includes provisions prohibiting discrimination, including on the grounds of race, colour, language, ethnic origin

⁵⁵ ICERD, Art. 2(d).

⁵⁶ CEACR observation concerning Convention No. 111 (Türkiye, 2015).



► Figure 4.2. Prohibition of racial discrimination in labour legislation, by region



Note: “Yes” indicates Member States whose labour legislation prohibits discrimination across based on race, colour, national extraction, national origin, and ethnicity or ethnic origin (one or more of these grounds) in all areas of employment and occupation. “Partial” indicates Member States whose labour legislation prohibits such discrimination only in some areas of employment and occupation. “No” indicates Member States whose labour legislation does not prohibit discrimination on any of these grounds.

Source: ILO calculations for 187 ILO Member States.

in employment and occupation more broadly, including in respect of application, recruitment and selection processes.⁵⁷

Protection from racial discrimination may also be partial because the labour legislation which otherwise offers such protection may exclude certain categories of workers from their scope of application, which are, in fact, particularly in need of such protection. Some 36 per cent of all domestic workers globally, more of three quarters of whom are women, remain entirely excluded from labour law coverage and the protections that comes with it (ILO 2023e, 6, 11, 21), including protection from discrimination.

Many women domestic workers are from disadvantaged ethnic or racial groups, and in many countries, they are primarily or exclusively migrant workers (see box 4.2). Intersecting discrimination based on race and gender may take many forms, and it includes violence and harassment based on those grounds. It is also a factor underpinning low pay of ethnic minority women domestic workers (EQUINET 2021a; ILO 2019c, 82; Oelz and Rani 2015, 22).

The exclusion of domestic workers from labour laws has been construed and understood – by courts,⁵⁸ the CEACR (ILO 2023b, para. 62) and in the literature – as a form of indirect or structural discrimination based on gender and race, with some highlighting that they are rooted in historic and persisting forms of servitude and oppression (Blackett 2011, 14–15; Perea 2011). The CEACR specifically drew attention to the vulnerability of women migrant domestic workers under working temporary migration schemes – bringing them outside the scope of labour legislation while their immigration status is tied to the employer. This vulnerability is exacerbated by discriminatory views concerning their ethnicity, nationality or migration status (ILO 2022d, para. 690).

⁵⁷ Türkiye, Law No. 6701.

⁵⁸ Constitutional Court of South Africa, *Mahlangu and Another v. Minister of Labour and Others*, Case CCT306/19, 2020; European Court of Justice, *CJ v. Tesorería General de la Seguridad Social (TGSS)*, Case C-389/20, 2022.

► **Box 4.2. Exclusions from labour legislation as indirect and intersectional discrimination**

“The Committee [on the Application of Conventions and Recommendations] has also noted on several occasions that the exclusion of specific categories of workers from the scope of application of general labour law may lead to indirect discrimination. For instance, the exclusion of domestic workers – a sector primarily made up of women workers – from the coverage of general labour law, in the absence of any equivalent specific legal coverage, could constitute indirect discrimination based on sex or race, colour or national extraction, as this apparently ‘neutral’ treatment (the exclusion of domestic workers from the scope of labour law) may disproportionately affect women, including those of a particular race, colour or national extraction. ...”

Source: ILO (2023b, para. 62).

Frequently, public sector workers, particularly civil servants, are not covered by general labour laws; instead, their employment is regulated by separate laws. The legal mapping carried out for the present report shows that among the 139 countries that prohibit racial discrimination in their labour legislation, 46 countries explicitly stipulate some extent of non-coverage of public sector worker within this legislation. Among these countries, 25 have provisions regarding racial discrimination within their civil service laws, although the protection provided in these laws is only partial. For example, in seven countries, non-discrimination clauses covering racial discrimination in the public sector provide protection only against discrimination in recruitment. Gaps in protection from racial discrimination for some categories of workers under the general labour legislation or civil service laws may in some countries be filled by equality and non-discrimination legislation or human rights acts or covering these categories – areas of law that will be discussed in the following sections.

►► Over recent years, countries have adopted laws comprehensively addressing discrimination based on a range of grounds, including grounds such as race, colour or ethnicity, in respect of various spheres of life, including employment.

Equality legislation and human rights acts

Over recent years, countries have adopted laws comprehensively addressing discrimination based on a range of grounds, including grounds such as race, colour or ethnicity, in respect of various spheres of life, including employment. The mapping and analysis of legislation carried out for this report indicate that in some cases, these laws do not cover all aspects of employment and occupation. In yet another group of countries, such equality and non-discrimination legislation does not explicitly refer to employment as an area in which discrimination is prohibited but may implicitly cover workplace discrimination. In addition, in several of these countries racial discrimination is explicitly prohibited separately under labour legislation.

Some countries have stand-alone laws on racial discrimination that also prohibit it with respect to employment, or at least some certain aspect of it, to varying degrees (see box 4.3). For instance, while some laws cover all areas of employment and occupation, some only refer to a generalized area of economic rights, and others highlight a general prohibition of racial discrimination, which implicitly covers employment and occupation-related discrimination.



► Box 4.3. Stand-alone racial discrimination laws covering employment and occupation

Australia

Section 15 of the Racial Discrimination Act of 1975 prohibits employers or their agents from racially discriminating against another person in recruitment, termination of employment, access to vocational training, and terms and conditions of employment. Similarly, employers' and workers' organizations and recruiters are prohibited from discriminating against other persons based on their race, colour, national or ethnic origin.

Belgium

Article 5(2) of the law of July 30, 1981, tending to repress certain acts inspired by racism or xenophobia extends the law's coverage to employment relations, which includes conditions of access to employment, working conditions and remuneration, and provisions relating to the termination of employment.

Namibia

Section 7 of the Racial Discrimination Prohibition Act, 1991, prohibits employers or agents acting on their behalf from discriminating against employees and prospective employees in respect of recruitment and conditions of work, including conditions relating to access to benefits, facilities or services based on their race, colour or ethnic origin. This prohibition also extends to the termination of employment and other employment-related detriments on account of their race, colour or ethnic origin.

Other countries have adopted laws seeking to protect specific groups vulnerable to racial discrimination, for example indigenous and tribal peoples or ethnic minorities, which include protections from discrimination in the world of work. Furthermore, some countries prohibit racial discrimination at work under national human rights acts. Although these types of laws are often less detailed regarding discrimination in employment and occupation, they offer an additional layer of protection against discrimination and broaden the scope of access to justice and remedies. Concurrently, they also exemplify the need for coherence in legal pathways to combating racial discrimination in the world of work.

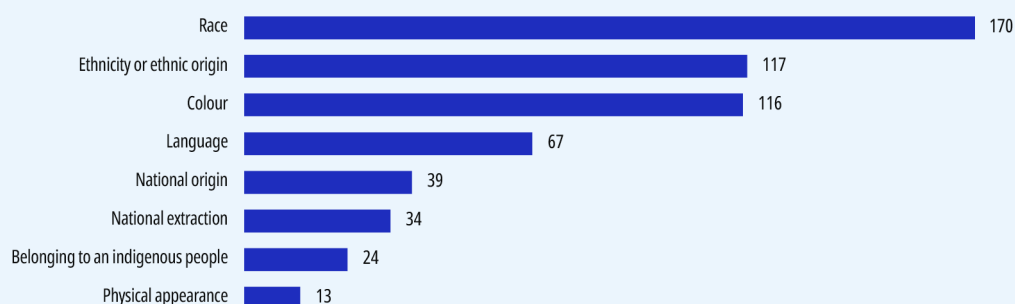
Prohibited grounds of discrimination across various types of legislation

When defining discrimination in their national legislation prohibiting racial discrimination, countries generally rely on the prohibited grounds of discrimination listed in the relevant international instruments such as race, colour, national extraction, national origin or ethnic origin. However, the legislation in some countries also refers to other grounds to have been considered as useful for providing protection from racial discrimination, related to the country-specific context (see figure 4.3). For example, in the Plurinational State of Bolivia, the Law against Racism and All Forms of Discrimination (2010) refers to the grounds of physical appearance, name and clothing as prohibited grounds of discrimination,⁵⁹ the latter continuing to be a source of discrimination particularly against indigenous women (Baudoin 2016). In the United States, discrimination based on hair texture and hair style associated with Black people or other ethnic communities has been considered discrimination under the Race Discrimination Act, both in courts and the Equal Employment Opportunities Commission. A number of US states have adopted legislation banning such discrimination (Telman and Swetman 2023).

59 Plurinational State of Bolivia, Law against Racism and All Forms of Discrimination (2010), section 5(a), and Penal Code, sections 283 *bis* (racism).



► **Figure 4.3. Grounds referred to in legal prohibitions of racial discrimination in national legislation**



Note: Types of legislation include: constitutions; labour legislation; specialized equality and non-discrimination legislation; human rights acts; and criminal laws.

Source: ILO calculations based on an ILO mapping and analysis of legislation.

Multiple and intersectional discrimination: Emerging as a legal concept

Discrimination based on multiple or intersecting grounds has emerged as a legal concept in national legislation (see box 4.4). The legal mapping for this report identified 11 countries which have included and defined multiple or intersectional discrimination in either comprehensive equality and non-discrimination legislation, stand-alone racial discrimination legislation or human rights legislation. An additional ten countries included the concepts of discrimination based on multiple or intersecting grounds in such laws but have not further defined them. In addition, provisions on multiple and intersecting discrimination, including on racial grounds, can be found in gender equality legislation, for example in the 2019 Law on Equality and Non-Discrimination between Women and Men in Uruguay, or stand-alone legislation on equal treatment for persons with disabilities.

► **Intersectionality as a perspective for analysis and as a legal concept can also play a role in the design and implementation policy measures, including positive or temporary special measures.**

The 2023 European Union Pay Transparency Directive acknowledges that women experience intersectional pay discrimination based on sex and/or other grounds, including racial or ethnic origin, and requires such intersectionality to be taken into consideration in the application of the principle of equal pay for equal work or work of equal value.⁶⁰ EU Member States are now to take the necessary action to ensure the transposition of and compliance with the Directive.

The operationalization of intersectionality in legislation, at this juncture, tends to focus on recognition of the concept and proscribing multiple or intersectional discrimination as a severe or aggravated form of discrimination to be taken into consideration in the setting of compensation and sanctions in individual complaints and labour law enforcement (ILO 2023b, para. 70). However, intersectionality as a perspective

60 European Union, Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms (see preambular paras 25 and 32, and Arts 3(2)(8c), 16(3), 23(3) and 29(3)(a)).

► Box 4.4. Legislating on multiple and intersectional discrimination: Examples

Albania

Amendments to the Protection from Discrimination Law 2010 as amended in 2020 included a legal definition of intersectional discrimination as the form of discrimination which occurring “when several grounds operate simultaneously and interact in an inseparable manner, producing distinct and specific forms of discrimination” (section 3(3)). By contrast, multiple discrimination is defined as discrimination “on the basis of two or more grounds that operate separately” (section 3(5)).

Uruguay

The 2019 Law on equality and non-discrimination between women and men (No. 19.846) provides that “[m]ultiple discrimination is considered to be the intersection of discrimination based on gender with other factors such as ethnic-racial descent, socio-economic status, age, disability, sexual orientation, gender identity, place of origin or residence” (section 5). In addition, the Law provides that special temporary measures for achieving equality shall be applicable as long as such situations persist and “be reasonable, necessary, adequate and proportional in relation to the legitimate objective pursued in each case, taking into account the multiple discriminations present in each situation” (section 8).

for analysis and as a legal concept can also play a role in the design and implementation policy measures, including positive or temporary special measures (Fredman 2016b; ILO 2023b, para. 71).

Prohibiting and defining both direct and indirect discrimination: Key for effective protection

International instruments calling for the elimination of discrimination in the world of work such as Convention No. 111 and the ICERD require the elimination of both direct and indirect discrimination. Racial discrimination, like all types of discrimination, can be direct and indirect.

Direct racial discrimination occurs when “less favourable treatment is explicitly or implicitly based on” (ILO 2012, para. 744) race, colour, national origin alone or in combination with other factors. Indirect discrimination takes place when “apparently neutral situations, regulations or practices ... in fact result in unequal treatment of persons with [these] characteristics ... and is not closely related to the inherent requirement of the job” (ILO 2012, para. 745). Indirect discrimination requires the revision of discriminatory norms, policies and practices, hence identifying and redressing it is crucial for tackling institutional and structural forms of discrimination. As mentioned above, the exclusion of entire groups of workers, such as domestic workers, from labour law and the protections provided under it has been considered to amount to indirect discrimination.

►► The exclusion of entire groups of workers, such as domestic workers, from labour law and the protections provided under it has been considered to amount to indirect discrimination.

Language requirements, as a policy or in individual cases, are another practice that may amount to indirect discrimination where they are not objectively justified by being closely related to the inherent requirement of the job. They may amount to indirect discrimination against certain ethnic groups, migrant workers or national minorities (ILO 2012, para. 764). Dress codes imposed by laws or practices



in education and employment can have disproportionately exclusionary effects on women following religious dress codes and belonging to ethnic minorities (ILO 2012, paras 800 and 801).

The CEACR stresses that the legislation should explicitly prohibit both direct and indirect discrimination. Explicitly prohibiting indirect discrimination is important because indirect discrimination is often subtle and less visible in nature; and without a clear legal framework, it therefore may remain unaddressed (ILO 2023b, paras 60 and 61). Going beyond acknowledging the existence of direct and indirect discrimination, providing a legal definition of the two concepts improves clarity and effectiveness of the legislation. The legal mapping carried out for this report indicates that the legislation of 47 countries prohibits both direct and indirect discrimination while setting out legal definitions of both concepts, with an uneven global spread. Of these 47 countries, 38 are in Europe and Central Asia, 4 in Asia and the Pacific, 3 in Africa and 1 in the Americas and Arab States (see figure 4.4).

In addition, the legislation of 33 other countries prohibits both direct and indirect discrimination without providing a legal definition for these concepts. The majority of countries whose legislation presently adopts this model are in Africa (15). In the Americas, Asia and the Pacific, and Europe and Central Asia, each have six Member States whose legislation also follows this approach (see figure 4.5).

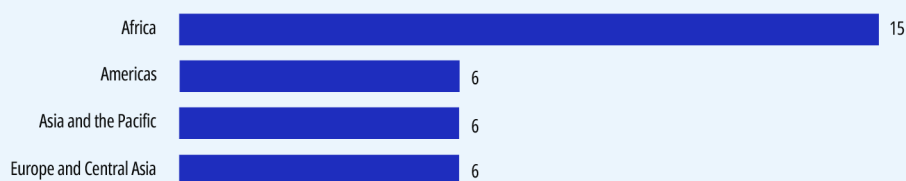
The courts play an important role in applying the notion of indirect discrimination (see box 4.5). In countries such as India and Japan, the courts have developed jurisprudence interpreting equality and non-discrimination provisions in national constitution or legislation as encompassing the notion of

► **Figure 4.4. Number of ILO Member States explicitly prohibiting and defining both direct and indirect discrimination, by region**



Source: ILO calculations based on an ILO mapping and analysis of national legislation.

► **Figure 4.5. Number of ILO Member States explicitly prohibiting direct and indirect discrimination without defining the concepts, by region**



Source: ILO calculations based on an ILO mapping and analysis of national legislation.

► Box 4.5. Application of the prohibition of indirect discrimination by the courts: Examples

Under the South African Constitution “the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth” (section 9(3)). In *Mahlangu and Another v. Minister of Labour and Others* (2020), the Constitutional Court determined that section 1(xix)(v) of the Compensation for Occupational Injuries and Diseases Act (COIDA), which excluded domestic workers from its scope was unconstitutional because the provision indirectly discriminated against domestic workers, who are mostly Black women, on the basis of race, sex and gender.

The 2017 case of *Essop and others v. Home Office (UK Border Agency)* in the UK Supreme Court concerned a core skills assessment required from civil servants within the UK Home Office as a pre-requisite for promotion to specific grades. A 2010 report commissioned by the UK Home Office had shown that the core skills assessment pass rates of Black and Minority Ethnic candidates were 40.3 per cent of White candidates. The Court held that the practice amounted to indirect discrimination. There was no need to prove the reason why the practice in question puts or would put an affected group at a particular disadvantage. It maintained that the main element to be considered is the causal link between the practice and the disadvantage suffered by the group and the individual.

indirect discrimination. In turn, this has contributed to reflections on the need to enact comprehensive equality and non-discrimination legislation in these countries (Kazuo 2014; Khaitan 2017; Khanna 2022; Manley 2020; Riminucci 2018).

The CEACR has not only requested that ILO Member States concerned to include clear definitions of direct and indirect discrimination in their legislation but also sought information from Member States that have ratified Convention No. 111 where the legislation was ambiguous to ascertain that the legislation fully reflects the notion of indirect discrimination in line with Convention No. 111 (ILO 2012, para. 747).

Harassment as a form of racial discrimination

A growing number of countries, currently 57 in total, explicitly prohibit in their legislation harassment based on race or related grounds⁶¹ as a form of discrimination in the world of work. Of these, 39 are in Europe and Central Asia, while 17 are from across Africa, the Americas and Asia and the Pacific.⁶² In Europe, race-based harassment is generally covered under specialized equality and non-discrimination legislation or under labour legislation.

In EU Member States, legislation in this area generally mirrors the provisions of EU Directive 2000/43/EC on equal treatment between persons irrespective of racial or ethnic origin, which deems harassment as a form of discrimination where “unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.”⁶³

Race-based harassment is prohibited in the human rights legislations of Canada, Fiji and New Zealand, while Australia, Kenya and Panama cover race-based harassment in their respective specialized equality legislation. For Botswana, Colombia, the Cook Islands, Ecuador, Mauritius, Mongolia, Sao Tome and Principe, the Seychelles, South Africa, South Sudan and the United Republic of Tanzania, the prohibition of race-based harassment in the world of work is included in the labour legislation (see box 4.6).

61 Such as colour, national extraction/origin and ethnicity/ethnic origin.

62 Australia, Botswana, Canada, Chile, Colombia, Cook Islands, Ecuador, Fiji, Kenya, Mauritius, Mongolia, New Zealand, Sao Tome and Principe, Seychelles, South Africa, South Sudan and United Republic of Tanzania.

63 European Union, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Art. 3.



► Box 4.6. Protection from racial harassment: Examples of legislative provisions

Cook Islands

Section 57(1) of the Employment Act (2012) provides that an “employer, or the representative of an employer, must not racially harass an employee in the employee’s employment.” Section 57(2) provides that an “employee is racially harassed in the employee’s employment if the employee’s employer, or a representative of the employer, uses written or spoken language, visual material, or physical behaviour, that directly or indirectly – (a) expresses hostility against, or brings into contempt or ridicule, the employee on the ground of the race, colour or ethnic or national origins of the employee; and (b) is hurtful or offensive to the employee (whether or not that is conveyed to the employer or representative); and (c) has, by its nature or through repetition, a detrimental effect on the employee’s employment, job performance, or job satisfaction.”

Mongolia

Section 7 of the Labour Law (2021) sets out a prohibition of violence and harassment, including sexual harassment, in the context of labour relations and occupation. Prohibited conduct includes creating “an intolerable workplace environment by discriminating on the grounds listed in article 6.1 of this Law, by committing or threatening to commit physical, psychological or sexual harassment or violence.” Article 6.1 prohibits discrimination, inter alia, on the grounds of sex, ethnicity, language and skin colour.

South Africa

The Code of Good Practice on the Prevention of Elimination of Harassment in the Workplace (2022) provides a definition of racial harassment, recalls related jurisprudence of the Constitutional Court and lists specific examples of conduct that may amount to racial harassment. It also sets out factors to be considered in determining whether conduct amounts to such a harassment (sections 6.2 to 6.8).

► **Figure 4.6. Number of ILO Member States prohibiting racial pay discrimination in labour legislation, by region**



Source: ILO mapping and analysis of national legislation.

Legal protection against race-based harassment may also be available in countries that have not put in place an explicit prohibition of such harassment in the law. For example, in the United States the Supreme Court held that workplace harassment can constitute unlawful discrimination under Title VII of the Civil Rights Act of 1964.⁶⁴

64 United States, Supreme Court, *Meritor Savings Bank, FSB v. Vinson*, [Case 477 US 57](#), 1986.

Racial discrimination in respect of remuneration

As indicated above, there are 139 countries out of the 187 ILO Member States that prohibit racial discrimination in employment and occupation in their labour legislation, and these provisions cover racial discrimination in respect of remuneration. In some of these countries, this is achieved by broadly formulated non-discrimination provisions and/or through specific provisions prohibiting pay discrimination that make reference to race, colour, national extraction/origin or ethnic origin/ethnicity as prohibited grounds. The legal mapping for this report indicates that 29 countries have included in their relevant legislation provisions specifically prohibiting racial pay discrimination (see figure 4.6). In several cases, the prohibition of racial pay discrimination is featured in the same provision that provides for equal pay for women and men. However, in some countries these provisions fall short of fully reflecting the principle of equal pay for work of equal value as established in Convention No. 100 and set out in Recommendation No. 111.⁶⁵

Another group of 16 countries do not make reference to origin and/or nationality as prohibited grounds of discrimination in their equal pay provisions. Meanwhile, seven others broadly refer to “any discrimination” or include a reference to “other grounds” in equal pay clauses otherwise focusing on equal pay for work of equal value for women and men.

The EU Pay Transparency Directive takes into account that pay discrimination experienced by women from certain ethnic and racial groups may be more pronounced. In this regard, the Directive relies on the concept of intersectionality by acknowledging that an “intersectional approach is important for understanding and addressing the gender pay gap”.⁶⁶ It also states that in the context of gender-based pay discrimination, it should be possible for courts, equality bodies or other competent authorities to take a combination of grounds of discrimination into account, in the compensation, penalties and monitoring and awareness-raising.⁶⁷ Similarly, in Brazil, new equal pay legislation adopted in 2023, requires certain employers to compile and report data on remuneration of women and men, disaggregated by race, ethnicity, nationality and age, allowing for an intersectional analysis of gender pay gaps.⁶⁸

4.2. Access to justice and effective enforcement

No norm or policy will achieve its goals if not sustained by effective implementation and enforcement. In the case of laws and policies on equality and non-discrimination, a fundamental principle and right at work, access to justice and remedies for victims of discrimination and the possibility to challenge discriminatory policies is essential – indeed a human right in itself. Three institutions play an important role in this context: the courts; labour inspectorates; and specialized equality or human rights institutions.

■ ■ A fundamental principle and right at work, access to justice and remedies for victims of discrimination and the possibility to challenge discriminatory policies is essential – indeed a human right in itself.

65 Convention No. 100, Art. 2(1); Recommendation No. 111, para. 2(b)(v).

66 European Union, Directive (EU) 2023/970, preambular para. 25.

67 European Union, Directive (EU) 2023/970 (see preambular paras 25 and 32, and Arts 3(2)(8c), 16(3) 23(3) and 29(3)(a)).

68 Brazil, Law No. 14.611, 2023, section 5.



Bringing work-related discrimination complaints is challenging for anyone, and more so for many belonging to groups vulnerable to racial discrimination, including migrant workers or indigenous and tribal peoples. Members of such groups may face constraints in bringing such complaints due to lack of information and linguistic challenges, lack of financial resources to procure legal assistance and representation. Bringing a complaint is often not seen as a feasible course of action by victims because they fear retaliation, particularly those in insecure jobs. Workers in the informal economy and undocumented migrant workers will often be de facto excluded from bringing discrimination complaints, which reinforces their vulnerability to discrimination. When constituting a criminal offence, discrimination has to be proven “beyond reasonable doubt”, which is the highest standard of proof in virtually all legal systems.

Both guidance from ILO supervisory bodies and international best practice suggest that criminal proceedings alone do not provide effective legal protection from discrimination and point the important role of civil or administrative proceedings. In addition, enforcement and compliance should not be limited to the possibility for victims to bring cases before the courts, but should also involve investigation, including ex officio, by competent administrative bodies such as labour inspectorates or equality and non-discrimination bodies. Measures to assist and support victims of racial discrimination in claiming their rights safely include giving legal standing to trade unions and civil society organizations, providing legal and financial support, as well as protection from retaliation (ILO 2019b).

Shifting the burden of proof

A particular difficulty for victims is producing evidence that discrimination has actually taken place because such evidence may be held by others. For example, evidence determining the reasons behind an alleged discriminatory act often lies in the employer’s control. Proving discrimination is even more challenging when the discrimination is systemic and arises indirectly as a result of the disproportionate impact of a seemingly neutral action, policy or practice. All this is particularly pertinent in the context of racial discrimination, which could occur under veiled circumstances. However, in most legal systems, the party making an allegation also generally has to prove it in order to succeed with their claim.

►► To make redress mechanisms more effective for victims to plaintiffs and to limit barriers to access to justice for harms suffered from discrimination, the burden of proof in discrimination cases should not solely remain with the complainant.

In order to make redress mechanisms more effective for victims to plaintiffs and to limit barriers to access to justice for harms suffered from discrimination, the burden of proof in discrimination cases should not solely remain with the complainant, as stressed by the CEACR in its recent general observation on racial discrimination (ILO 2012, 855; 2019b). Within this context, a claimant only needs to establish the facts and circumstances that indicate the plausibility of discrimination in employment and occupation on prohibited race-related grounds. In this light, it becomes the employer’s responsibility to prove that the alleged actions or policies were not based on any prohibited grounds of discrimination. Shifting the burden of proof in cases involving claims of discrimination is also specifically provided for in several ILO instruments.⁶⁹ The legal mapping carried out for this report identified 50 countries that have indeed

69 Workers’ Representatives Recommendation, 1971 (No. 143), para. 6(e); Termination of Employment Convention, 1982 (No. 158), Art. 9; Maternity Protection Convention, 2000 (No. 183), Art. 8; and Violence and Harassment Recommendation, 2019 (No. 206), para. 16(e).



► **Figure 4.7. Number of ILO Member States with legal provisions shifting the burden of proof in employment discrimination cases, by region**



Source: ILO calculations based on an ILO mapping and analysis of national legislation.

included legal provisions on burden of proof in their labour laws or specialized equality and non-discrimination legislation (see figure 4.7). The majority of which are found in Europe and Central Asia, but there are also others in Africa, Asia and the Pacific, and Latin America and the Caribbean. It should be noted that rules shifting the burden of proof may be available in other countries under other types of legislation or jurisprudence.

Leveraging the institutional capacity of labour inspectorates

Given that the labour legislation in 139 countries includes legal provisions prohibiting racial and other forms of discrimination, the work of labour inspectorates in monitoring compliance with these provisions is of fundamental importance, particularly where labour inspectorates have a broad mandate that comprehensively covers all aspects of labour law. The labour inspectorate's interventions in the field of discrimination and inequality can be carried out in different ways: prevention and advice, collection and processing and investigation of complaints, and monitoring in the workplace. The prevention of discrimination can also be carried out in the context of inspectors' examinations of internal regulations and procedures (ILO 2022e). Even where the mandate of labour inspectorates is limited to occupational safety and health, discrimination issues may be addressed by them, for example in connection with their interventions related to psychosocial risks. Racial and other forms of discrimination, including discriminatory violence and harassment, are a factor giving rise to such risks.⁷⁰

The role of specialized equality bodies and group-specific institutions

Specialized equality bodies established in a considerable number of countries play a range of different roles in promoting and overseeing the respect for and implementation of specialized equality and non-discrimination legislation.⁷¹ Their mandated responsibilities range from awareness-raising, monitoring, providing guidance, researching and reporting, making recommendations to the executive and the legislature, supporting employers in developing equality plans, investigating complaints and correcting discriminatory practices through conciliation, or by rendering opinions or decisions to initiating legal proceedings and assisting victims of discrimination before courts. Independence and accessibility to all are important features for the effectiveness of their mandate (ECRI 2017). The roles and functions of an equality body are sometimes entrusted to the national human rights institution, commissions

⁷⁰ Recommendation No. 206, para. 8(c).

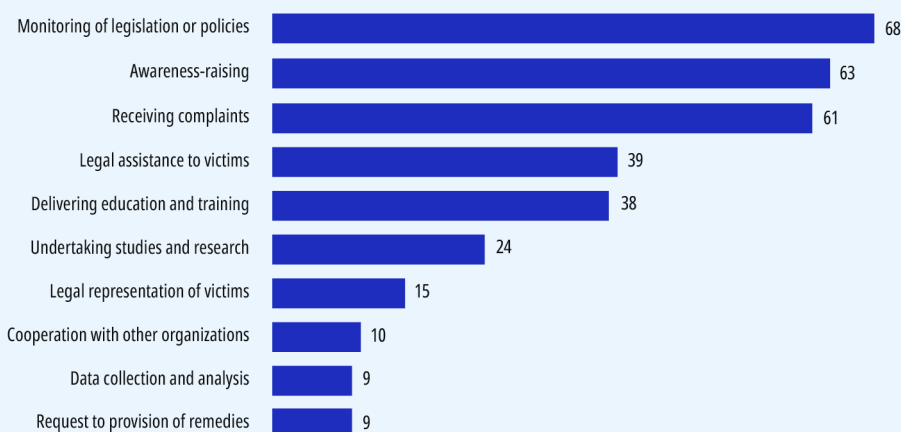
⁷¹ The establishment of such bodies is provided for under Paragraph 4 of Recommendation No. 111.

established under a ministry or constitutional bodies. All these bodies are referred to as “equality bodies” throughout the remainder of the report.

The mapping for this report identified equality bodies whose mandate includes addressing racial discrimination in 73 countries (see figure 4.8). The vast majority of these institutions are responsible for monitoring equality and non-legislation or policies (68), and are competent to receive complaints (61) from victims of racial discrimination and/or racially motivated harassment, including in the field of employment. Some institutions (39) offer legal assistance to persons who have experienced racial discrimination, and some others further provide them with legal representation (15). A smaller number of institutions (9) are entitled to request the provision of remedies or restoration related to racial discrimination from those entities or individuals that have undertaken a discriminatory conduct in favour of the person that has experienced said discrimination.

Some equality bodies are also explicitly tasked to cooperate with other institutions and organizations (10). Cooperation with labour inspectorates and employers’ and workers’ organizations can create important synergies. For example, in Belgium, the Interfederal Centre for Equal Opportunities (Unia) signed cooperation agreements with both workers and employers’ organizations, and collaborates with the labour inspectorate concerning specific cases and generally with a view to promoting equality.⁷² Cooperation with labour inspectorates is important given that they and specialized equality bodies may have both mandates to address workplace discrimination, and hence synergies and coordination needs are evident. Cooperation between equality bodies and labour inspectorates is specifically called for in a proposed EU Directive setting standards for equality bodies across the EU Member States.⁷³

► **Figure 4.8. Functions of specialized equality bodies responsible for addressing racial discrimination**



Note: Based on 73 specialized equality bodies identified by the ILO mapping carried out for this report.

72 The 2019 agreement the employers’ organizations envisages joint efforts to promote workplace diversity and the sharing of good practices for raising awareness of equality and non-discrimination legislation (Beci 2019).

73 Such cooperation is specifically called for in the European Union’s 2023 Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Council Directive 2000/43/EC and Article 12 of Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (see <https://data.consilium.europa.eu/doc/document/ST-10027-2023-INIT/en/pdf>).

The mandate of equality bodies generally also includes awareness-raising on discrimination and equality of opportunities (63). Fewer institutions provide education and training programmes (38). Some institutions (24) are also mandated to conduct studies and research, while fewer institutions collect and analyse data (9).

In certain countries, the public bodies, institutions or commissions have a mandate to address the situation of specific population groups which are vulnerable to racial and other discrimination. Several countries across various regions have created an institution specifically responsible for indigenous and tribal peoples' issues (ILO 2019c). In India, the National Commission for Scheduled Tribes (NCST) has a broad mandate to promote the rights and well-being of tribal populations in the country, including monitoring of relevant legislation and government policies and receiving grievances.⁷⁴ In the Philippines, the National Commission on Indigenous Peoples (NCIP) similarly promotes the interests and well-being of the country's indigenous peoples, including delivery of services and programmes, certification of land titles and adjudication of alleged violation of rights under the national legislation on indigenous peoples.⁷⁵ There are also institutions that address only specific aspects of racial discrimination, for example the National Commission on the Promotion of Bilingualism and Multiculturalism in Cameroon, which receives petitions against discrimination arising from the non-compliance with constitutional provisions regarding bilingualism and multiculturalism.

74 The NCST is set up under section 338 of the Indian Constitution. For more information on its mandate and work, see <https://ncst.nic.in>.

75 The NCIP is set up under the Indigenous Peoples' Rights Act of 1997. For more information on its mandate, see <https://ncip.gov.ph>.



Chapter 5





► Preventing discrimination and promoting equality at the workplace

Measures to address discrimination and promote equality in the world of work can be taken at various levels, but action at the workplace is essential. Indeed, employers in both the private and public sectors play an important role in the elimination of discrimination and promotion of equality in the world of work. While it is for the state to put in place and enforce appropriate legislative frameworks designed to promote equality of opportunity and treatment in employment, employers have a responsibility to ensure compliance with legal obligations arising under such frameworks.

► ► Workplace action and policies help business and organizations to detect and address indirect discrimination and systemic discrimination – situations that may be difficult to identify without deliberate analysis.

Whether workplace actions and policies are mandated or encouraged under legislation or taken at the employers' initiative, consultations with workers and their representative organizations are important. More generally, the government should consult with representative employers' and workers' organizations with regard to measures taken to apply the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and seek their cooperation in promoting equality of opportunity and treatment in employment and occupation.⁷⁶ A recent ILO instrument, the Violence and Harassment Convention, 2019 (No. 190), which addresses violence and harassment in the world of work, including violence and harassment based on race or their prohibited grounds of discrimination, refers to workplace policies adopted and implemented in consultation with workers and their representatives, as one of the interventions for the prevention of violence and harassment.⁷⁷

⁷⁶ Convention No. 111, Arts 3(a) and 5(2); Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), para. 5(c).

⁷⁷ Article 9 of Convention No. 190 provides as follows: "Each Member shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment, and in particular, so far as is reasonably practicable, to: (a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment; ...".

Workplace initiatives for equality, diversity and inclusion, and actions encouraged by or required under legislation, share the same underpinning rationale: steps should not only be taken when claims of discrimination are being raised by individual victims, but proactive efforts should also be made to prevent discrimination and to promote equality, diversity and inclusion. Workplace action and policies help business and organizations to detect and address indirect discrimination and systemic discrimination – situations that may be difficult to identify without deliberate analysis. Such policies can therefore be seen as tools for monitoring and reviewing and adjusting their institutional functioning so as to better prevent discrimination and remove barriers in the way of equality of opportunity and treatment. Appropriate regulatory frameworks, designed in consultation with employers' and workers' organizations, contribute to ensuring a level playing field. They also contribute to transparency and learning.

5.1. Equality, diversity and inclusion initiatives

Employers all around the world are embracing equality, diversity and inclusion as key values underpinning their activities. Diversity management appeared as a response to regulatory developments since 1970s, emphasizing the “business case” for equality and non-discrimination. Indeed, large numbers of companies are recognizing that promoting diverse and inclusive workplaces contributes to innovation, the well-being of their employees, which is linked to motivation, performance and productivity, and the enhanced ability to serve client bases that are increasingly diverse, among other factors (Bereni 2009; Dibobo, Ngonyama-Ndou and Mncwabe 2022; Gottardello 2016; Hanula-Bobbitt 2021). While the notion of diversity highlights the effort to attract a diverse workforce, it is inclusion that influences the extent to which diverse employees are retained and able to thrive (ILO 2022f, 29).

For many companies, undertaking equality, diversity and inclusion initiatives is a matter of corporate social responsibility, as this entails a readiness to contribute to the well-being of the community, beyond what is strictly required under the law.

For many companies, undertaking equality, diversity and inclusion initiatives is a matter of corporate social responsibility, as this entails a readiness to contribute to the well-being of the community, beyond what is strictly required under the law. A more recent trend is to link the equality, diversity and inclusion to sustainability. Environmental, social and governance initiatives that guide company reporting increasingly integrate equality, diversity and inclusion considerations, which is seen as a dimension valued by investors (Hanula-Bobbitt 2021).

A recent ILO report contributes new understanding and insights to better support enterprises in creating powerful and comprehensive change in eliminating all forms of discrimination within the workplace and promoting equality, diversity and inclusion, including for minority racial or ethnic groups (ILO 2022f). Drawing on the results of a global survey among employees, including supervisors and managers and small and medium-sized enterprise, in 75 countries across all regions of the world, the study finds that although there is no one size fits all approach for diversity and inclusion, four features make such initiatives transformational:

- (i) Diversity and inclusion is a stated priority and part of the enterprise strategy and culture.
- (ii) The representation of minoritized groups in top management has a positive impact on inclusion across all employee groups.
- (iii) Senior leaders and all managers and staff are held accountable as role models for diversity and inclusion.



- (iv) Actions are applied across the employee life cycle from recruitment through development and retention and targeted at creating both a strong sense of belonging and enabling everyone to be themselves at work with their individual needs seen, understood, cared about and, wherever possible, met.

The report finds that at present only a relatively small portion of the workplaces in which survey respondents worked are pursuing such a transformational approach to diversity and inclusion (ILO 2022f, 22, 27).

5.2. Workplace actions and policies mandated by legislation

Policies encouraging employers to promote equality may take the form of general legislative mandates or more detailed requirements. These often apply to public sector employers, although private sector organizations, especially larger enterprises, are increasingly being included. For smaller enterprises, flexibility or exemptions may apply to balance regulatory obligations with capacity. In some cases, countries have introduced goals, targets or – less often – quotas to improve representation of disadvantaged groups at the workplace. A number of countries that have adopted such proactive measures have more recently adopted new legislation to reform existing laws – this is the case, for example in Norway, South Africa and Spain, or are contemplating reforms, such as Canada. Such recent developments are highlighted below.

Removing barriers and promoting equitable representation

Under the Employment Equity Act⁷⁸ in Canada, initially adopted in 1986 and revised in 1995, federally regulated employers are to prepare and implement an employment equity plan that “specifies the positive policies and practices” that the employer will take “in the short term for the hiring, training, promotion and retention of persons in designated groups and for the making of reasonable accommodations for those persons”.⁷⁹ Among the designated groups as defined by the Act are women, Aboriginal peoples, persons with disabilities and members of visible minorities.⁸⁰ The Act covers federally regulated private employers with more than 100 employees. The policies and practices to be designed and implemented by the employer are to be informed by a workforce analysis that is required under the Act in order to determine the degree of under-representation of persons in designated groups in each occupational group of the workforce.

In South Africa, the Employment Equity Act (1998)⁸¹ seeks to address inequalities and discrimination and exclusion faced by three designated groups: Black people, women and persons with disabilities. The category of Black peoples is defined under the Act as including Africans, Coloured and Indians.⁸² The Act applies to all employers, but the duty to take measures to achieve employment equity only applies to designated employers, namely public entities as well other employers with more than 50 employees. Prior to 2023 amendments to the Act, this duty applied also to companies below the 50-employee threshold if they were below a certain financial turnover threshold.⁸³ The new threshold was established to reduce administrative burden for smaller companies. Designated employers are required to consult with their employees, through the trade union if one exists, undertake workplace analysis, adopt and implement

78 Canada, [Employment Equity Act](#), 1995.

79 Canada, [Employment Equity Act](#), section 10(1)(a).

80 Canada, [Employment Equity Act](#), section 3.

81 South Africa, [Employment Equity Act](#), 1998, as amended up to 2013. Further amendments were introduced through the [Employment Equity Amendment Act](#), 2022.

82 South Africa, [Employment Equity Act](#), section 1.

83 South Africa, [Employment Equity Amendment Act](#), section 1(a).



an employment equality plan and report on the plan and progress made in its implementation to the Department of Labour.⁸⁴

In the United Kingdom, the Equality Act (2010), which prohibits discrimination based on race among a range of other characteristics,⁸⁵ establishes a so-called public sector equality duty which requires specified public authorities to exercise their functions having due regard to the need to eliminate discrimination, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and to foster good relations between such persons.⁸⁶ The law clarifies that other employers may choose to take positive measures to address disadvantage in relation of prohibited grounds under the Equality Act should they consider this is relevant, and the Statutory Code of Practice (Employment) issued by the Equality and Human Rights Commission in relation to the Act provides detailed guidance on what type of actions can be taken by employers (EHRC 2011, Ch. 12).

While under the European Union's Equal Treatment Directive, "positive action" is about measures that can rather than have to be taken,⁸⁷ research by the European Network of Equality Bodies (EQUINET) into equal treatment legislation in EU Member States nevertheless identified three distinct types of statutory equality duties that exist in EU Member States: duties to measure to prevent discrimination including harassment and pay discrimination (in the private and public sectors); institutional duties to promote equality and combat discrimination for employees (both private and public sectors); and mainstreaming duties, that to promote equality in implementing institutional functions (public sector) (Crowley 2017; EQUINET 2021b).

In Finland, for example, public sector entities with more than 30 employees have to take proactive steps to promote equality, as provided for under the Non-Discrimination Act (2015) which, inter alia, prohibits racial discrimination. Measures to promote equality must be discussed with the personnel; when such measures are being taken, shop stewards, other staff representatives that participated in their elaboration and occupational health delegates have a right to information.⁸⁸

Under Spain's Equal Treatment and Non-Discrimination Act (2022), public authorities are to adopt positive action measures based on the grounds of discrimination covered by the Act, which include racial or ethnic origin, and promote policies to foster real and effective equality. The Act emphasizes indirect discrimination in respect of access to and conditions of employment, and encourages collective bargaining by public and private sector employers on equality and non-discrimination, including on positive action to be taken. In addition, the Act stresses action by companies in the context of their social responsibilities, with a need for engaging with workers organizations as well as organization specialized in promoting equality. The Act enables the issuing of regulations requiring companies with more than 250 workers to publish information of salaries allowing the analysis of pay differentials taking into account the grounds covered by the Act. At the same time, it strengthens legal protection from discrimination, inter alia, establishing a legal obligation – and corresponding administrative, civil and criminal responsibility – to apply appropriate methods for the detection and prevention of discrimination and measures to end discriminatory situations.⁸⁹

In Norway, the Equality and Anti-Discrimination Act (2017) requires public undertakings and private employers are required to make "active, targeted and systematic efforts to promote equality [and] prevent discrimination" based on a set of specific prohibited grounds, which include ethnicity, or

84 South Africa, [Employment Equity Act](#), sections 12 and 16.

85 The [Equality Act \(2010\)](#) prohibits discrimination based on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race; religion or belief, sex, sexual orientation (see section 4).

86 United Kingdom, [Equality Act \(2010\)](#), section 149(1). The concerned public authorities are listed in schedule 19.

87 European Union, Council Directive [2000/43/EC](#), Art. 5.

88 Finland, [Non-Discrimination Act](#), 2014, sections 4 and 7. On 1 June 2023 several amendments entered into force which are not yet reflected in this English version. For the nature of the amendments, see <https://yhdenvertaisuusvaltuutettu.fi/en/-/the-non-discrimination-act-is-changing-on-1-june-2023-amendments-improve-the-legal-protection-of-discrimination-victims>.

89 Spain, [Equal Treatment and Non-Discrimination Act](#), 2022, sections 2, 9–11 and 33.



combinations of these grounds.⁹⁰ All public undertakings, and private employers if they have more than 50 employees, have additional, more specific duties, including: (a) investigate risks of discrimination and barriers for equality, including by reviewing pay conditions by gender; (b) analyse the cause for identified risks; (c) implement measures to counteract discrimination and promote equality and diversity; and (d) evaluate results of the efforts made. The same applies to private undertakings that ordinarily employ between 20 and 50 persons if requested by the employees or employee representatives.⁹¹

In Brazil, new equal pay legislation, requires employers with more than 100 employees to submit half-yearly reports pay transparency reports which must contain data on women's remuneration and participation in management positions. As noted above, pay data must be disaggregated by race, ethnicity, nationality and age.⁹² If gender pay gaps exist, employers must prepare action plan to closing it, specifying goals and deadlines.

Numerical targets

Some countries have included into their policies specifically the objective of achieving a more equitable representation of individuals from disadvantaged groups in the workforce of enterprises or organizations through numerical targets and sometimes quotas. Numerical targets offer flexibility, with employers tailoring their efforts while aligning with broader national goals for workplace equality. Numerical targets are goals set by business against which they aim at achieving progress.

Some countries have included into their policies specifically the objective of achieving a more equitable representation of individuals from disadvantaged groups in the workforce of enterprises or organizations through numerical targets and sometimes quotas.

In some countries, accountability tends to arise under the legislation in relation to whether certain actions have been taken by employing entities, including setting targets, collection of data, adoption of action plans or reporting about measures taken to a public authority. In Canada, employers covered by the Employment Equity Act (1995) are required to develop an employment equity plan with numerical goals for the hiring and promotion of individuals from designated groups. Under the Act, the employer must “ensure that its employment equity plan would, if implemented, constitute reasonable progress toward implementing employment equity”.⁹³ Preparation, implementation and revision of the equity plan is submit to consultation with employee representatives including bargaining agents.⁹⁴ Private sector employers are required to file annual report with the Minister of Labour and Employment, providing information of the composition of their workforce by location and occupational group, along with pay data.⁹⁵

90 Norway, [Equality and Anti-Discrimination Act](#), as amended up to 2022, section 26(1).

91 Norway, [Equality and Anti-Discrimination Act](#), section 26(2) and (3). As per section 24, public authorities – as compared to public undertakings – have a duty in all their activities to make active, targeted and systematic efforts to promote equality and prevent discrimination based on all prohibited grounds listed in section 6 of the Act, as compared to public undertakings and private sector employers the equality duty of which relates to a subset of these grounds as listed in section 26(1) of the Act.

92 Brazil, [Law No. 14.611](#), 2023, section 5.

93 Canada, [Employment Equity Act](#), section 11.

94 Canada, [Employment Equity Act](#), section 15.

95 Canada, [Employment Equity Act](#), section 18.



Also in South Africa, employers' employment equity plans under the country's Employment Equity Act are to include employment equity targets, as well as timelines.⁹⁶ Following concerns expressed by the Commission for Employment Equity about slow progress in achieving employment equity, 2022 amendments to the South Africa's Employment Equity Act created a basis for the Minister of Labour to determine sectoral numerical targets with the "purpose of ensuring the equitable representation of suitably qualified people from designated groups at all occupational levels in the workforce".⁹⁷

Reservations and quotas

Quotas or reservations represent one of the most structured and debated approaches to promoting equitable opportunities for historically disadvantaged groups in employment and related fields, such as education. Tackling unequal access to education is a critical step, education underpins social mobility and translates to equitable access to opportunities in the labour market (Firpo, França and Portella 2021).

India provides a long-standing example of such an approach. Its constitutionally grounded reservation system, established in 1949, aims to improve representation in the civil service for Scheduled Castes and Scheduled Tribes, among other groups.⁹⁸ According to latest available data, Scheduled Castes and Scheduled Tribes represent some 19.7 and 8.4 per cent, respectively, of the national population.⁹⁹ Reservation is made for members of Scheduled Castes at 15 per cent and Scheduled Tribes at 7.5 per cent in civil service recruitment through open competitions.¹⁰⁰ To the extent the number of reserved vacancies cannot be filled on the basis of general standard of suitability, candidates belonging to these communities are admitted applying a relaxed standard, subject to the fitness of these candidates for appointment to the post/posts in question.¹⁰¹ Over time, the reservations policy contributed over time the share under-represented groups in the central civil, members of Scheduled Castes and Scheduled Tribes remain persistently concentrated at the lower grades and under representation in the upper tiers (Doner 2022; NCSC 2021).

Brazil has implemented targeted measures to increase opportunities for groups historically under-represented groups in the public sector and education. One step was the introduction of a 2014 law to reserve a share of vacancies in the public sector for Black people over a ten-year period.¹⁰² This policy has been extended to the judiciary, and similar quotas have been implemented in internship programmes offered by various public institutions. Although the law expired in 2024, the Supreme Court extended its effects pending new legislation. A collection of studies about the effects of the law in public selection processes noticed that during the law's period of application there were fewer selections, thus there was no substantive change in the composition of the government workforce. Furthermore, many selections, such as those for teaching positions in public universities, frequently offer only one position, whereas quotas are applicable for selections with at least three vacancies. Therefore, distinct mechanisms should be devised to promote equal opportunities when there are few vacancies at stake (IPEA 2021).

In education, Brazil's 2012 legislation reserved 50 per cent of Federal university seats for students from public secondary schools, with half of those reserved for low-income families. Within this quota, places were reserved for self-declared Black, brown or indigenous students proportional to their representation in the state population.¹⁰³ Research indicates that race-based quotas have been more effective than

96 South Africa, [Employment Equity Act](#), section XX.

97 South Africa, [Employment Equity Amendment Act](#), section 4, inserting new section 15(A) into the Employment Equity Act.

98 India, [Constitution](#), section 16(4A).

99 Government of India/National Sample Service Office, National Sample Survey, [61st Round](#), 2004–05.

100 Government of India, [Office Memorandum No. 36011/1/2022-Estt\(Res-I\)](#), 28 March 2024.

101 Government of India, [Compendium of Instructions on Reservation in Appointments in Posts/Services in the Central Government](#), 2022.

102 Brazil, [Law 12.990](#), 2014. The law makes reservation for people self-identifying themselves as black or brown in the Federal public administration, municipalities, public foundations, public companies and mixed-capital companies under control of the Federal Government.

103 Brazil, [Law 12.771](#), 2012, as amended by Law No. 14.723, sections 1 and 3.



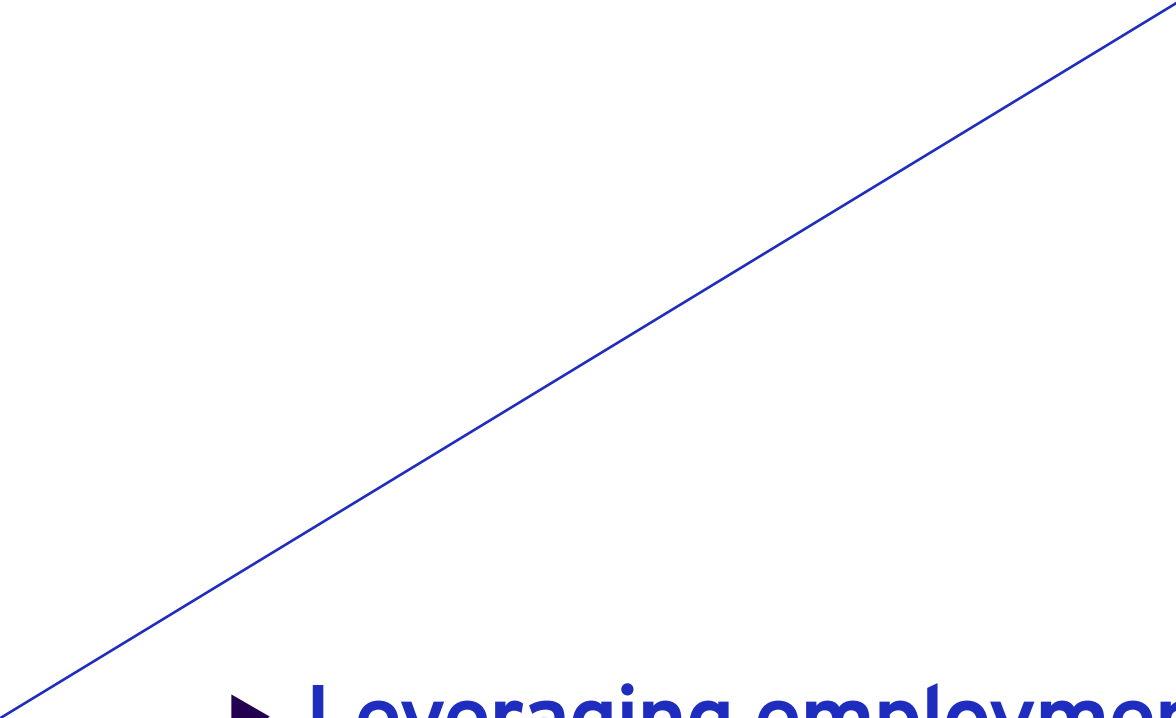
income-based ones in addressing educational inequalities (Vieira and Arends-Kuenning 2019). Over the years, the number of students entering higher education through quotas grew significantly from 40,661 in 2012 to 108,616 in 2022 (Araújo 2023). In 2022, beneficiaries of affirmative action were more likely than prior to 2012 to perceive affirmative action as a right, and were less concerned about possible effects of stigmatization (Giraut 2023). While the laws positive effects are recognized, it was also pointed that the building up of supportive environments in high educational institutions can be strengthened (Heringer 2024). In 2016, the university quota system was reformed to include persons with disabilities and in 2023 the Quilombola communities. The 2023 reform also introduced that students from the beneficiary groups first compete in the broader entry exams, and only if they do not succeed, do they compete for reserved seats.¹⁰⁴

104 Brazil, [Law No. 12.771](#), section 3(2).



Chapter 6





► Leveraging employment and public procurement policies

Legislation to prohibit racial and other forms of discrimination and promoting equality in the world of work, as discussed in Chapters 4 and 5, is a key means for realizing this fundamental principle and right at work. Yet, it is equally essential that this objective is pursued through a broader set of policies and measures that tackle root causes of discrimination and exclusion, including economic vulnerability, and proactively advance inclusion and promote respect for diversity. In other words, to end discrimination and advance racial equality, it is important that countries' national policies for equality of opportunity and treatment, as required under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), are as comprehensive as needed to secure progress, and that they span over all relevant policy areas. This chapter specifically highlights the role of national employment policies and public procurement policies towards realizing equality of opportunity and treatment for all.

►► To end discrimination and advance racial equality, it is important that countries' national policies for equality of opportunity and treatment are as comprehensive as needed to secure progress, and that they span over all relevant policy areas.

6.1. Removing structural barriers for disadvantaged racial or ethnic groups: The role of national employment policies

Consolidating both social and economic objectives, a national employment policy (NEP) offers ILO constituents and other relevant policymakers and stakeholders with an important framework for promoting inclusive and sustainable development of the labour market. NEPs often include a variety of actions from the policy level to specific efforts directly targeting jobseekers through, for example, training and counselling. While every NEP should be developed based on the unique context of the country concerned, all aim to strengthen inclusivity and sustainability of labour market outcomes.

The Employment Policy Convention, 1964 (No. 122), provides a normative basis through which countries are encouraged to design active employment policies that stimulate economic growth, raise living standards and meet labour market needs, overcoming unemployment and underemployment.¹⁰⁵ The Convention provides guiding principles for developing a national policy on employment, namely (i) quantity, (ii) quality and (iii) non-discrimination. The first two refer to employment for all available workers, in work which is as productive as possible. The third one highlights each person's freedom of choice of employment and the possibility to use one's skills to the utmost capacity – irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.¹⁰⁶

The ILO Employment Policy Gateway comprises 75 active employment policies from around the world (see tables 6.1 and 6.2).¹⁰⁷ National employment policies from African countries constitute the largest number, with a total of 37 documents. For the Asia and Pacific region, there are 12 countries represented, followed by the Americas and Europe and Central Asia with 11 countries each. For the Arab States, the Gateway includes policies from four countries.

Table 6.1. Number of analysed national employment policies with references to racial discrimination, ethnic minorities or indigenous peoples, 2024

Concepts	Yes	No
Racial discrimination	12 (16%)	63 (84%)
Ethnic minority	13 (17%)	62 (83%)
Indigenous and tribal peoples	17 (23%)	58 (77%)

Source: ILO calculations based on data from the ILO Employment Policy Gateway, 20 May 2024.

Table 6.2. References to racial discrimination, ethnic minorities or indigenous and tribal peoples in national employment policies: Regional comparison, 2024

Concepts	Racial discrimination		Ethnic minorities		Indigenous peoples	
	Yes	No	Yes	No	Yes	No
Region						
Africa	1 (3%)	36 (97%)	1 (3%)	36 (97%)	2 (6%)	35 (95%)
Americas	3 (27%)	8 (73%)	1 (9%)	10 (91%)	6 (55%)	5 (45%)
Arab States	0	0	1 (25%)	3 (75%)	0	0
Asia and the Pacific	6 (50%)	6 (50%)	4 (33%)	8 (67%)	4 (33%)	8 (67%)
Europe and Central Asia	1 (9%)	10 (91%)	4 (36%)	7 (64%)	3 (27%)	8 (73%)

Source: ILO calculations based on data from the ILO Employment Policy Gateway, 20 May 2024.

¹⁰⁵ As of 31 January 2025, Convention No. 122 has been ratified by 115 countries.

¹⁰⁶ Convention No. 122, Art. 1.

¹⁰⁷ Available at <https://webapps.ilo.org/empolgateway>.

By addressing the unique challenges faced by disadvantaged racial or ethnic groups, including indigenous and tribal peoples, NEPs can help dismantle systemic barriers to employment. These policies, when designed in a culturally appropriate manner and taking into account the perspectives of groups concerned, can have a critical impact on workers' access to freely chosen and productive employment. With this in mind, the 75 NEPs featured in the Employment Policy Gateway were analysed to explore to what extent they explicitly address barriers faced by groups vulnerable to racial discrimination. For this purpose, the NEPs were screened for the following three concepts: (i) racial discrimination; (ii) ethnic minority; and (iii) indigenous and tribal peoples.¹⁰⁸

By addressing the unique challenges faced by disadvantaged racial or ethnic groups, including indigenous and tribal peoples, national employment policies can help dismantle systemic barriers to employment.

In total, 34 out of 75 NEPs include references to the selected concepts, some of them include more than one of them. The concepts are most frequently identified in introductory or general statements related to a fair labour market, employment and decent jobs for all along other grounds of discrimination such as age, gender, religion and disability. This is aligned with the non-discrimination principle of Convention No. 122. By including a reference to non-discrimination, these employment policies emphasize the importance of equal employment opportunities for all workers. Going a step further, some NEPs, for example the *Suriname Mid-Term Labour Market Policy 2022–2025*, pay specific attention to the countries' indigenous and tribal peoples when analysing demographic and labour market trends.

Fewer NEPs mention the concepts in direct relation to specific objectives or targeted interventions. For example, ethnic minority workers in Viet Nam are given specific attention in several areas, in line with the country's NEP. Similarly, the analysis found that in some cases, NEPs which incorporate one or more of the concepts in specific activities or targets tend to more frequently specify certain groups vulnerable to discrimination based on race, ethnicity or other grounds. One such example is Nepal, where the NEP which specifically targets indigenous peoples, along with women, youth, Dalits, Madhesi and other disadvantaged groups.¹⁰⁹

As shown in table 6.2, there are some clear differences between regions. African countries rarely mention any of the concepts. The Americas and Asia and the Pacific have some of the highest prevalence of the studied concepts, both in number and in percentage. Taking a closer look at some of the NEPs, this is also reflected in the way the NEPs include the concepts in relation to specific interventions. The Americas stands out as the region in which indigenous and tribal peoples are referred to in NEPs, with such references being found in a majority of the analysed NEPs. In the Arab States, one in four countries analysed made reference to racial discrimination, and none to the other two concepts. It should, however, be noted that it is the region with the smallest number of NEPs included in this analysis. For the European and Central Asia, ethnic minorities and indigenous and tribal peoples were mentioned in 36 per cent and 25 per cent of the NEPs, respectively, constituting the two most frequent concepts as racial discrimination was mentioned only in one of the NEPs, equivalent to 9 per cent.

¹⁰⁸ NEPs also include general reference to non-discrimination, without singling out specific types of discrimination. While such wording may encompass race and ethnicity, these references were not included in the analysis, given that the focus on explicit and targeted measures for groups vulnerable to racial discrimination.

¹⁰⁹ Nepal, *National Employment Policy 2071*, 2015, para. 6.2.



Access to education, training, skills development and lifelong learning are essential aspects in ensuring freely chosen employment and equal opportunities, and important factors in enabling each worker to utilize their full set of skills effectively. Similarly, they constitute an integral part of strategies aimed at reducing social and economic disparities among different ethnic groups.¹¹⁰ The NEP in Nepal, for example, refers to special programmes to support access to education for children from indigenous peoples and other disadvantaged communities, including those who dropped out of formal education.¹¹¹

► Access to education, training, skills development and lifelong learning are essential aspects in ensuring freely chosen employment and equal opportunities, and important factors in enabling each worker to utilize their full set of skills effectively.

Apart from targeting groups experiencing racial or ethnic discrimination in skills development and training programmes, some of the NEPs include support to business-establishment for persons belonging to indigenous peoples or ethnic minorities. One such example is Suriname, where improved support to and training for entrepreneurs is listed as one of the NEPs outputs, specifically mentioning persons of indigenous origin.¹¹² Similarly, in Nepal, the NEP envisages entrepreneurial and self-employment-related training for indigenous peoples and other disadvantaged groups in the agricultural sector and, more generally, the improving access to credit, information and business development services to facilitate transitions to the informal economy.¹¹³

6.2. Public procurement as a tool for promoting equal employment opportunities

Making eligibility for public contracts dependent on the contractor's respect for the principles of non-discrimination is provided for under the ILO Recommendations accompanying, respectively, the Equal Remuneration Convention, 1951 (No. 100), and Convention No. 111.¹¹⁴ The Committee of Experts on the Application of Conventions and Recommendations (CEACR) considered that labour clauses in public contracts could include specific measures to be taken to address systemic discrimination (ILO 2008, para. 46). Promoting equality of opportunity and treatment in employment and occupation through public procurement has indeed been one of the first government actions to combat discrimination in the labour market including against persons with disabilities, women and workers from disadvantaged racial groups. Regulations have existed since the 1940s that required government contractors not to

110 ILO (2021f, para. 5) states that: "Structural barriers for people, including language barriers, and systemic discrimination affect skills and lifelong learning and are a key cause of exclusion and increasing inequality within and between societies. These barriers should be addressed to help ensure effective and equitable access to skills, training and lifelong learning for all. Special attention should be paid to women; young people, especially those who are not in education, employment or training; older people; persons with disabilities; informal workers; migrant workers; refugees; people in rural areas; low-skilled workers; indigenous and tribal peoples; and other persons in fragile and vulnerable situations or belonging to disadvantaged groups." See also the Human Resources Development Recommendation, 2004 (No. 195), para. 5(h).

111 Nepal, *National Employment Policy 2071*, 2015, paras 12.3 and 12.4.

112 Suriname, *Suriname Mid-term Labour Market Policy 2022-2025*, 2022, p. 39.

113 Nepal, *National Employment Policy 2071*, para. 11.2.

114 See the Equal Remuneration Recommendation, 1951 (No. 90), para. 2(c), and the Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), para. 3(b)(ii). These provisions completed the standards on labour clauses in public contracts laid down in the Labour Clauses (Public Contracts) Convention, 1949 (No. 94).



discriminate against their workers and job applicants on the basis of race, colour, national origin, religion and progressively other grounds (ILO 1957, 24–25; McCrudden 2007, 131ff).

In Canada, obligations concerning public contracting with indigenous business arises under most of the 25 treaties that the Government has entered into with indigenous peoples since 1975. These provisions aim at enhancing economic opportunities of the indigenous peoples concerned, “usually through increased possibilities of competing successfully for contracts in their settlement areas, or of participating in employment, training or subcontracting opportunities related to the procurement.”¹¹⁵ Furthermore, under the Procurement Strategy for Indigenous Business, contracts are set aside mandatorily for competition among certified indigenous businesses if an indigenous population is the primary recipient or end user of the goods or services being procured and the value exceeds 5,000 Canadian dollars. Additional voluntary set-asides are possible at the discretion of the awarding government department.¹¹⁶

Under the Canadian Federal Contractors Program, organizations doing business with the Government implement employment equity in their workplace by ensuring that the workforce is representative of the country’s labour force in respect to the four designated groups under the Employment Equity Act. The Program covers organizations with 100 or more permanent employees that receive a Federal Government contract for goods or services of at 1 million Canadian dollars or more.¹¹⁷

In Australia, the purpose of the Indigenous Procurement Policy is to stimulate indigenous entrepreneurship, business and economic development. Indigenous businesses are targeted for contracts to be delivered in areas considered remote between 80,000 and 200,000 Australian dollars. Furthermore, requirements regarding indigenous peoples’ employment and business participation apply to contracts wholly delivered in Australia valued at 7.5 million dollars or more in 19 industries (NIAA 2020). The National Indigenous Australians Agency (NIAA 2023) has initiated a process of consultations with a view to a reform and strengthening of the Indigenous Procurement Policy and issued a discussion paper outlining areas of possible reforms.

In Malaysia, public procurement has been used since 1970 as one of the avenues to address long-standing economic disempowerment of the majority Bumiputera population rooted in colonial past. Malaysia’s policy stands out compared to others as the Government reserves all of its smallest contracts for goods, services and construction for Bumiputera-owned businesses, while these businesses competing for higher value contracts receive a price preference. For construction contracts, there is a 30 per cent reservation for Bumiputera businesses (Lee 2021, 2022).

In South Africa, the Preferential Procurement Policy Framework Act (2000) requires public entities to establish a preferential procurement policy. Public entities must operate a preference point system and enables them to allocate additional points in the context of specific goals set for awarding contracts to persons historically disadvantaged by unfair discrimination based on race, gender or disability.¹¹⁸ Since 2003, this requirement has been implemented in conjunction with South Africa’s Broad-Based Black Economic Empowerment policies.¹¹⁹ The Public Procurement Bill currently under consideration by Parliament aims to reform the preferential recruitment within a broader public procurement reform.¹²⁰

Beyond the specific examples discussed above, there has been a growing interest in the social dimension of public procurement particularly to promote gender equality and disability inclusion (Mendoza Lopez

¹¹⁵ Canada, *Supply Manual*, section 9.35.1(e).

¹¹⁶ Canada, *Supply Manual*, section 9.40.

¹¹⁷ The [Federal Contractors Program](#) does not cover private sector employers under Federal jurisdiction, which have however, similar obligations under the Employment Equity Act. In the United States, a similar programme was established under [Executive Order 11246](#), 1965, which, however, was revoked by an [Executive Order](#) dated 21 January 2025, section 3(b)(i).

¹¹⁸ South Africa, [Preferential Procurement Policy Framework Act](#), 2000, section 2. See also the [Preferential Procurement Regulations](#), 2022, issued under the Act.

¹¹⁹ See South Africa, [Broad-Based Black Economic Empowerment Act](#), 2003, amended by the [Broad-Based Black Economic Empowerment Amendment Act](#), 2013.

¹²⁰ South Africa, [Public Procurement Bill \(B18-2023\)](#), 2023, Chapter 4.



and Hersch 2021; OECD 2019; Open Contracting Partnership and UN Women 2021; Wright et al. 2023). In several countries using procurement policies in favour of disadvantaged racial or ethnic groups, namely Australia, Canada and South Africa – reforms are being discussed.

In Europe, EU law on public procurement has carved out a space for procurement policies in favour of disadvantaged racial or ethnic groups, with a potential for applying such approach in relation to Roma people. For example, the Western Balkans Investment Framework is promoting socially responsible public procurement to create new opportunities for vulnerable communities, including Roma communities.¹²¹

The Inter-American Network on Government Procurement (INGP) developed a handbook on sustainable public procurement which refers to Chile as an example of taking into account the indigenous identity of bidders in the evaluation of bids (Casier et al. 2015). This is provided for under Chile's Public Procurement Directive No. 17 (2022), which sets out recommendations for inclusive public procurement and promotion of equal opportunities in the public market.¹²² In Brazil, 30 per cent of public funds allocated the National School Feeding Programme are to be allocated to the procurement of food sourced from family-based farms, prioritizing indigenous and Quilombola communities.¹²³

121 See <https://www.wbif.eu/news-details/new-opportunities-vulnerable-communities-through-socially-responsible-public-procurement>.

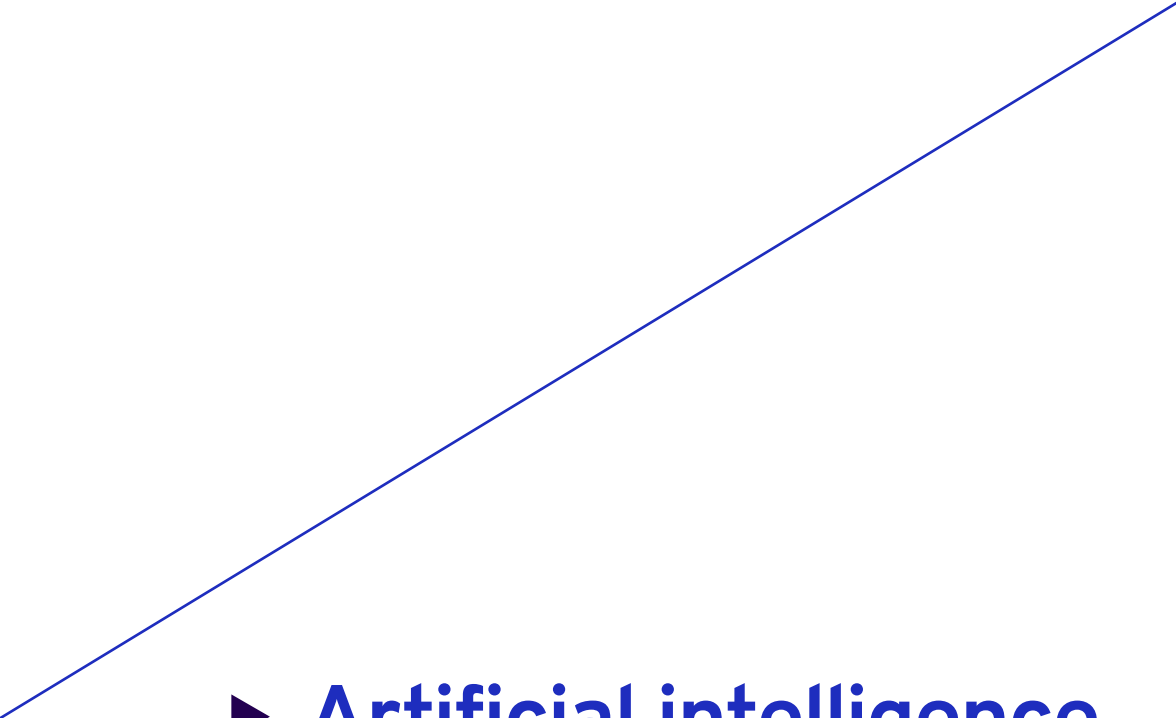
122 Chile, Public Procurement Directive No. 17, 2022, p. 5.

123 Brazil, Law No. 11.947, 2009, section 2 (V).



Chapter 7





► Artificial intelligence and racial equality: Opportunities and risks

Employers, both private and public, increasingly use management tools relying on artificial intelligence (AI) for various tasks previously carried out by humans, including dissemination of information about job openings, search for candidates, preparing, assessing and ranking applicant profiles, interviewing and selection. AI-based tools also are used for monitoring work, assessing performance and making dismissal decisions.

A growing body of literature engages with the potential of AI for enhancing decision-making, improving efficiencies and saving costs, and scalability for employing organizations, but also with the positive contribution AI can make towards promoting diversity and inclusion. For example, AI-powered tools can anonymize job applications, removing identifying details such as name, age or gender which can reduce unconscious bias in initial screenings. AI platforms can automate the process of blind hiring, making it easier for recruiters to focus solely on skills and qualification (Allal-Chérif, Yela Aránega and Castaño Sánchez 2021; Chen 2023; Council of Europe 2023b; Dwork 2023; Rhodes Davis et al. 2023; Seppälä and Małecka 2024).

►► AI-powered tools can anonymize job applications, removing identifying details such as name, age or gender which can reduce unconscious bias in initial screenings, and AI platforms can automate the process of blind hiring, making it easier for recruiters to focus solely on skills and qualification.

While AI holds potential, it also poses risks. The literature has extensively examined the question of bias embedded in algorithms used in AI-based tools leading to employment decisions amounting to discrimination based on sex, race, disability or other grounds. Studies indicate that algorithms may reproduce bias against women, persons from disadvantaged racial groups or persons with disabilities that is reflected in the data used to train them. On the other hand, bias in algorithms may be the result

of bias held by those developing them (see, for example, Adams-Prassl, Binns and Kelly-Lyth 2023; Bogen 2019; Chen 2023; Ferrer et al. 2021; FRA 2022; Calvo Gallegos 2022; Gerards and Xenidis 2020; de Souza Santos, de Lima and Magalhaes 2023).

Studies have referred, for example, to: minority candidates for employment being screened out based on proxies such as name or place of residence; job openings in certain sectors being channelled predominately to Black persons, which contributes to occupational segregation (Bogen 2019); and applicants with degrees from less prestigious universities being rejected indirectly, excluding people from disadvantaged ethnic communities who are more likely to have such degrees (Zuiderveen Borgesius 2018). Automated speech recognition systems used in video interviews during the recruitment stage was found to not work equally for all subgroups of population, but instead, produce racial disparities (Koencke et al. 2020).

National AI strategies and regulatory frameworks seek both to leverage AI's benefits and mitigate the risks it poses. A frequent approach is requiring developers of AI-tools to "de-bias" algorithms. Research highlighted the use of advanced techniques such as natural language processing and data augmentation to mitigate algorithmic bias. For instance, tweaking how datasets are structured and analysed can reduce discriminatory tendencies in decision-making algorithms (Albaroudi, Mansouri and Alameer 2024).

In the United States, the 2024 Colorado AI Act requires deployers of high-risk AI systems, including employers, to undertake annual impact assessments which must include, inter alia, an "analysis of whether the deployment of the high-risk artificial intelligence system poses any known or reasonably foreseeable risks of algorithmic discrimination and, if so, the nature of the algorithmic discrimination and the steps that have been taken to mitigate the risks".¹²⁴ Similar regulation is subject to discussion in the legislatures of several US states (Martin 2024). The National Policy on Artificial Intelligence of Chile, while stressing the positive potential of AI, also recommends the use of bias and non-discrimination assessment tools throughout the life cycle of AI systems, as well as the participation of under-represented groups in research on and development of such systems.¹²⁵

In Europe, the 2024 EU Artificial Intelligence Act also follows a risk-based regulatory approach. It considers the deployment of AI systems in "employment, workers management and access to self-employment" as a high-risk area.¹²⁶ The Act states that: "Throughout the recruitment process and in the evaluation, promotion, or retention of persons in work-related contractual relationships, such systems may perpetuate historical patterns of discrimination, for example against women, certain age groups, persons with disabilities, or persons of certain racial or ethnic origins or sexual orientation."¹²⁷ Under the Act, developers of high-risk AI systems must, inter alia, establish risk management systems, conduct data governance, draw up specified technical documents, and allow for human oversight.¹²⁸ Deployers, including employers using AI-based tools, must take appropriate technical and organizational measures to ensure they use such systems in accordance with the instructions for use accompanying the systems and assign human oversight to qualified persons. If applicable, deployers are also responsible for ensuring that input data are relevant and sufficiently representative, while also monitoring the operation of AI systems. Before putting into service or using a high-risk AI system at the workplace, deployers who are employers shall inform workers' representatives and the affected workers that they will be subject to the use of the high-risk AI system.¹²⁹

¹²⁴ United States, CRS 6-1-1703(3)(b)(II).

¹²⁵ Chile, *Política Nacional de Inteligencia Artificial: Actualización 2024*, p. 43.

¹²⁶ European Union, Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), para. 57.

¹²⁷ European Union, Artificial Intelligence Act, para. 57.

¹²⁸ European Union, Artificial Intelligence Act, Art. 16.

¹²⁹ European Union, Artificial Intelligence Act, Art. 26.



In the United States, cases involving allegations of algorithmic discrimination started to reach the courts. In July 2024, a US District Court allowed an employment discrimination case against a software company to go ahead in which the plaintiff alleges that the AI-based applicant screening tool developed by the company discriminated against him on the basis of race, age and disability. The court held the software company qualified as an agent of the employer within the meaning of the Civil Rights Act.¹³⁰

Assisting better enforcement of national equality and non-discrimination legislation, the EU Artificial Intelligence Act requires that national public authorities which supervise or enforce the respect of obligations under EU law protecting fundamental rights shall have the power to request and access any documentation created or maintained under the Act when access is necessary for effectively fulfilling their mandates.¹³¹

The extent to which existing national non-discrimination legislation across countries and regions offers effective protection from algorithmic discrimination remains an open question (Adams-Prassl, Binns and Kelly-Lyth 2023; Gerards and Zuiderveen Borgesius 2022; Wachter 2022; Xenidis 2024). While existing non-discrimination legislation may, in principle, cover algorithmic discrimination, there is little experience in invoking it in practice in the context of algorithmic discrimination in the workplace.

►► The extent to which existing national non-discrimination legislation across countries and regions offers effective protection from algorithmic discrimination remains an open question.

The emerging experience in the United States, where AI-related discrimination cases have started to appear before the courts, suggests that the prospect of existing equality and non-discrimination legislation offering protection from algorithmic discrimination is higher in the case of comprehensive non-discrimination legislation, covering both direct and indirect discrimination and shifting the burden of proof to the alleged author of discrimination, enforced by a body having the capacity to do so. Filling gaps in national equality and non-discrimination legislation covering employment and occupation would therefore appear to be crucial for addressing algorithmic discrimination in the world of work.¹³²

130 United States District Court Northern District of California, *Derek Mobley v. Workday, Inc.*, Case No. 23-cv-00770-RFL, 12 July 2024.

131 European Union, Artificial Intelligence Act, Art. 77.

132 In Switzerland, the Government is examining the existing legal protection against discrimination with a view to determining whether further legislative action is needed in the light of the risk of algorithmic discrimination (see [Interpellation 23.4133](#)).



Chapter 8



► The role of employers' and workers' organizations

Employers' and workers' organizations play a critical role in combating racial discrimination and promoting equality due to their influence in shaping workplace policies and practices. Their impact extends beyond individual workplaces, as they participate in social dialogue on legislation, policies and other measures aimed at promoting equality of opportunity and treatment in employment and occupation. Through their advocacy and public stances against racism and racial discrimination, they contribute to changes in social norms and attitudes underpinning racial and other forms of discrimination in society. Some organizations have established dedicated internal structures and programmes to address racial and other discrimination and promote diversity, including equality and non-discrimination training for their members. Trade unions play a key role in providing legal assistance to workers who are victims of racial and other forms of discrimination, with legislation in some countries facilitating their legal standing in such cases.

►► Employers' and workers' organizations play a critical role in combating racial discrimination and promoting equality due to their influence in shaping workplace policies and practices.

The role and responsibility of social partners to advance equality and non-discrimination are explicitly recognized in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which requires ratifying Members "to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance" of the "national policy designed to promote ... equality of opportunity and treatment in respect of employment and occupation" that they are obligated to declare and pursue under the Convention.¹³³

Employers' and workers' organizations have contributed to the formulation, implementation and monitoring of laws and policies addressing racial discrimination in the world of work. For example, in

¹³³ Convention No. 111, Arts 3(a) and 2, respectively. The Convention specifically requires consultations with employers and workers organizations in relation to the determination of additional grounds of discrimination under Article 1(1)(b), and the taking of special measures pursuant to Article 5(2).

Ireland, under the 2023 National Action Plan Against Racism, Ibec and the Irish Trade Union Confederation worked together to introduce a workers' and employers' guide for combating racism and promoting racial equality in the workplace across all sectors, accompanied by an awareness campaign. In Canada, employers' and workers' organizations made submissions to the recent Employment Equity Act Review Task Force, which produced a comprehensive report on the Act's functioning for the Minister of Labour (EEART 2023). In many countries, employers' and workers' organizations collaborate with specialized equality bodies where they exist (see Chapter 4).

Employers' organizations have been supporting access to employment for groups vulnerable to racial or ethnic discrimination. For instance, they promoted the labour market integration of refugees in Colombia, Germany, Türkiye and Uganda by supporting enterprises in accelerating and expanding refugee hiring through training and sensitization measures. These measures address legal issues and ensure hiring processes are fair and non-discriminatory (ILO 2022g). In the Plurinational State of Bolivia, where many indigenous women work as contractors in the construction sector, the Chamber of Construction has created an online platform to facilitate hiring these women.¹³⁴ In several countries, employers' organizations are involved in developing and implementing National Action Plans on Business and Human Rights, which in some cases specifically address racial discrimination (see box 8.1).¹³⁵

■ ■ Efforts to promote freedom of association and the right to collective bargaining – including for workers in the informal economy, many of whom belong to disadvantaged groups vulnerable to racial and intersecting discrimination – contribute to reducing vulnerability and promote equal treatment.

In the United Kingdom, the Trade Union Congress established the Anti-Racism Committee in 2020 to review its progress on racial equality and justice since 2000. As a follow-up, the Committee included specific questions in the TUC Equality Audit 2024 on unions' collective bargaining priorities for racial equality, how these priorities were established and pursued, and what successes had been achieved. Over 30 unions reported specific collective bargaining priorities for their Black members, such as monitoring and closing pay gaps and addressing low pay (TUC 2024).

In the context of the Black Lives Matter movement, trade unions promoted anti-racism messages¹³⁶ and global solidarity through exchanges between unions from different countries.¹³⁷ In Latin America, combating racism and racial discrimination is a priority for the trade union movement, including a focus on systemic racism (CSA-TUCA 2022). Trade unions in both countries of origin and destination provide assistance and support to migrant workers, reducing their vulnerability to violations of their fundamental principles and rights at work, including racial discrimination. Bilateral agreements between unions in these countries aim to protect migrant workers' rights.

134 See <https://www.ilo.org/es/resource/plataforma-web-de-maestras-constructoras-en-bolivia>.

135 In 2013, the UN Working Group on Human Rights and Transnational Corporations and other Business Enterprises called on countries to elaborate such national action plans (UN 2013, 21).

136 See <https://www.nlcng.org/we-stand-in-solidarity-with-the-american-federation-of-labor-and-congress-of-industrial-organizations-afl-cio-on-the-black-lives-matter-global-anti-racism-protests-nlc>.

137 See <https://www.ugt.org.br/Noticias/17840-UGT-participa-de-intercambio-com-dirigentes-do-Quenia-e-dos-EUA>.



► Box 8.1. Racial discrimination in national action plans on business and human rights

Currently, 19 countries are classified as having an active national action plan (NAP) on business and human rights. All of them adopt equality and non-discrimination as a cross-cutting theme, while ten deal explicitly with work-related racial discrimination, sometimes through a focus on against particular groups vulnerable to such discrimination (Chile, Italy, Japan, Lithuania, Pakistan, Peru, Poland, Uganda and the United States).

While most NAPs only refer to the responsibility of the state concerning racial discrimination at work, Chile and Peru provide responsibilities on both on the state and business enterprises. For example, Peru's NAP, stresses that the "private sector has a responsibility to give visibility and promote awareness of the rights of Afro-Peruvian people" and indicates that in this regard "it is necessary to work in coordination and permanently with the State, in order to establish and incorporate concrete mechanisms for protection and respect, and to avoid discriminatory or racist practices."¹

Lithuania's NAP envisages training and sensitization programmes on racial discrimination for public and private companies, civil servants, trade union representatives and other target groups.² Chile, Peru and Uganda highlight the situation of discrimination among indigenous peoples and other ethnic minorities. In this light, their NAPs provide for protecting the rights of ethnic minorities and indigenous peoples, Afro-Peruvians and Andean and Amazonian indigenous peoples through consultations with them,³ ensuring the participation of their representative organizations in the development of actions aimed at protecting them against racism and discrimination,⁴ and promotion of their labour market inclusion.⁵

Other NAPs, such as those of Japan, Pakistan, Poland and the United States, focus on enforcing new and existing domestic policy and legislative protections against racial discrimination in employment as well as strengthening access to remedies for violations.⁶ In Peru, business enterprises have a responsibility to work with the Government to prevent the discrimination of Afro-Peruvian and indigenous peoples.⁷ Italy's second NAP encourages businesses to uphold a culture of non-discrimination against minority groups by promoting diversity and inclusion. This includes promoting the socio-occupational inclusion of Roma, Sinti and Travellers through employment and occupational training and support, using active social policies to encourage their labour market participation, and developing strategies supporting their entrepreneurial initiatives.⁸

¹ Peru, *National Action Plan on Business and Human Rights (2021–2025)*, 2021, p. 101.

² Lithuania, *Action Plan on the Implementation of the United Nations Guiding Principles on Business and Human Rights*, 2015, p. 2.

³ Uganda, *The National Action Plan on Business and Human Rights*, 2021, p. 23.

⁴ Peru, pp. 46, 60 and 62.

⁵ Chile, *2º Plan de Acción Nacional de Derechos Humanos Y Empresas: 2022–2025*, p. 34.

⁶ Japan, *National Action Plan on Business and Human Rights (2020–2025)*, 2020, 17; Pakistan, *First Five Year National Action Plan on Business and Human Rights (2021–2026)*, p. 21; Poland, *Polish National Action Plan for the Implementation of the United Nations Guiding Principles on Business and Human Rights 2021–2024*, 2021, p. 39; United States, *Responsible Business Conduct: First National Action Plan for the United States of America*, 2016, p. 10.

⁷ Peru, p. 92.

⁸ Italy, *Second National Action Plan on Business and Human Rights 2021–2026*, p. 47.

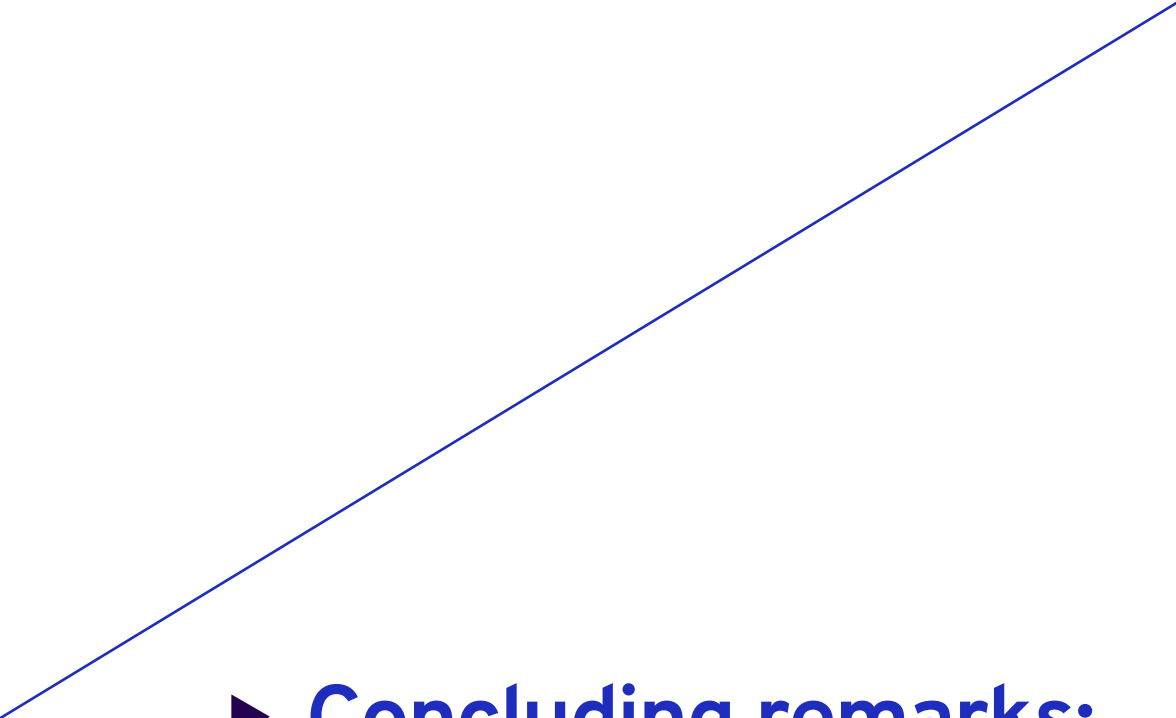
Source: NAPs are available at <https://globalnaps.org/country>.

Efforts to promote freedom of association and the right to collective bargaining – including for workers in the informal economy, many of whom belong to disadvantaged groups vulnerable to racial and intersecting discrimination – contribute to reducing this vulnerability and promote equal treatment. A case in point is the creation of the International Domestic Workers Federation, founded after the adoption of the Domestic Workers Convention (No. 189) and Recommendation (No. 201), 2011.



Chapter 9





► Concluding remarks: Pathways to racial equality in the world of work

This report has recalled essential features of international labour standards guiding action to eliminate racial discrimination in the world of work and leveraged them as a basis for tackling structural or systemic discrimination, which is one of the causes of inequalities in labour markets (Chapter 2). As Chapter 3 shows, a significant number of countries across all regions collect and make available labour market data disaggregated by ethnicity and gender. This allows them to gain an evidence-based understanding of the labour market situation of groups vulnerable to racial discrimination and to use this knowledge in their efforts to combat discrimination and reduce inequalities. While the 2030 Agenda for Sustainable Development emphasizes the importance of such disaggregated data, a vast majority of countries do not, at this juncture, collect or publish it.

A notable effect of the almost universal ratification of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), has been the gradual inclusion into national labour legislation of provisions prohibiting discrimination in employment and occupation. In three quarters of ILO Member States, the labour legislation prohibits racial discrimination in all areas of employment and occupation. In others, protection against such discrimination may be available under specialized equality and non-discrimination legislation, human rights acts or similar legislation.

►► A notable effect of the almost universal ratification Convention No. 111, has been the gradual inclusion into national labour legislation of provisions prohibiting discrimination in employment and occupation.

Chapter 3 has shed light on the scope of racial inequalities in labour markets. Across the countries analysed, indigenous and tribal peoples and people of Africa descent are consistently among the groups experiencing persistent and pronounced inequalities. Members of these and other disadvantaged racial or ethnic groups are more likely to be found in informal employment, in elementary occupations,

in lower-paying jobs and with unequal access to social protection. The decomposition analysis in Chapter 3 clearly points to racial discrimination as being a factor behind inequalities as regards access to employment and earnings.

A welcome finding of Chapter 4 is that legislation prohibiting racial discrimination in employment and occupation is very widespread. However, the protection available under the law remains often incomplete. The legislation frequently does not yet specifically prohibit and define indirect discrimination; it may lack rules shifting the burden of proof in discrimination cases brought before courts away from the complainant; or it may not cover all categories of workers. In addition, the legislation may yet to be adjusted to specifically address discrimination-based violence and harassment (Chapter 4). Knowledge on how existing legislative provisions concerning equality and non-discrimination have been relied upon, in practice, to address algorithmic discrimination in employment and occupation remains limited. Such knowledge will be needed to ensure that the legislation is fit for purpose (Chapter 7).

The persistence of racial inequalities in labour markets illustrated in Chapter 3 points to a need to reflect on ways and means to more proactively prevent and address racial and other intersecting forms of discrimination. In addition to ensuring effective legal protection for individual victims of discrimination, proactive measures are needed to tackle structural and systemic discrimination as a way of achieving equitable labour market outcomes for all. While the type and mix of measures will need to be tailored to circumstance, this report has shown that national employment policies and public procurement policies have been underutilized to promote such objectives (Chapter 6).

►► The persistence of racial inequalities in labour markets points to a need to reflect on ways and means to more proactively prevent and address racial and other intersecting forms of discrimination.

A positive development to be noted is the increased attention to promoting equality, diversity and inclusion at the workplace level, including adopting and implementing equality policies or plans (Chapter 5). This is equally an area where more needs to be done to assess existing experiences, share lessons learned and build knowledge on what works in advancing equality of opportunity and treatment for groups vulnerable to racial discrimination.

Racial discrimination is a denial of freedom and dignity. With the Declaration concerning the aims and purposes of the International Labour Organization – known as the Declaration of Philadelphia – as an enduring foundation, taking action against racial and any other discrimination and inequalities in the world of work is at the heart of the ILO's social justice mandate and vision for social progress. As stressed by world leaders at the 2024 Summit for the Future, the aim of reducing inequalities across and within countries cannot be achieved without combating racism, xenophobia and racial discrimination in all its forms. The ILO's constituents – governments, employers and workers – all have an important role and responsibility in this regard (Chapter 8). A set of pathways to racial equality are set out below, building on the report's findings (see box 9.1).



► Box 9.1. Pathways to racial equality: Taking action in the world of work

1. Improving data availability

Enhancing the visibility of inequalities in the labour market through comprehensive collection and analyses of labour market data disaggregated by gender, ethnicity and other characteristics does not only require the expansion of labour force and household surveys to include racial or ethnic identifiers, but also the careful design of probabilistic samples to ensure that meaningful inferences can be drawn. With robust data, policymakers will be equipped to assess the extent of labour market inequalities and the impacts of barriers faced by individuals subjected to racism, racial discrimination, xenophobia and related intolerance. This is an essential first step in formulating effective policies for reducing structural inequalities.

2. Strengthening legal protection from racial and other discrimination

It is now timely for countries to review and strengthen their legal frameworks with a view to comprehensively prohibiting racial and other forms of discrimination in employment and occupation, including discrimination-based violence and harassment. Legislative protection should be available for all workers; it should cover indirect discrimination and include rules shifting the burden of proof in discrimination cases. Reforms should be informed by careful assessments of the functioning and effectiveness of existing legislation (including in relation to algorithmic discrimination) and be advanced in consultations with employers' and workers' organizations.

3. Proactively tackling structural discrimination

There is a need to take proactive measures for equality of opportunity and treatment in employment and occupation across a wider range of socio-economic policies – including employment, social protection and labour migration policies – to overcome intergenerational disadvantage and structural labour market inequalities of groups vulnerable to racial discrimination. Tackling structural discrimination involves assessing whether and how existing policies and institutions, including labour institutions, effectively operate to reduce racial inequalities and discrimination. There is a need to develop theoretical and practical frameworks and tools for making such assessments.

4. Making employment policies responsive to racial inequalities

National employment policies need to move beyond general commitments to the principle of non-discrimination and formulate specific measures for labour market inclusion of groups vulnerable to discrimination, including racial or ethnic discrimination. A robust labour market analysis that considers the experiences of groups vulnerable to discrimination can provide a stronger foundation for such policies. Disaggregated labour market statistics by ethnicity (along with gender, disability and other relevant characteristics) is critical, as it highlights the specific challenges faced by different groups vulnerable to discrimination. Ensuring effective access to the measures, services, programmes and interventions for affected groups is crucial and can facilitate access to quality employment, on an equal footing with others. The level to which they do benefit from such access should be monitored through relevant results frameworks.

5. Facilitating economic opportunities

Supporting entrepreneurs from disadvantaged racial or ethnic groups through training and skills development and facilitating access to resources (such as credit and land) and to social public procurement are among the pathways for overcoming labour market exclusion. Documenting and evaluating such programmes, as well as sharing experiences and lessons learned, can play a vital role in strengthening initiatives and facilitating the replication or scaling up of successful interventions.

6. Strengthening workplace policies

Public and private employers around the world are pursuing efforts to promote equality, diversity and inclusion in their organizations and enterprises. In a range of countries, the legislation mandates certain workplace action. More recently, new pay transparency laws and policies – some of which specifically address intersectional pay discrimination – leverage the workplace-level interventions as indispensable for achieving change. The Violence and Harassment Convention, 2019 (No. 190), refers to workplace policies as a means of action for preventing violence and harassment. Developing knowledge and evidence on the functioning and effectiveness of different



types of workplace policies and sharing experiences and lessons learned will be critical for further promoting such policies and building appropriate regulatory or other frameworks guiding and supporting their design and implementation.

7. Walking the talk

Advancing racial equality in the world of work calls for efforts to promote equality, diversity and inclusion within the ILO constituents, namely governments and employers' and workers' organizations. As constituents' own institutions and organizations become more diverse and inclusive, and they strengthen their capacities to address equality and non-discrimination issues in the world of work, they can lead by example and foster social dialogue and cooperation to combat discrimination and advance equality, diversity and inclusion.

8. Social dialogue, voice and participation

The voice and participation of those affected by racial discrimination are crucial for ensuring policies and decisions address real needs. Their lived experiences provide valuable insights, fostering more equitable solutions. Freedom of association and the right to collective bargaining and the related fundamental ILO Conventions – the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) – are enablers for such voice and participation. The Indigenous and Tribal Peoples Convention, 1989 (No. 169), specifically recognizes the right of indigenous and tribal peoples to consultation and participation. Governments should establish dedicated mechanisms that enable institutionalized dialogue, meaningful consultation and active participation in decisions affecting their lives and communities.



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Appendix I.

Sources of the data

Table I.1. Sources of the labour data and years covered

Country	Survey	Years
Belize	Labour Force Survey	2013–2017
Bolivia, Plurinational State of	Encuesta Continua de Empleo	2019–2022
Brazil	Continuous National Household Sample Survey	2012–2022
Chile	La Encuesta de Caracterización Socioeconómica Nacional	2011–2022
Colombia	Gran Encuesta Integrada de Hogares	2021, 2022
Ecuador	Encuesta Nacional de Empleo	2010–2022
Gambia	Labour Force Survey	2012, 2018, 2023
Georgia	Households Incomes and Expenditures Survey	2017–2021
Guyana	Labour Force Survey	2018, 2019
Latvia	Labour Force Survey	2007–2022
Nepal	Labour Force Survey	2008, 2017
Nicaragua	Encuesta de Medición de Nivel de Vida	2005, 2014
Panama	Labour Force Survey	2010, 2017
Peru	Encuesta Nacional de Hogares	2012–2022
South Africa	Quarterly Labour Force Survey	2008–2022
Sri Lanka	Labour Force Survey	2010–2020
Tajikistan	Labour Force Survey	2007, 2009
Trinidad and Tobago	Continuous Sample Survey of Population	2010–2022
United Kingdom	Labour Force Survey	2011–2022
United States	Current Population Survey	2005–2022
Viet Nam	Labour Force Survey	2007–2014

Appendix II.

Groupings of ILO Member States by income level

Table II.1. Groupings of ILO Member States by income level

Income level	ILO Member States
High-income	Antigua and Barbuda, Australia, Austria, Bahamas, Bahrain, Barbados, Belgium, Brunei Darussalam, Canada, Chile, Cook Islands, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Guyana, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kuwait, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Oman, Panama, Poland, Portugal, Qatar, Republic of Korea, Romania, Saint Kitts and Nevis, San Marino, Saudi Arabia, Seychelles, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Trinidad and Tobago, United Arab Emirates, United Kingdom, United States, Uruguay
Upper-middle-income	Albania, Argentina, Armenia, Azerbaijan, Belarus, Belize, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, China, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Fiji, Gabon, Georgia, Grenada, Guatemala, Indonesia, Iraq, Jamaica, Kazakhstan, Libya, Malaysia, Maldives, Marshall Islands, Mauritius, Mexico, Montenegro, Namibia, North Macedonia, Palau, Paraguay, Peru, Republic of Moldova, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Serbia, South Africa, Suriname, Thailand, Tonga, Türkiye, Turkmenistan, Tuvalu, Venezuela (Bolivarian Republic of)
Lower-middle-income	Algeria, Angola, Bangladesh, Benin, Bolivia (Plurinational State of), Cabo Verde, Cambodia, Cameroon, Comoros, Congo, Côte d'Ivoire, Djibouti, Egypt, Eswatini, Ghana, Guinea, Haiti, Honduras, India, Iran (Islamic Republic of), Jordan, Kenya, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Mauritania, Mongolia, Morocco, Myanmar, Nepal, Nicaragua, Nigeria, Pakistan, Papua New Guinea, Philippines, Samoa, Sao Tome and Principe, Senegal, Solomon Islands, Sri Lanka, Tajikistan, Timor-Leste, Tunisia, Ukraine, United Republic of Tanzania, Uzbekistan, Vanuatu, Viet Nam, Zambia, Zimbabwe
Low-income	Afghanistan, Burkina Faso, Burundi, Central African Republic, Chad, Democratic Republic of the Congo, Eritrea, Ethiopia, Gambia, Guinea-Bissau, Liberia, Madagascar, Malawi, Mali, Mozambique, Niger, Rwanda, Sierra Leone, Somalia, South Sudan, Sudan, Syrian Arab Republic, Togo, Uganda, Yemen

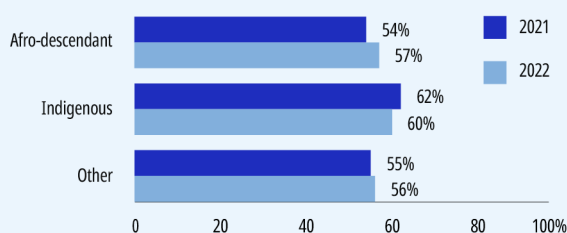
Note: Based on the World Bank classification for 2024.

Appendix III.

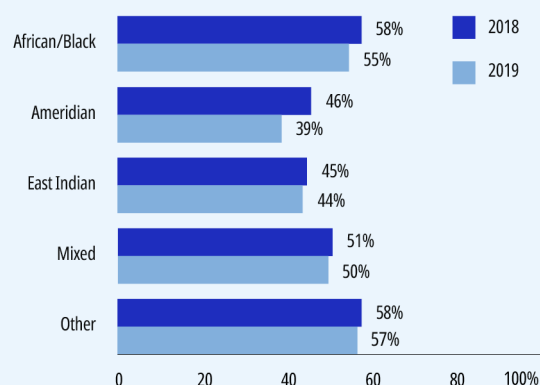
Employment-to-population ratio trends

► **Figure III.1. Employment-to-population ratios, by ethnicity, multi-year data availability**
(percentage)

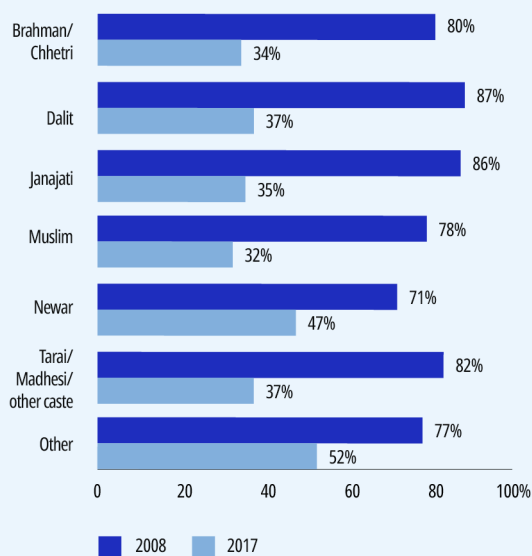
► Colombia



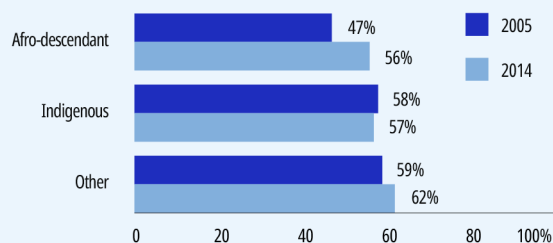
► Guyana



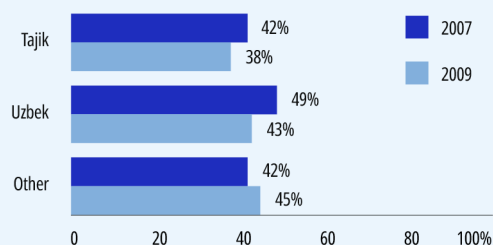
► Nepal



► Nicaragua



► Tajikistan



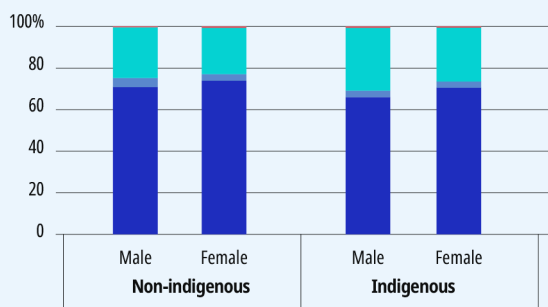
Appendix IV.

Employment status ratio

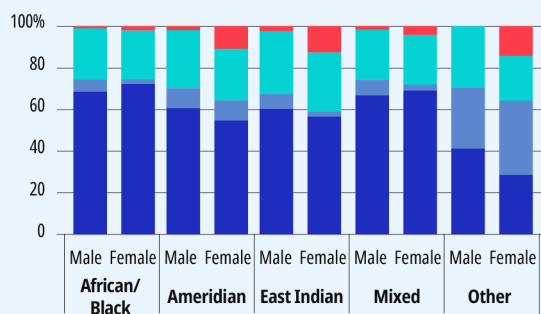
► **Figure IV.1. Employment status ratio by ethnicity, sex and country income level, latest available year (percentage)**

High-income

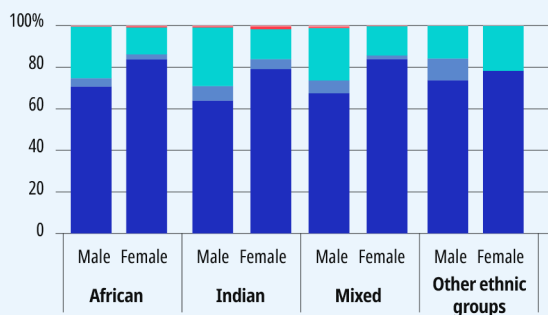
► Chile, 2022



► Guyana, 2019

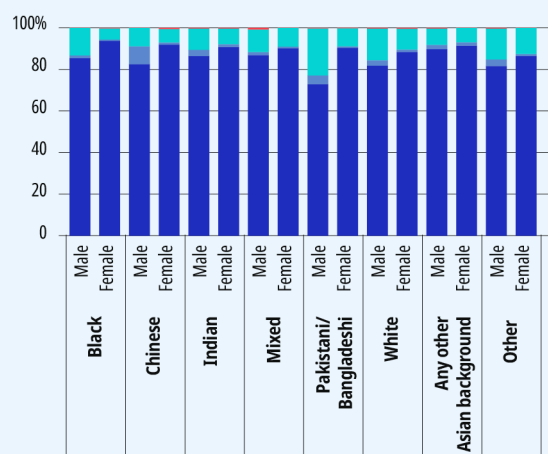


► Trinidad and Tobago, 2022

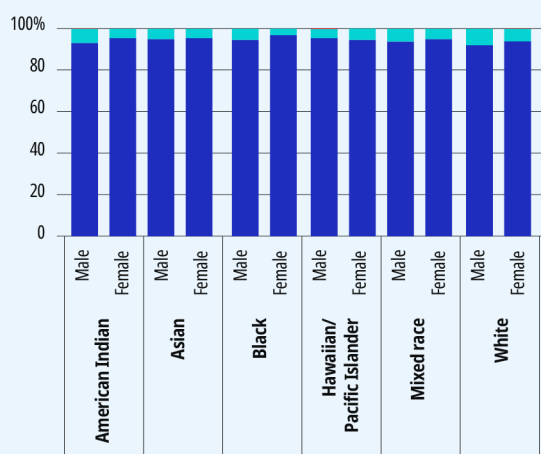


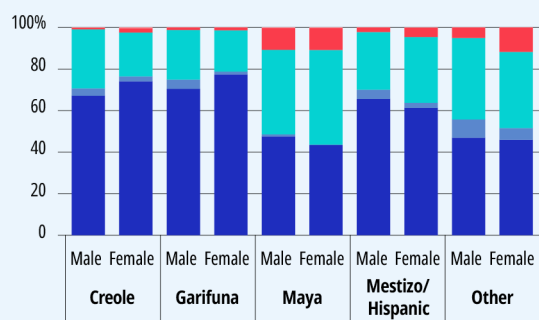
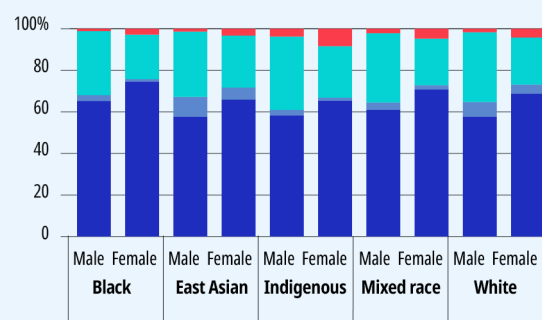
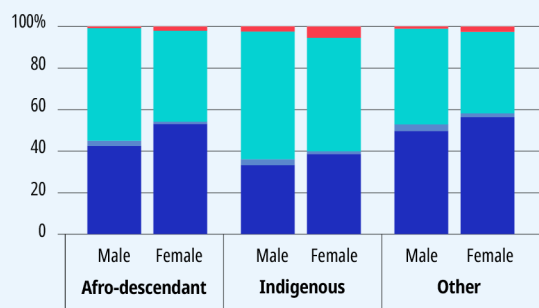
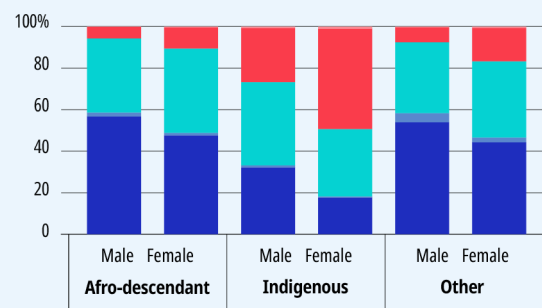
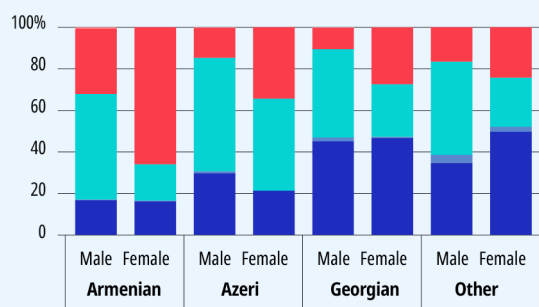
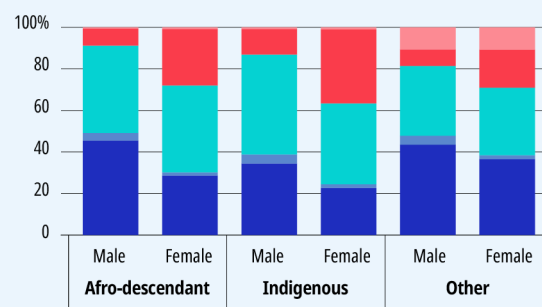
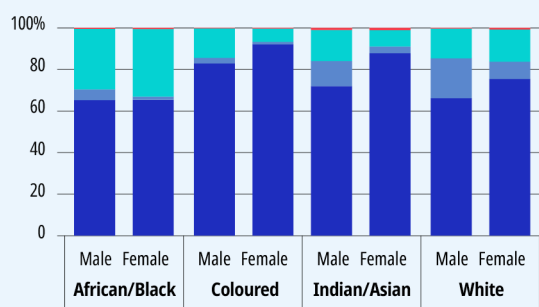
- Workers not classifiable by status
- Members of producers' cooperatives
- Contributing family workers
- Own-account workers
- Employers
- Employees

► United Kingdom, 2022

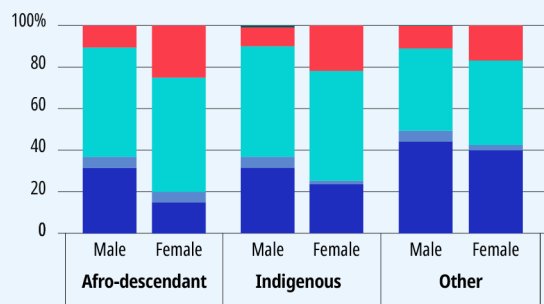
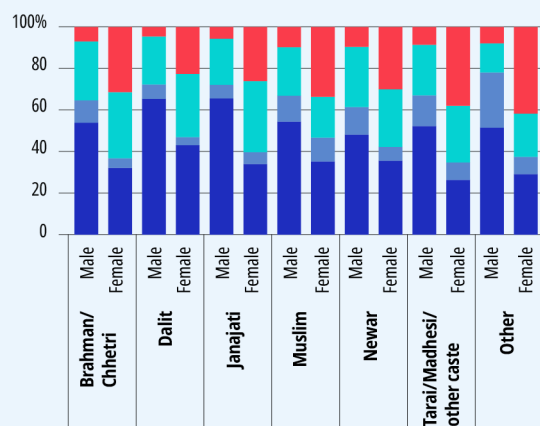
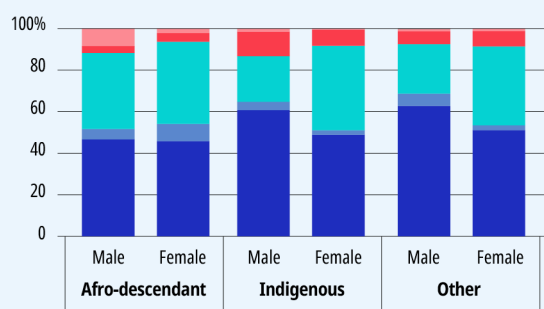
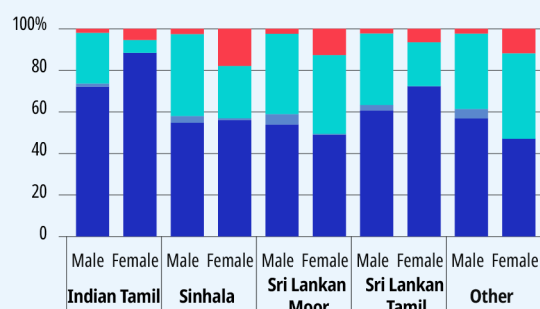
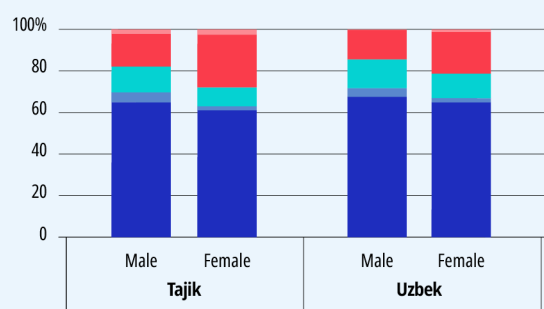
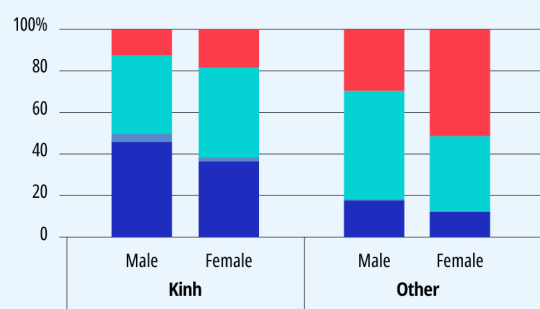


► United States, 2022

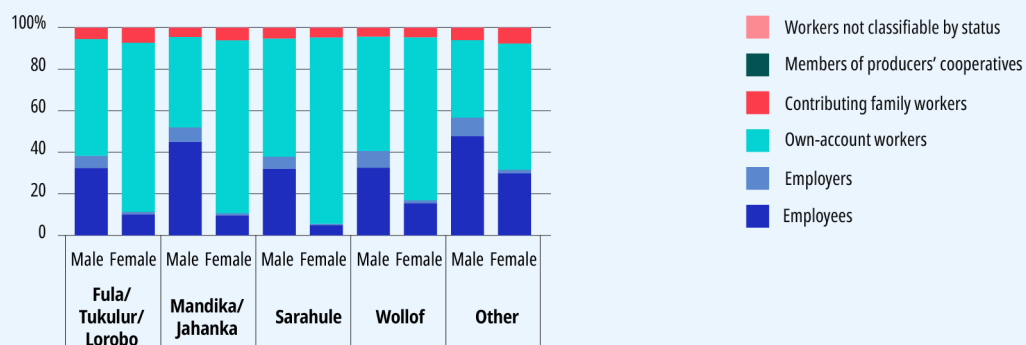


► **Figure IV.1. (continued)****Upper-middle-income**► **Belize, 2017**► **Brazil, 2022**► **Colombia, 2022**► **Ecuador, 2022**► **Georgia, 2022**► **Peru, 2022**► **South Africa, 2022**

- Workers not classifiable by status
- Members of producers' cooperatives
- Contributing family workers
- Own-account workers
- Employers
- Employees

► **Figure IV.1. (continued)****Lower-middle-income**► **Plurinational State of Bolivia, 2022**► **Nepal, 2017**► **Nicaragua, 2014**► **Sri Lanka, 2020**► **Tajikistan, 2009**► **Viet Nam, 2014**

- Workers not classifiable by status
- Members of producers' cooperatives
- Contributing family workers
- Own-account workers
- Employers
- Employees

► **Figure IV.1.** *(continued)***Low-income**► **Gambia, 2023**

Source: ILO calculations based on surveys listed in Appendix I.

Advancing social justice, promoting decent work

The International Labour Organization is the United Nations agency for the world of work. We bring together governments, employers and workers to drive a human-centred approach to the future of work through employment creation, rights at work, social protection and social dialogue.

Racial discrimination denies a person equal opportunities to develop and realize their potential. It impacts not only individuals but also affects workplaces, enterprises, labour markets, societies and economies.

This publication aims to support ILO constituents in tackling racial discrimination and to promote social dialogue towards this goal. It seeks to raise awareness about racial discrimination through data and statistical analyses and reviews laws and policies seeking to address such discrimination.

The publication proposes eight pathways to racial equality that ILO constituents and policymakers may wish to consider when taking action to promote equality of opportunity and treatment for all.

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