

Equal Rights at Work for Women Must Mean All Women

When Cecily Jones led recruitment sessions at a university in the United Kingdom, Black prospective students and their parents would often tell her how they were pleasantly surprised to see a Black woman in her role. As of 2019, among the 19,285 university professors in the United Kingdom, White men accounted for 12,795, while White women numbered 4,560; in contrast, just ninety Black men and a mere thirty-five Black women held professorships.¹ Jones was used to her presence being unexpected in the university—but a series of other experiences had made clear that the surprise wasn't always welcome. On one occasion, a colleague forwarded an email from another faculty member who openly questioned her qualifications and abilities while decrying “multiculturalism.” On another, after a White male first-year student aggressively asserted that there was little Jones could teach him, her department head downplayed the incident. When Jones applied for a promotion to professorship, she knew she more than satisfied all the criteria, which is why her mentor had encouraged her to apply; twice, however, she was turned down, with the head of her department refusing to support her candidacy.²

Jones told her story in response to a University of London research study examining the unique experiences of Black women professors—a minority within a minority.³ While White people hold 90 percent of all professor positions in the United Kingdom, among both White and Black professors, men outnumber women by about three to one. Looking at gender and race together, Black women are the least represented group in academia. This vast underrepresentation has deep historical roots; however, it's also perpetuated by contemporary discrimination, explicit and implicit biases, and structural barriers.

The report synthesized interviews with Black female professors across the United Kingdom about their experiences with hiring, promotions, and university workplace environments. The women shared stories that ranged from

“microaggressions” to overt discrimination, bullying, and harassment on the basis of gender and race. Women reported that they were ignored when they had their hands raised in meetings, rarely received any mentorship or detailed feedback on how to advance their careers, and had to take pains to soften the tone of their emails to avoid being labeled aggressive or difficult. Colleagues and supervisors discredited their prior work experience in other countries, reflecting bias on the basis of not only race but also national origin.

In some universities, the discrimination was direct. When applying for positions, Black women had been passed over for White women with less experience and fewer publications.^a The sentiment that they had to work harder and publish more extensively to achieve the same level of recognition was widespread. In other settings, the discrimination was indirect. Seemingly “neutral” policies and practices within the university—and within academia more broadly—created further barriers to advancement. For example, only articles published in certain journals were considered to meet the standards for promotion, even as research shows that those same journals underpublish scholarship related to racism and equity⁴—subjects addressed more frequently in articles written by academics of color.⁵ As another example, teaching and mentoring were valued less than publications. Yet women did more teaching and mentoring, and women of color were often expected to take on far more substantial mentorship responsibilities, particularly for students from underrepresented backgrounds. That was before taking into account informal roles. In Jones’s words, “hardly a week passed without an impromptu gathering in my office of Black students seeking advice, support or just wanting to spend a half hour with others who looked like them, decompressing from racist slights.”⁶ While critically important, however, this type of labor does not factor into decisions about career advancement and often limits the time available for research, which committees determining advancement weigh heavily.

In some ways, the University of London report represents a narrow set of employment experiences; academia is a unique field that uses specific metrics for advancement, and the demographics of universities vary substantially depending on the geographic context. At the same time, these experiences reflect broader patterns and dynamics of discrimination that are pervasive across industries and economies—and that affect women from a wide range of backgrounds. While gender discrimination at work affects all women, women from marginalized groups often face even higher or distinct barriers linked to these other aspects of their

a. Throughout this book, we capitalize both “White” and “Black” when used to refer to race, consistent with common style guides including the AMA Manual of Style, the APA Style Guide, the National Association of Black Journalists Style Guide, and Scientific Style and Format; this is done to acknowledge that both are socially and legally constructed racial identities. Generally speaking, the terms we use for racial groups align with the terms used in the cited sources and/or relevant country contexts, given that commonly used racial and ethnic classifications vary across contexts and over time; how individuals self-identify also varies.

identity; indeed, gender discrimination rarely operates in a vacuum but often interacts with other forms of bias, discrimination, and stereotyping. In addition to race or ethnicity, countless women globally encounter barriers to advancement and mistreatment at work due to their religion, their migration status, their sexual orientation, their social class, or because they have a disability. Further, beyond instances of discrimination against individual women, structural discrimination in the economy—and in particular the diminished recognition accorded to care work—leaves large groups of women, disproportionately from marginalized backgrounds, without fundamental legal protections. Addressing gender-based employment discrimination is thus a critical start—but achieving equal rights for all women requires accounting for the full range of barriers and biases that affect women in the workplace.

This chapter approaches a topic that is far too complex to address exhaustively in the space available: how women's experiences of discrimination at work across countries vary by race, ethnicity, religion, disability, sexual orientation, social class, age, gender identity, and migration status, and how each of those types of discrimination can be eradicated. However, by presenting a sample of the evidence about the nature, scope, and effects of these forms of discrimination, we hope to demonstrate why discrimination laws addressing multiple and intersectional discrimination are essential to advancing gender equality.

This chapter examines actionable steps countries are pursuing and can take. Do countries fully prohibit employment discrimination on the basis of sex or gender and these intersecting grounds? Are any countries' laws or courts effectively tackling "double discrimination" or discrimination that doesn't fall neatly within one category? And what is the potential of the courts to dismantle the structural discrimination that excludes millions of women workers from basic legal protections?

ADDRESSING GENDER IS NOT ENOUGH: RECOGNIZING THE BREADTH OF WOMEN'S EXPERIENCES AT WORK

Countries around the world have agreed to prohibit employment discrimination broadly. The Universal Declaration of Human Rights, which is binding on all 193 United Nations (UN) member states as part of customary international law, guarantees everyone the right to equal pay for equal work and decent working conditions and prohibits discrimination on the basis of "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status." Likewise, the International Covenant on Economic, Social, and Cultural Rights, which has been ratified by 171 countries, bans discrimination on the same grounds while articulating work rights in greater detail. Similar commitments are found in treaties detailing the equal rights of specific groups: the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on

the Elimination of All Forms of Racial Discrimination, and the Convention on the Rights of Persons with Disabilities, among others. Importantly, with a singular focus on discrimination at work, the International Labour Organization (ILO)'s Convention on Discrimination, which has been ratified by 175 countries and bans discrimination in employment based on "race, colour, sex, religion, political opinion, national extraction or social origin," is considered one of its eight "fundamental" conventions, alongside the instruments addressing critical subjects like child and forced labor.⁷

As these global agreements make clear, there is widespread recognition of the fundamental human right not to be discriminated against. What's more, businesses that address discrimination in practice and not just on paper thrive. A study of 492 firms across twenty-three countries in sub-Saharan Africa found that higher rates of ethnic and linguistic diversity were associated with higher earnings, revenue, and productivity.⁸ Likewise, a 2018 study of 579 companies spanning six countries found that those with the most culturally and ethnically diverse executive teams outperformed others by 33 percent.⁹ Similar benefits accrue to companies that prioritize inclusion of workers with disabilities: a survey of nearly 200 employers found that providing accommodations to workers with disabilities increased overall productivity and morale as well as retention.¹⁰ Moreover, studies from a range of countries and regions have found that reducing barriers to full economic participation by women, LGBT+ workers, people with disabilities, members of historically marginalized racial and ethnic groups, and immigrants boosts GDP.¹¹

While it's impossible to summarize the full spectrum of women's experiences and worth noting that stereotypes about gender, race, religion, disability, sexual orientation, gender identity, and other characteristics vary across contexts, in the next section we examine some of the ways that discrimination spanning multiple aspects of identity operates across countries. We then examine the approaches 193 countries take to explicitly prohibiting employment discrimination not just on the basis of sex or gender but also on each of these additional grounds. Prohibiting discrimination comprehensively is a first step toward ensuring women are protected against all forms of discrimination.

Race and Ethnicity

Dozens of "correspondence studies," which submit CVs to job postings that are comparable aside from one or two selected indicators of identity, have found that when people apply for jobs using materials that indicate they belong to a marginalized racial or ethnic group, they are less likely to be invited to interview.¹² In workplaces as elsewhere, racial and ethnic discrimination often intersects with discrimination based on gender, national origin, and religion. In Belgium, for example, a 2019 experimental study found that women with names indicating they were from an Arab or North African country—signaling not just their ethnicity but likely their Islamic faith—were less likely to be selected to interview for a

cognitively demanding role than either men of the same background or women with Belgian names, despite having comparable qualifications.¹³

Moreover, discrimination based on family status and gender can be heightened for women from marginalized racial and ethnic groups. For example, a study from Mexico found that single White women were more likely to get invited for a job interview than married White women; both groups were more likely to get a callback than Indigenous women; and married Indigenous women were the worst off.¹⁴ In the United States, experimental research has confirmed negative stereotypes of Black mothers. For example, one 2016 study randomly provided photographs of either a Black woman or a White woman to 435 undergraduate students; half the students in each group were further told that the woman was pregnant.¹⁵ The researchers then asked the students a series of questions about each woman's character and possible lifestyle, finding that they were more likely to perceive the Black woman as more likely to have children, more likely to have a lower salary, and less likely to use birth control. When told that the two subjects were pregnant, the students were more likely to perceive the Black woman as in need of public assistance.

Intersecting stereotypes around race, immigration status, and motherhood likewise emerge in case law, as illustrated by two cases from the Netherlands. In the first, a Moroccan woman's employment was terminated after maternity leave because her employer believed the job would be too difficult for her to maintain given his presumptions about her "traditional" marriage. In 2000, the District Court of Schiedam found that her termination constituted discrimination on the basis of sex and race.¹⁶ In 2014, an Iraqi woman initiated a lawsuit after she was rejected for a job at a hospital based on her national origins and presumed family responsibilities. The country's equality body, the Netherlands Institute for Human Rights, likewise found race and sex discrimination.¹⁷

As this research suggests, stereotypes based on race and gender often intersect, though the specific implications may vary by country context. What's consistent across countries, however, is that discrimination against women from marginalized racial and ethnic groups contributes to substantial economic disparities that exceed those based on gender alone. In Canada, for example, "racialized" workers—a term acknowledging that race is a construct rather than a biological reality—earn just 81 cents for each dollar earned by White workers; looking at race and gender together, however, the gulf widens substantially. Racialized women in Canada earn just 56 cents for each dollar earned by White men.¹⁸

Legal prohibitions of multiple and intersectional discrimination are an important first step. In the Philippines, the 2009 Act Providing for the Magna Carta of Women specifically acknowledges how women can face simultaneous discrimination on the basis of ethnicity, establishing that "discrimination compounded by or intersecting with other grounds, status, or condition, such as ethnicity, age, poverty or religion shall be considered discrimination against women under this Act."

A majority of countries now address employment discrimination on the basis of race or ethnicity as well as discrimination on the basis of sex or gender. However, the legislative gaps that remain are striking, given the substantial evidence globally about the persistence of racism and racial and ethnic discrimination in the labor market. Compared to the 93 percent of countries that take some approach to prohibiting gender discrimination at work, just 82 percent address both gender and race/ethnicity. In other words, nearly one in five countries offer women from marginalized racial or ethnic groups no protection from at least one common form of workplace discrimination. Moreover, high-income countries are the furthest behind: just 74 percent of high-income countries, compared to 85 percent of both low- and middle-income countries, prohibit employment discrimination based on gender and race. Like gender discrimination, legal exceptions for businesses can also undermine prohibitions of racial/ethnic discrimination. While these exceptions are slightly less common than for gender discrimination, 3 percent of countries exempt small businesses from some or all prohibitions of racial/ethnic discrimination, 2 percent do so for nonprofit or charity organizations, and 8 percent do so for religious organizations.

Social Class

Social class bias in hiring is well documented. For example, one 2016 study sent out CVs with equivalent qualifications to law firms in fourteen US cities. Half the CVs listed hobbies typically associated with higher family income and wealth, while the other half had indications of coming from a family with less income or education. The study found that “higher-class” male applicants were invited to interview 16 percent of the time, whereas “higher-class” women received callbacks only 4 percent of the time; meanwhile, callback rates among the “lower-class” applicants were 6 percent for women and 1 percent for men.¹⁹ The impact extends beyond hiring; in India, for example, women who belong to disadvantaged castes—a hereditary distinction of socioeconomic status that also intersects with ethnicity/skin color—experience greater wage inequality than other women.²⁰ In many countries with a long history of racial and ethnic discrimination, social class is highly correlated with race and ethnicity. In Brazil, Afro-Brazilian households are twice as likely to be experiencing poverty as White households, while in South Africa, Black residents own just 4 percent of the land, compared to 72 percent owned by White residents.²¹

Despite being closely associated with race/ethnicity in many contexts, social class is a less commonly prohibited ground of discrimination. Only 64 percent of countries specifically address gender and social class in their discrimination laws. Further, when it comes to class, high-income countries are even further behind: just 40 percent of high-income countries, compared to 67 percent of low-income countries and 77 percent of middle-income countries, address gender and social class.

When social class discrimination is not prohibited, class discrimination can serve as a legal proxy for racial discrimination, especially when the law likewise

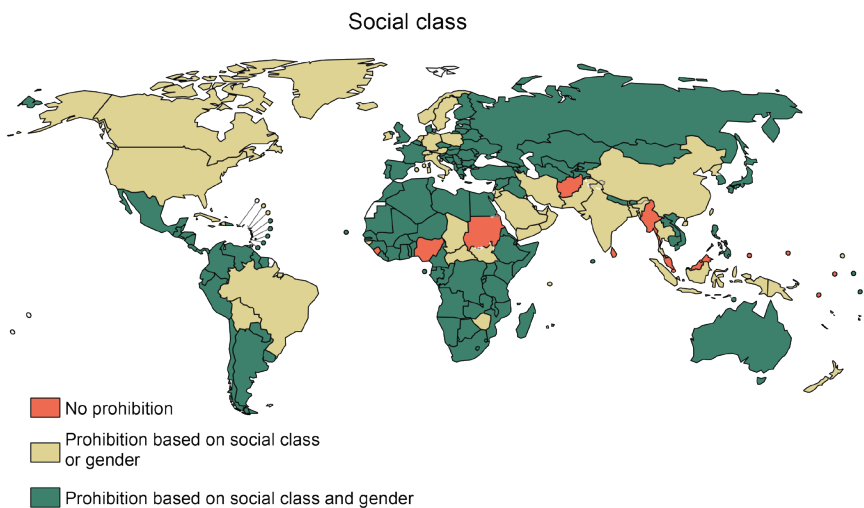
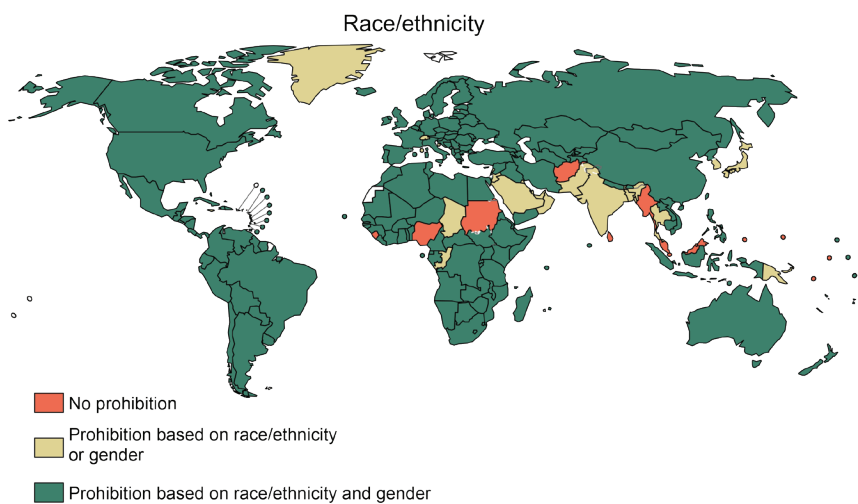


FIGURE 4. Do countries prohibit discrimination at work based on both race/ethnicity and social class, in addition to gender?

fails to prohibit indirect racial discrimination. Closing these gaps is critical for addressing social class discrimination on its own and for addressing indirect forms of racial and ethnic discrimination that compound the socioeconomic disparities created and reinforced by decades or centuries of exclusionary policy making.

Religion

Women from minority religions have long faced discrimination at the intersection of religion and gender. For example, in the early and mid-twentieth century, Jewish women in a range of countries faced policies and legal restrictions prohibiting their access to higher education and employment not only on the basis of gender but also on the basis of their religion.²² This is not merely historic prejudice. Evidence shows that hostility toward religious minorities overall is escalating: a 2018 EU survey found that nine out of ten respondents felt that anti-Semitism was on the rise in their countries,²³ while reports of both state and social violence against Muslims have recently increased in countries including China and India.²⁴ Women in particular can be targets of religiously motivated violence: a 2020 global survey found that women in fifty-six countries had experienced social hostilities due to their religious attire or lack thereof.²⁵ And at the same time, women in majority religions have faced discrimination under religious law based on their gender. Women living in countries where religious law takes primacy—including, among others, the 22 countries where the constitution establishes that religion governs rights related to family life—have historically faced restrictions on their economic rights, some of which remain in place to this day.²⁶

Studies of hiring practices have documented discrimination against women that intersects with religious discrimination. For example, one study in France compared the likelihood of receiving an interview for three job candidates: a woman with a typical French name and no obvious religious affiliation, a woman with a Christian-sounding first name and a Senegalese-sounding last name, and a woman with a Muslim-sounding first name and a Senegalese-sounding last name.²⁷ Each CV included identical job qualifications and professional experience; only the names and two elements suggesting national origin and religious affiliation varied. The study found that the “Muslim Senegalese” woman was 2.5 times less likely than the “Christian Senegalese” woman to be invited to interview. The “French” woman received a greater response rate than either “Senegalese” candidate.

Similarly, in Germany, researchers undertook a study to evaluate the effects of having a Turkish name and a CV that signified Muslim identity on job candidates’ chances of getting an interview. Because it’s typical for job applicants in Germany to include their photo on their CV, researchers were able to test for bias against Muslim women by including fictitious photos of job applicants wearing headscarves. The study found that having a Turkish name alone resulted in fewer callbacks, but the addition of the headscarf increased discrimination significantly: a woman with a

Turkish name wearing a headscarf in her CV photo would have to submit 4.5 times as many applications as a woman with a German name and no headscarf to receive an interview, despite having equivalent experience and qualifications.²⁸ For higher-paid positions, the ratio was even higher: “Meryem Öztürk” had to apply to 7.6 times as many jobs as “Sandra Bauer” to get an interview for a chief accountant position, compared to just 3.5 times as many for a secretary position.

While discrimination against Muslim women is particularly well documented, studies have also found empirical evidence of discrimination against women from a wide range of minority religions. For example, one study from Greece found that Pentecostal women were 27 percent less likely than Greek Orthodox women to receive a callback for an open position, whereas Pentecostal men were only 19 percent less likely to get a callback.²⁹

The combined effects of gender and religious discrimination have significant consequences for women’s employment outcomes. For example, in Britain, an analysis of the 2011 census found that Muslim women were more disadvantaged in the economy than any other group—and that Bangladeshi, Pakistani, and Black-African Muslim women experienced the worst outcomes, likely due to the combined impacts of religious and racial/ethnic discrimination.³⁰ In Canada, Arab, West Asian, and South Asian Muslim women, Buddhist and Sikh Asian women, and Hindu South Asian women are all less likely to hold managerial positions than Christian White women or men from their same religious and ethnic background.³¹

Most countries (83 percent) now address employment discrimination on the basis of gender and religion—yet in the one in six that do not, millions of women lack full legal protections. Further, decisions across countries about how these laws are implemented and interpreted often vary depending on other aspects of a country’s legal system, including how they structure and interpret the relationship between religion(s) and the state.³²

Migration Status and Foreign National Origin

Migration status is linked with lower access to employment in a range of countries. In South Korea, for instance, native women are far more likely to be employed than immigrant women, and 70 percent of the gap in employment rates is unexplained by individual factors.³³ In Israel, immigrant women are less likely than immigrant men to find work, and women from Asia and Africa fare worse than women who emigrated from Europe.³⁴ Compounding this discrimination, legal restrictions on noncitizens holding certain jobs also emerge across countries. In South Africa, for instance, only citizens were eligible for permanent teaching positions until a Constitutional Court ruling invalidated the restriction,³⁵ while in Greece, those who obtained citizenship through naturalization did not qualify to join the fire brigade until a 2016 court ruling.³⁶

Migrant women also experience disparities in earnings. In Canada, a 2020 study found that first-generation immigrants faced the largest pay deficit compared to White, Canadian men, with White immigrant women earning \$5,486 less, immigrant men of color earning \$7,152 less, and immigrant women of color earning \$8,311 less, on average.³⁷ In China, migrant women's earnings are among the lowest of all workers, and a 2018 study found that the income disadvantages of being a migrant woman are more than double the combined individual disadvantages of being (1) female and (2) an unregistered migrant.³⁸ In Italy, female migrants earn on average 42 percent less than White male citizens—larger than either the gender (15 percent) or ethnic (39 percent) wage gaps alone—and the share of the pay gap that is unexplained by factors like education and work experience is between 53 percent and 65 percent, suggesting discrimination plays a significant role.³⁹

Migrant workers also commonly face the devaluing of work performed in their countries of origin, which contributes to employment and earnings disparities. Failure to take into consideration education or work experience performed in other countries has emerged in employment discrimination cases brought by migrant women across countries.⁴⁰ According to one Australian study, even when female migrants experience less skills-discounting than male migrants, they find replacement jobs at lower pay, resulting in a gender pay gap of around 21 percent between male and female skill-discounted migrants.⁴¹

Finally, migrant workers are among the most likely to face explicit restrictions on employment due to pregnancy, which can easily cost them both their jobs and their legal status.⁴² For example, migrant domestic workers in Singapore, most of whom come from Indonesia and the Philippines, must submit to a pregnancy test every six months and are mandated by law to leave as soon as they become pregnant; under the Employment of Foreign Manpower Act, “if the foreign employee is a female foreign employee, the foreign employee shall not become pregnant or deliver any child in Singapore during and after the validity period of her Work Permit.”⁴³ Likewise, migrant factory workers in Malaysia are subject to annual pregnancy tests and similar threats of deportation due to pregnancy.⁴⁴ These dynamics span different parts of the globe. In Canada, migrant farmworkers who become pregnant are typically deported and permanently banned from the Seasonal Agricultural Worker Program.⁴⁵

Explicit protections from discrimination based on gender and migration status or foreign national origin are less common than those addressing race or religion. Fewer than half the world's countries—46 percent—explicitly address discrimination based on gender as well as discrimination based on citizenship; a similar share (48 percent) have protections covering both gender and national origin.

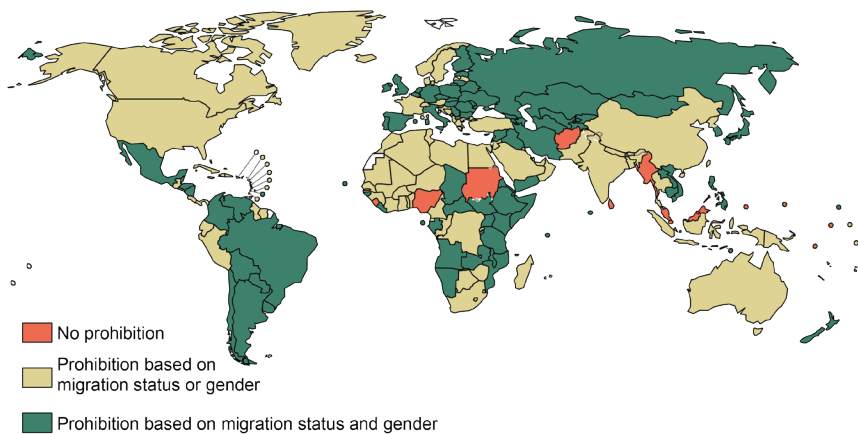


FIGURE 5. Is there at least some prohibition of discrimination at work based on both migration status and gender?

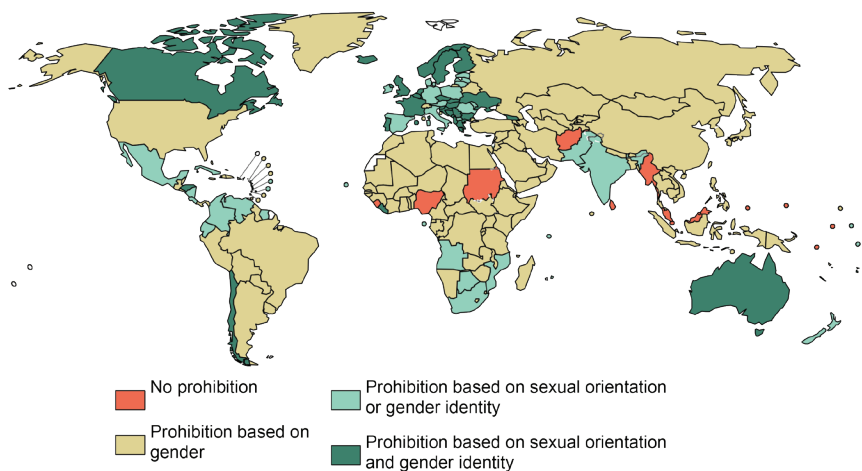


FIGURE 6. Is there at least some prohibition of discrimination at work based on both sexual orientation and gender identity?

Sexual Orientation, Gender Identity, and Gender Expression

Across countries, employment discrimination based on sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC)^b remains rampant.⁴⁶ Studies have documented high rates of hiring discrimination against LGBT+ applicants.⁴⁷ One study from Austria, for example, found that women who self-identified on their CVs as previously holding leadership positions in a gay and lesbian social organization were between 12 and 13 percent less likely to be invited to interview than equally qualified women who included no indication of sexual orientation in their application materials.⁴⁸ Trans women face more discrimination than trans men. For example, in the European Union, a 2012 survey found that 60 percent of trans women reported experiencing discrimination while looking for a job within the past year, compared to 43 percent of trans men.⁴⁹ Similarly, a 2015 survey of transgender adults in the United States found that 18 percent of trans women and 14 percent of trans men had lost a job because of their gender identity.⁵⁰

Moreover, this discrimination often closely intersects with discrimination based on gender stereotypes. In the United Kingdom, for instance, research has documented that both gay men and lesbians are less likely to be invited for a job interview, but that gay men are particularly likely to be turned down for stereotypically male jobs while lesbians face higher discrimination for stereotypically female jobs.⁵¹ Gender stereotypes likewise intersect with discrimination against transgender workers. For example, in a correspondence study undertaken in Sweden, testers submitted fictitious job applications to over 2,200 employers, which included a cover letter that noted that they had changed their name, offered as an explanation for any discrepancies among their application materials.⁵² For the “cisgender” applicants, the name change was from one popular name clearly associated with one gender to another clearly associated with that same gender; for “transgender” applicants, the name change was to a new name clearly associated with a different gender. Overall, the study found that there was not a significant difference in employers’ responses to cisgender and transgender applicants for mixed-gender occupations; however, cisgender men were 83 percent more likely than a transgender applicant to receive a favorable response for a male-dominated occupation (forklift operator, mechanic, warehouse worker, and

b. Terms used to describe and self-identify one’s sexual orientation and gender identity vary significantly around the world and from person to person. In this section, we use “SOGIESC” to broadly encompass sexual orientation, gender identity, gender expression, and sex characteristics, consistent with the United Nations and leading international organizations including the International Lesbian, Gay, Bisexual, Trans, and Intersex Association. When describing particular groups, we try to use the terms that best align with the underlying study or survey—for example, “gay and lesbian” or “transgender”—while recognizing that these terms are not universal. We use the acronym “LGBT+” as an inclusive term to refer to workers who may face discrimination on any ground related to SOGIESC.

delivery/truck driver), while cisgender women were 53 percent more likely than a transgender applicant to receive a favorable response for a female-dominated occupation (customer service, cleaner, childcare worker, nurse), suggesting that both gender stereotypes and bias against transgender applicants were shaping employers' decisions.

Discrimination based on SOGIESC, like discrimination based on migration status, remains an underaddressed area globally. Just a small share of countries—35 percent—include protections against employment discrimination on the basis of sexual orientation; even fewer—17 percent—ban discrimination based on gender identity. Though more common in high-income countries, at least some SOGIESC protections are found in countries spanning every region and income group.

In global agreements, sex has at times been interpreted to cover sexual orientation and gender identity. One early landmark was *Toonen v. Australia*, a 1994 decision of the UN Human Rights Committee that determined that the guarantee of equal rights on the basis of sex in the International Covenant on Civil and Political Rights also encompassed sexual orientation.⁵³ Importantly, in some countries, protections against “sex” discrimination have also been found by the courts to extend to sexual orientation and/or gender identity. The US Supreme Court, for example, ruled that protections against sex discrimination in Title VII of the Civil Rights Act, which prohibits discrimination in employment, covered sexual orientation and gender identity, in a major victory for the LGBT+ rights movement and a blow to discriminatory laws enacted at the state level.⁵⁴ Still, the fact that it took over fifty years for the Court to establish that Title VII’s protections extend to all workers regardless of sexual orientation or gender identity makes clear that more explicit protections are necessary. Furthermore, the lack of explicit protections leaves this decision subject to reversal by different Justices. Moreover, at least one country explicitly specifies that sex cannot be interpreted to cover sexual orientation in its legislation.

Further, along with passing new antidiscrimination laws covering LGBT+ workers, many countries still need to repeal existing discriminatory laws across spheres. For example, Liberia’s 2015 Decent Work Act provides that “all women and men are entitled, without distinction, exclusion or preference to enjoy and to exercise the rights and protections provided in this Act. Without limiting the scope of the preceding provision, all persons who work or who seek to work in Liberia are entitled to enjoy and to exercise the rights and protections conferred by this Act irrespective of: (. . .) iii) sex, gender identity or sexual orientation.” At the same time, older legislation in Liberia criminalizing same-sex relations—a relic of colonialism in many countries and a newer development in others⁵⁵—remains on the books.

Disability

A significant body of research has documented discrimination against people with disabilities in the workplace. Studies have found that rates of implicit bias are among the highest against people with disabilities,⁵⁶ while a range of correspondence studies have demonstrated the prevalence of disability discrimination in hiring.⁵⁷

Women with disabilities experience unique forms of stigma and bias in the workplace.⁵⁸ For example, some research has found that women with disabilities—and in particular women of color with disabilities—experience higher rates of harassment at work.⁵⁹ Workplace discrimination also interacts with broader societal biases against women with disabilities that discourage their work in general. A qualitative study of women with physical disabilities in Bangladesh, for example, identified the “perception that women with disability have no capacity to work” and “male priority” as two key barriers to paid work that emerged during interviews.⁶⁰ In another study involving men and women with disabilities in Ghana, participants cited discrimination as their “greatest barrier” to employment, and women were significantly more likely than men to be unemployed.⁶¹

While the specific dynamics of employment discrimination against women with disabilities remain understudied on a global scale, the evidence is clear that gender and disability often create a “double disadvantage” in the labor market. In the United Kingdom, women with disabilities are far less likely to be employed than men with disabilities, and both groups are significantly less likely to have jobs than people without disabilities.⁶² In the United States, women with disabilities are also at higher risks of termination: a 2016 study found that men and women with disabilities were 75 percent and 89 percent more likely, respectively, to experience an involuntary job loss than men and women without disabilities.⁶³

Disability also intersects with other types of discrimination. In South Africa, for example, an analysis of the South African National Income Dynamics Study found that structural discrimination on the basis of sex, race, age, and disability all compounded one another, with particularly severe consequences for the income and employment of Black women.⁶⁴ Likewise, in the United States, a study analyzing the American Community Survey found that having a disability had a greater impact on the likelihood of poverty for women who were also members of other marginalized groups; for example, the effects of disability on poverty were 40 percent larger for White women and 55 percent greater for Black women than for White men, regardless of education level.⁶⁵

Four in five countries—80 percent—now address employment discrimination on the basis of disability as well as gender. While protections on both grounds

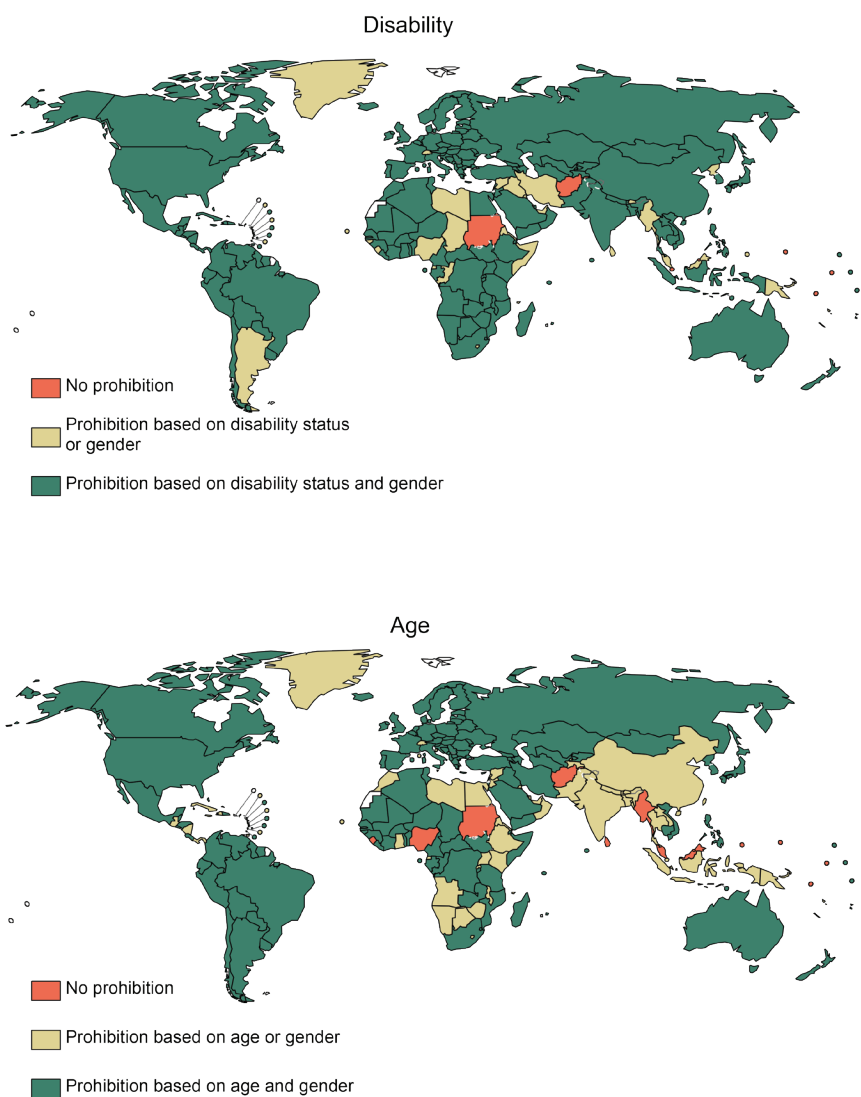


FIGURE 7. Do countries prohibit discrimination at work based on both disability status and age, in addition to gender?

remain somewhat higher in high-income countries (86 percent) and middle-income countries (81 percent) than in low-income countries (67 percent), the adoption of disability-focused legislation across countries has increased in recent decades, building on global movements.⁶⁶ For example, adopted in 2014, Laos's Decree on the Rights of Persons with Disabilities declares that "persons with disabilities have equal rights in front of the law without any discrimination based on sex, race, ethnic group, language, causes of disability, economic or social status" and goes on to provide that "[the] State shall undertake to protect rights and interests of women and girls with disabilities, in order they will not be subject to discrimination on the grounds of their disability and [on the grounds] that they are women and girls."

At the same time, the strength of these protections varies significantly. Without a guarantee of reasonable accommodation at work, laws prohibiting employment discrimination on the basis of disability will have limited impact. Reasonable accommodations—such as screen readers for workers with visual impairments, entry ramps and desk adjustments for workers using wheelchairs, and flexible schedules for workers with chronic conditions, among others—are critical to eliminating unnecessary barriers that limit people with disabilities from participating fully in the economy. Globally, however, just 59 percent of countries explicitly guarantee reasonable accommodations in the workplace.

Age

As with disability, studies of discrimination globally have found particularly high rates of implicit bias against older people. At the same time, the intersection of gender discrimination and age discrimination takes place across the life course. As detailed in the previous chapter, employers' perceptions of women's caregiving responsibilities often give rise to discrimination against women in age ranges that correspond with common care needs: younger women without children face discrimination based on the presumption they'll soon become mothers, whereas older women caring for other family members can face stagnating wages and reductions in responsibilities.

Yet older women also face significant employment discrimination based on greater presumptions of incompetence or judgments based on their appearance than are experienced by older men. For example, one recent analysis of over 40,000 job applications in the United States found that women as well as men experience age discrimination in hiring, but the impacts on women are greater: for sales jobs, for example, older women (ages sixty-four to sixty-six) were over 10 percentage points less likely to be called for an interview than younger women (ages twenty-nine to thirty-one), while the gap between older men and younger men was 6 percentage points.⁶⁷ Research also suggests older women receive fewer opportunities for training than older men. A study of nine European countries, for example, found that although men and women

ages fifty and older participate in training at similar rates, men are significantly more likely to have their training funded by their employer, whereas women pay the costs themselves.⁶⁸

This discrimination against older women increases their risks of leaving the workforce early and experiencing poverty in retirement, while exacerbating other gender gaps. In Germany, for instance, a study found that the “unexplained” component of the gender wage gap continued to increase for workers over age forty-five (that is, “postreproductive age”), suggesting that both age and gender discrimination were playing a consequential role.⁶⁹

Around the world, just 65 percent of countries prohibit employment discrimination on the basis of gender and age, with protections slightly more common in high-income countries (74 percent) than in low-income countries (67 percent) and middle-income countries (60 percent). Particularly given the aging of the global workforce, addressing the legislative gaps that leave women vulnerable to discrimination in one out of three countries must be a priority.

TRENDS ACROSS REGIONS, ACROSS INCOME GROUPS, AND OVER TIME

Across country income groups, there are protections—and there are also gaps. Low-income countries are the most likely to recognize the importance of prohibiting discrimination based on gender and migration status (52 percent, compared to 45 percent of high-income countries) and religion (85 percent, compared to 79 percent of high-income countries), while middle-income countries are most likely to address gender and social class (77 percent, compared to 40 percent of high-income countries). High-income countries have the most protections against discrimination based on gender and disability (86 percent, compared to 67 percent of low-income countries) and based on sexual orientation (62 percent, compared to 7 percent of low-income countries) and gender identity (36 percent, compared to 4 percent of low-income countries).

Protections in every area are increasing over time. For example, the share of countries covering both gender and disability discrimination at work rose from 74 percent in 2016 to 80 percent in 2021. Over the same period, protections based on gender identity increased from 12 percent to 17 percent. At the same time, looking at workplace discrimination laws alone does not capture the backlash that has targeted migrants, LGBT+ communities, and other marginalized groups in other areas of life.

The need to address discrimination is urgent. Labor laws are only one step, but they are an essential one, with wide and deep ramifications. Although countries in all regions have enacted legislation addressing discrimination, serious gaps in every region remain. This is despite countries’ public pledges to do more: every

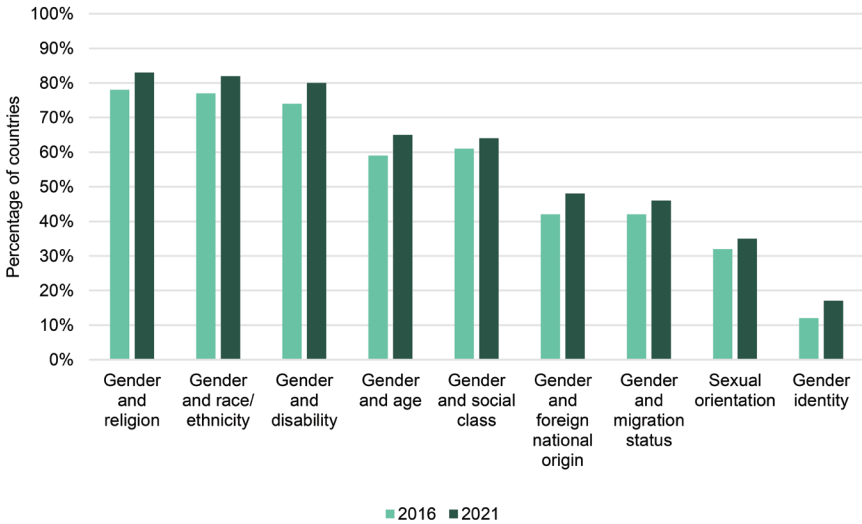


FIGURE 8. Are countries increasingly prohibiting multiple sources of workplace discrimination against women?

country has committed to guaranteeing equality before the law and prohibiting discrimination time and again in international agreements, including, most recently, the UN Sustainable Development Goals. While laws’ capacity to protect all people from discrimination is increasing globally, the pace of change remains far too slow to meet the commitments that governments have made to each other and to all people.

ADDRESSING ADDITIVE DISCRIMINATION IS NOT ENOUGH: WHY IT’S CRITICAL TO ADDRESS INTERSECTIONALITY

Women from marginalized groups commonly face “additive” discrimination—that is, simultaneous discrimination based on gender and another ground—and also “intersectional” gender discrimination, which refers to unique barriers, biases, and inequalities faced by women from a particular group that are not faced by other women or by men from the same group.⁷⁰

Addressing the full range of individual forms of discrimination is a first step toward ensuring laws provide adequate protection. However, explicitly addressing intersectional discrimination can be critical for ensuring equal opportunity. In particular, legislative language specifying that courts can evaluate discrimination claims together, rather than requiring that a plaintiff prove

each type of discrimination separately or one at a time, can be important for recognizing the types of intersectional discrimination that would otherwise fall through the cracks.

A 2003 case from the United Kingdom illustrates why this matters. In *Bahl v. Law Society*, Kamlesh Bahl,⁷¹ a forty-four-year-old UK citizen of Kenyan origin who was the first ethnic minority woman to be appointed vice president of the Law Society, resigned following complaints of a “highly authoritarian and confrontational rather than collaborative” leadership style, which spurred an investigation and public report claiming she engaged in “overly aggressive behavior.” Bahl then sued for race and sex discrimination, arguing that the Law Society had failed to properly investigate the claims. The *Bahl* case illustrated how gender norms around leadership styles can amplify other stereotypes and forms of discrimination that women of color and Black women in particular often face in the workplace.⁷²

Though she prevailed in the lower court, which found unconscious race and sex discrimination, Bahl’s claims were overturned by the Employment Appeals Tribunal and then the Court of Appeal, which explained that:

If the evidence does not satisfy the tribunal that there is discrimination on grounds of race or on grounds of sex considered independently, then it is not open to a tribunal to find either claim satisfied on the basis that there is nonetheless discrimination on grounds of race or sex when both are taken together.

The *Bahl* ruling revealed a common way that countries’ legal approaches fall short: by requiring that women prove each type of discrimination discretely rather than evaluating them together, this case struck a significant blow to workers’ ability to bring claims of intersectional discrimination in the United Kingdom.

With this ruling, the court echoed the finding of a US federal court in the 1976 case of *DeGraffenreid v. General Motors*, dismissing the discrimination claims brought by five Black women who had been fired in a seniority-based layoff. In that case, the court explained: “this lawsuit must be examined to see if it states a cause of action for race discrimination, sex discrimination, or alternatively either, but not a combination of both.”⁷³

As these cases show, having laws in place to address both additive discrimination and intersectional discrimination is critical. Currently, however, only a third of countries take some approach to explicitly recognizing multiple or intersectional discrimination against women in their legislation for at least some intersecting identities. Some countries, such as South Africa, explicitly prohibit discrimination “on one or more grounds.” Iceland addresses both additive and multiple discrimination. In other countries, legislation explicitly recognizes additive or intersectional discrimination only for specific groups of marginalized women. For example, Ethiopia’s 2008 Proclamation on the Right to Employment of Persons with Disabilities requires employers to “take all reasonable accommodation and

measures of affirmative action to women with disability taking into account their multiple burden that arise from their sex and disability.”

ADDRESSING INDIVIDUAL DISCRIMINATION IS NOT ENOUGH: DISMANTLING STRUCTURAL EMPLOYMENT INEQUALITIES

Ensuring legal protections against employment discrimination for all women is a critical step toward reducing gender inequality in the economy—yet it’s equally critical to address the structural discrimination that leaves broad swaths of women workers uncovered by basic labor laws. In many ways, this broad-based exclusion again reflects how governments devalue care, both paid and unpaid. Paid care work is more likely than many other kinds of work to be informal or “non-standard,” meaning that women in these jobs lack access to social protection.⁷⁴ Meanwhile, those who have unpaid care responsibilities are more likely than other women to have informal or nonstandard jobs due to discriminatory norms and inadequate support to integrate paid work with family caregiving. Across the Arab states, for example, 56 percent of employed women with caregiving responsibilities are in informal work, compared to 37 percent of employed women without caregiving responsibilities.⁷⁵

At the same time, the exclusion of paid care workers from fundamental legal protections also reflects other forms of structural discrimination, including racism and classism. For example, many governments first excluded domestic workers from basic labor protections at a time when women from marginalized racial and ethnic backgrounds were substantially overrepresented in the care workforce (as remains true many decades later). Today, many of the world’s sixty-seven million domestic workers continue to lack access to key rights and protections, ranging from reasonable working hours, protections against discrimination and harassment, and a guaranteed minimum wage to social insurance for sick leave and unemployment benefits, compounding other forms of inequality.⁷⁶ Around 80 percent of the world’s domestic workers are women, and in some regions domestic work accounts for over a quarter of women’s wage employment.⁷⁷ Moreover, 8.5 million women who are domestic workers are also migrants, which often further increases their legal vulnerabilities.⁷⁸ A substantial share are also members of marginalized racial or ethnic groups, heightening their risks of other kinds of discrimination. As the ILO has explained, “because of the low social status of domestic work, individuals who perform paid domestic work tend to come from groups that face discrimination and inequality on grounds of sex, ethnicity, race and nationality, further reinforcing the social stigma of domestic work.”⁷⁹

Many domestic workers are in the informal economy. Others, however, are in formal jobs, but are in occupations explicitly excluded from labor and social

security legislation. How did this exclusion come to be, and what can be done to effectively respond?

A Long History of Exclusion: How Discrimination Shaped the Legal Status of Domestic Work

Across countries, major pieces of labor and social security legislation have long excluded domestic workers, agricultural workers, the self-employed, and others in informal or vulnerable employment. Even in countries where these jobs benefited from some protections, they were often left out of others; as a 1934 article in the *International Labour Review* observed, “in countries where domestic employment is covered by general labour law, domestic servants are nearly always excluded from the scope of the provisions concerning hours of work and rest periods.”⁸⁰

While some governments and intergovernmental bodies have justified this exclusion on the basis of administrative challenges,⁸¹ a recurring and underlying claim is that domestic work is simply fundamentally “different” than other kinds of work, and that this difference justifies minimal state regulation.⁸² This tendency to frame domestic work as distinct or beyond the purview of the law reflects governments’ broader choices to treat care work and other kinds of work as two separate spheres. At the same time, historical records suggest that one key “difference” often boiled down to the demographics of the domestic workforce, and that the decision to exclude domestic workers from fundamental protections also directly flowed from discrimination on the basis of gender, race, and class. For example, in Brazil, domestic work as we know it today originated with the end of slavery in 1888, when nearly one million Afro-Brazilians entered the economy as “free” laborers, but with no resources and minimal formal education; since that time, Afro-Brazilian women have made up the majority of the domestic workforce.⁸³ In 1943, however, domestic workers were excluded from the consolidated labor law on the basis that they performed “non-economic” labor.⁸⁴ According to political scientist Merike Blofield, this understanding typified a broader tendency to dismiss women’s household work, both paid and unpaid, as not “real” work.⁸⁵

Similarly, in the United States, the Social Security Act of 1935 excluded domestic and agricultural workers—who at the time were disproportionately Black men and women—from old age pensions and unemployment benefits. Eligibility thresholds widened racial disparities further; in 1935, “42 percent of black workers in occupations covered by social insurance did not earn enough to qualify for benefits compared to 22 percent for whites.”⁸⁶ While the Social Security Administration maintains these restrictions were not racially motivated,⁸⁷ their enactment during the Jim Crow era and their massive and predictable racial consequences suggest otherwise; testifying before Congress in 1935, NAACP representatives estimated that these policy decisions would exclude 3.5 million of the 5.5 million

Black workers nationwide.⁸⁸ Domestic workers were also excluded from the wage and hour protections of the Fair Labor Standards Act. According to a 2015 ILO report, these restrictions on social security and basic labor protections were “the product of racialized and gendered social norms about women workers, the home and the labor of care.”⁸⁹ Further, even once the Social Security Act was amended to cover these groups in the 1950s—following the recommendation of an Advisory Council that the “character of one’s occupation” should not determine coverage—the details of eligibility rules excluded many, with just 30 percent of domestic workers and 75 percent of agricultural workers qualifying for coverage by 1981.⁹⁰

However, recent decades have brought greater attention to how these forms of occupational exclusion reinforce other forms of discrimination in the economy, in conflict with many countries’ core constitutional commitments. For example, in a landmark 2020 decision establishing that domestic workers were fully covered by the occupational safety law, South Africa’s Constitutional Court explained:

Multiple axes of discrimination are relevant to the case of domestic workers. Domestic workers experience racism, sexism, gender inequality and class stratification. This is exacerbated when one considers the fact that domestic work is a precarious category of work.⁹¹

Together with structural racism and the devaluation of care, domestic workers’ exclusion may also be a product of “policy diffusion.” According to a 2016 analysis, “not a single compulsory [unemployment insurance] program prior to 1935 included agricultural workers and domestic workers when they were first established.”⁹² In other words, the decision to exclude domestic workers in a given country, while arguably motivated by or at the very least apathetic to the racial consequences, may also have resulted from a lack of existing models about how to provide inclusive coverage. For this reason, clear and accessible information on what all countries globally are doing—or not doing—to ensure fundamental social security and labor protections cover all workers, including in occupations dominated by marginalized women, is essential to supporting the broader adoption of inclusive policies.

Global data on protections for a day of rest provide one example of the feasibility of looking across countries’ approaches. Worldwide, only 11 percent of countries fail to guarantee workers a day of rest—yet nearly twice as many don’t guarantee a day of rest to domestic workers, with serious consequences for workers’ mental and physical health. Further, even among those that do affirmatively protect domestic workers’ right to weekly rest, at least four countries guarantee domestic workers less rest than other types of workers. In later chapters of this book, we explore effective strategies for ensuring that domestic and informal workers have access to other fundamental supports, including paid parental leave, paid sick leave, affordable childcare, and protections against sexual harassment.

TABLE 2 Legal prohibitions of multiple sources of gender discrimination at work, by country income level

	Low-income countries	Middle-income countries	High-income countries
<i>Is there at least some prohibition of discrimination at work based on race/ethnicity and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on race/ethnicity or gender	1 (4%)	9 (8%)	11 (19%)
Prohibition based on race/ethnicity and gender	23 (85%)	92 (85%)	43 (74%)
<i>Is there at least some prohibition of discrimination at work based on social class and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on social class or gender	6 (22%)	18 (17%)	31 (53%)
Prohibition based on social class and gender	18 (67%)	83 (77%)	23 (40%)
<i>Is there at least some prohibition of discrimination at work based on religion and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on religion or gender	1 (4%)	10 (9%)	8 (14%)
Prohibition based on religion and gender	23 (85%)	91 (84%)	46 (79%)
<i>Is there at least some prohibition of discrimination at work based on migration status and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on migration status or gender	10 (37%)	52 (48%)	28 (48%)
Prohibition based on migration status and gender	14 (52%)	49 (45%)	26 (45%)
<i>Is there at least some prohibition of discrimination at work based on foreign national origin and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on foreign national origin or gender	9 (33%)	53 (49%)	25 (43%)
Prohibition based on foreign national origin and gender	15 (56%)	48 (44%)	29 (50%)
<i>Is there at least some prohibition of discrimination at work based on sexual orientation?</i>			
No prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on gender	22 (81%)	71 (66%)	18 (31%)
Prohibition based on sexual orientation	2 (7%)	30 (28%)	36 (62%)
<i>Is there at least some prohibition of discrimination at work based on gender identity?</i>			
No prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on gender	23 (85%)	90 (83%)	33 (57%)
Prohibition based on gender identity	1 (4%)	11 (10%)	21 (36%)
<i>Is there at least some prohibition of discrimination at work based on disability status and gender?</i>			
No explicit prohibition	2 (7%)	3 (3%)	3 (5%)
Prohibition based on disability status or gender	7 (26%)	18 (17%)	5 (9%)
Prohibition based on disability status and gender	18 (67%)	87 (81%)	50 (86%)
<i>Is there at least some prohibition of discrimination at work based on age and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	3 (5%)
Prohibition based on age or gender	6 (22%)	36 (33%)	12 (21%)
Prohibition based on age and gender	18 (67%)	65 (60%)	43 (74%)

CONCLUSION

Ensuring equal rights in employment for all women will require not only prohibiting discrimination but also addressing structural inequalities that result in widely varying job quality and economic opportunities for women from different groups.

Still, any approach to gender equality at work that fails to reckon with the specific types of discrimination women of different backgrounds experience will inevitably fall short. Addressing discrimination directly is one essential piece of the solution—and one that is easily within reach for countries at all income levels. Countries need protections from discrimination on all grounds as well as legislative and judicial recognition of how intersectional discrimination works in practice. Guaranteeing that all women are protected from discrimination at work is not only a core human rights obligation but a powerful way to strengthen society as a whole and ensure we benefit from the full breadth of knowledge, skills, and experience of everyone who resides in our countries.

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