

HRC Advisory Committee

Call for written inputs on patterns, policies, and processes leading to incidents of racial discrimination and on advancing racial justice and equality

International Labour Organization (ILO)

In response to the Call for inputs launched by the Human Rights Council Advisory Committee in response to Human Rights Council resolution 48/18, whereby it requests the Advisory Committee to prepare a study on patterns, policies and processes contributing to incidents of racial discrimination and make proposals to advance racial justice and equality, the International Labour Organisation (ILO) is submitting the following contribution.

Based on ILO institutional and policy frameworks, as well as ILO instruments as better specified below, the ILO recognizes that:

- **Discriminatory attitudes and stereotypes based on the race, colour or national extraction** of men and women workers continue to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in persisting occupational segregation and lower remuneration received for work of equal value. The **intersection of factors** such as race, religion, gender or disability increases the risk of discrimination;
- Given 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**;
- The underlying causes of discrimination and de facto inequalities, resulting from **deeply entrenched discrimination and long-standing social exclusion, cannot effectively be addressed without proactive measures**;
- To address systemic and structural discrimination, it is necessary to pursue a **transformative agenda for equality, diversity and inclusion**. Such an agenda should entail a **comprehensive and coordinated approach** to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all, as recently stated in the [Global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient](#). Such an approach should **include the measure to prevent and eliminate violence and harassment in the world of work and discrimination on all grounds**.
- Overcoming discrimination also requires the **adoption of interlocking measures aimed at addressing gaps in education, training and skills**, providing unbiased vocational guidance, recognizing and validating the qualifications obtained abroad, **and valuing and recognizing traditional knowledge and skills** that may be relevant both to accessing and advancing in employment and to engaging in an occupation.
- **In order to be effective, these measures must include concrete steps**, such as laws, policies, programmes, mechanisms and participatory processes, remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population.

The sections below provide further details and information about key institutional and policy documents, as well as ILO instruments and research.

The ILO remain available to provide further clarifications or information, if needed be.

1) ILO's institutional and policy framework

Equality and non-discrimination in employment and occupation, including on the ground of race, is a fundamental principle and human right and has been a principal objective of the ILO since its foundation in 1919. The [Declaration of Philadelphia](#), adopted in 1944, which forms part of the ILO Constitution, affirms 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” and that “the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy”.

Since then, other major ILO Declarations have confirmed the crucial importance of this principle as one of the key principles and policies of the ILO, including:

- the [ILO Declaration concerning the policy of Apartheid of the Republic of South Africa](#) adopted unanimously by the International Labour Conference (ILC) in 1964 along with an ILO programme for the elimination of apartheid in labour matters. In 1990 future South African President Nelson Mandela addressed the ILC thanking the ILO for this support and practical action it had levied against apartheid. This Declaration was updated in 1981, 1988 and 1991 and rescinded with the adoption of the Resolution concerning post-apartheid South Africa in 1994;
- the [ILO Declaration on Fundamental Principles and Rights at Work of 1998 as amended in 2022](#), is an expression of commitment by governments, employers' and workers' organizations to uphold basic human values - values that are vital to our social and economic lives. It affirms the obligations and commitments that are inherent in membership of the ILO, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; (d) the elimination of discrimination in respect of employment and occupation; and (e) a safe and healthy working environment.
- the [ILO Declaration on Social Justice for a Fair Globalization of 2008, as amended in 2022](#), which expresses the contemporary vision of the ILO's mandate in the era of globalization, institutionalizes the Decent Work concept and expresses the four ILO strategic objectives: employment; social protection; social dialogue and tripartism; and standards and fundamental principles and rights at work. Within this context, the fundamental value of non-discrimination as essential for sustainable economic and social development and efficiency is restated;
- the [ILO Centenary Declaration of 2019](#), which reaffirms the ILO's mandate in social justice, social dialogue and international labour standards, while warning about growing inequalities and persisting injustices threatening its promotion and effectiveness. The Declaration urges constituents to shape a fair, inclusive and secure future of work with full, productive and freely chosen employment and decent work for all, by adopting a human-centred roadmap. It calls for a transformative agenda for gender equality and ensuring equality of opportunity and treatment for all.

Ensuring the effectiveness of racial equality and inclusion principles in the world of work has become more **urgent in the context of the COVID-19 crisis**. In response, in 2019 the ILO adopted a [Global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient](#). In the Call-to-Action, ILO constituents have committed to work to implement, through public

policy and enterprise practice, a **transformative agenda for gender equality**. The Call-to-Action lists a range of areas that such an agenda would need to entail: ensuring equal pay for work of equal value, adequate paid care leave; sharing of work and family responsibilities; employment creation and lifelong learning policies that close gender skills gaps; investing in education, healthcare, social work, the care economy and other sectors; removing barriers to entry to and advancement in education, training, employment and careers; and preventing and protecting against violence and harassment in the world of work.

In the same Call to Action, ILO constituents have also committed “to work to: (...) *“execute across the public and private sectors a **transformative agenda for equality, diversity and inclusion** aimed at eliminating violence and harassment in the world of work and discrimination on all grounds, including race, colour, sex, religion, political opinion, national extraction and social origin, and taking into account the specific circumstances and vulnerabilities of migrants, indigenous and tribal peoples, people of African descent, ethnic minorities, older persons, persons with disabilities and persons living with HIV/AIDS”*. While ILO constituents have not further defined what this agenda would entail and this will vary from context to context, it appears to be clear that this **agenda aims to make a difference in the lives of those experiencing disadvantage, exclusion and discrimination** by contributing to **achieve better outcomes** for them. In addition, this agenda should recognize the **link between harassment and violence, on the one hand, and discrimination, on the other**; by **encouraging an intersectionality lens**; and by **focussing on group specific approaches**, as clearly pointed out by ILO Constituents in the Global Call to Action.

In December 2021, the International Labour Conference of the ILO also adopted the [Resolution concerning inequalities and the world of work](#). It recognises that *“[d]iscrimination, including systemic, multiple and intersectional forms of discrimination, remains a persistent and pervasive dimension and root cause of inequality, which often manifests in a lack of career opportunities in the labour market and social mobility”*. The Resolution called members to focus, among other things, in accelerating the implementation of a transformative agenda for gender equality and a transformative agenda for equality, diversity and inclusion. This requires *“an **integrated and comprehensive approach that puts people at the centre, takes into account the impact of intersecting personal identities, as well as conditions of vulnerability, and addresses equality through the entire life cycle”***.

2) ILO's normative role

The principle of equality and non-discrimination, including on the ground of race, colour and national extraction, has been further defined, expanded upon and enshrined in binding international instruments. In particular, below a list of the main ILO Conventions (in chronological order) that include a specific reference to the issues under discussion:¹

- **Discrimination (Employment and Occupation) Convention, 1956 (No. 111) and its accompanying Recommendation (No. 111).**

¹ Once a country has ratified an ILO Convention, it is required to report regularly on the measures it has taken for its implementation. **The Committee of Experts on the Application of Conventions and Recommendations (CEACR)** was set up in 1926 to examine the growing number of government reports on ratified Conventions. Today it is composed of 20 eminent jurists appointed by the Governing Body for renewable three-year terms.

- It is the ILO's **main international labour standard for tackling racial discrimination**, and also one of ILO fundamental Conventions. Race, as well as colour and national extraction, are included as prohibited grounds of discrimination.
 - It defines discrimination as a distinction that has the effect of impairing equality of opportunity and treatment in employment and occupation; it covers discrimination in law and in practice and both direct and indirect discrimination, the latter being particularly relevant for tackling **systemic and structural discrimination**. It also covers discrimination-based harassment.
 - It requires to address the underlying causes of inequalities which result from deeply entrenched discrimination, complex social patterns, institutional structures, policies and legal constructs, including through the implementation of proactive measures, with the aim of achieving substantive equality.
 - This Convention has been ratified by 175 countries.²
 - In addition, in 2018 the CEACR has adopted a [General observation on discrimination based on race, colour and national extraction](#) in relation to Convention No. 111. Since 2019, member States are requested to report specifically on measures taken to address and overcome racial discrimination, including racial harassment, in employment and occupation, as part of their reporting obligations under Convention No. 111.³
- **Migration for Employment Convention (Revised), 1949 (No. 97):**
- It requires States to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within their territory, treatment no less favourable than that which it applies to its own nationals in respect of remuneration, including family allowances where these are part of remuneration, hours of work, minimum age for employment, membership of trade unions, accommodation, social security, and employment taxes, among other matters (Article 6).
 - It has been ratified by 53 countries.⁴
- **Employment Policy Convention, 1964 (No. 122):**
- it calls for ratifying countries to adopt an employment aimed at ensuring that “there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin” (Article 1(2)(c)).
 - It has been ratified by 115 countries.⁵
- **Termination of Employment Convention, 1982 (No. 158):**
- It states that “race, colour, national extraction or social origin” shall not constitute valid reasons for termination (Article 5(d)).
 - It has been ratified by 36 countries.⁶
- **Indigenous and Tribal Peoples Convention, 1989 (No. 169)**

² https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312256

³ For more information, see ILO NORMLEX, Information System on International Labour Standards at <https://www-ilo-org.ilo.idm.oclc.org/dyn/normlex/en/f?p=1000:20010::NO::>

⁴ https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312242

⁵ https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312267

⁶ https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::no:11300:p11300_instrument_id:312303

- It recognises the right of indigenous and tribal peoples to enjoy their human rights and fundamental freedoms without hindrance or discrimination (see Article 3).
 - It also recognizes indigenous and tribal peoples as distinct communities and considers the cultural diversity they represent and the contributions they make as crucial for society as a whole (Article 1).
 - It calls for measures to protect indigenous and tribal peoples' individual and collective rights, to ensure their integrity, to support their institutions, to eliminate discrimination and the socio-economic gaps they face. In taking such measures, policy-makers are called upon to take account of the cultures and priorities of indigenous and tribal communities (Article 4).
 - A central feature of Convention No. 169 is its focus on indigenous and tribal peoples' participation in decision-making and the creation of mechanisms and institutions to enable such participation to take place.
 - It has been ratified by 24 countries.⁷
- **Private Employment Agencies Convention, 1997 (No. 181):**
- It states that “in order to promote equality of opportunity and treatment in access to employment and to particular occupations, a Member shall ensure that private employment agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability” (Article 5).
 - It has been ratified by 37 countries.⁸
- **Violence and Harassment Convention, 2019 (No. 190):**
- It recognizes the right of everyone to a world of work free from violence and harassment for all (Article 4). It specifically highlights that “an inclusive, integrated and gender-responsive approach, which tackles underlying causes and risk factors, including gender stereotypes, multiple and intersecting forms of discrimination, and unequal gender-based power relations, is essential to ending violence and harassment in the world of work” (see Preamble and Article 4).
 - In this regard, it calls ratifying countries to respect, promote and realise all fundamental principles and rights at work (Article 5) and, in particular, 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” (Article 6).
 - It has been ratified by 20 countries.⁹

While member States can choose whether or not to ratify Conventions, the ILO considers it important to keep track of developments in all countries, whether or not they have ratified them. On the basis of article 19 of the Constitution, the Committee of Experts publishes an in-depth annual **General Survey** on the national law and practice of member States on certain Conventions and/or Recommendations chosen by the Governing Body. These surveys are established mainly on the basis of reports received from member States and information transmitted by employers' and workers' organizations.¹⁰ They allow the Committee of Experts to examine the impact of Conventions and

⁷ https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312314

⁸ https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312326

⁹ https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:3999810

¹⁰ See [General Surveys \(oclc.org\)](#).

Recommendations, analyse the difficulties reported by governments in their application and identify means of overcoming these obstacles.¹¹ In relation to the topic of this Call for inputs, the ILO would like to draw the attention to the following General Surveys, which contains relevant information: a) 2012 – Fundamental Conventions;¹² 1996 – Equality in Employment and Occupation,¹³ and c) 1988 – Equality in Employment and Occupation.¹⁴

3) ILO's technical assistance and research work

The ILO has been provided technical assistance to its constituents in designing, developing, and implementing laws, policies and measures in relation to equality and non-discrimination, including in relation to racial discrimination. Upon request by member States, the ILO also provides substantial technical assistance in drafting and revising national legislation to ensure that it is in conformity with international labour standards, including Convention No. 111 and other relevant instruments and relevant CEACR's comments.

The ILO also adopts an intersectional approach in its technical cooperation projects. For example, interventions aimed at promoting women's rights and economic empowerment are designed and implemented with a view to ensure that women's different identities and characteristics, including race, ethnicity, and national origin, are taken into account.

The ILO has conducted research on racial discrimination, including considerations of systemic, structural and institutional discrimination, including its root causes. A report on racial discrimination in the world of work is being prepared and due by the end of 2023. Other recent publications of interest include:

- [Care at work: Investing in care leave and services for a more gender equal world of work', 2022](#)
- [ILO standards and COVID-19, 2021](#)
- [Violence and harassment in the world of work: A guide on Convention No. 190 and Recommendation No. 206, 2021](#)
- [Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future, 2020](#)
- [Indigenous women's realities: Insights from the Indigenous Navigator', 2020](#)
- [COVID-19, and the world of work: Ensuring no one is left behind in the response and recovery, 2020](#)
- [Safe and healthy working environments free from violence and harassment, 2020](#)
- [Global wage report 2020-21: Wages and minimum wages in the time of COVID-19, 2020](#)
- [A quantum leap for gender equality: For a better future of work for all, 2019](#)
- [A qualitative study on stigma and discrimination experienced by indigenous peoples living with HIV or having TB at work, 2019](#)
- [Care work and care jobs for the future of decent work, 2018](#)
- [Multiple Discrimination in the World of Work, 2011.](#)

The ILO has recently issued a [Call for papers on ending racial discrimination at work](#) which will finalise on the 31st December 2022.

¹¹ See ILO, Rules of the Game: An introduction to the standards-related work of the International Labour Organization, 2019. Available at [Rules of the Game: An introduction to the standards-related work of the International Labour Organization \(Centenary edition 2019\) \(oclc.org\)](#).

¹² [Report III\(1B\): Giving globalization a human face \(General Survey on the fundamental Conventions\) \(ilo.org\)](#)

¹³ [https://www.ilo.org/public/libdoc/ilo/P/09661/09661\(1996-83-4B\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09661/09661(1996-83-4B).pdf)

¹⁴ [https://www.ilo.org/public/libdoc/ilo/P/09661/09661\(1988-75-4B\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09661/09661(1988-75-4B).pdf)