

Eliminating discriminatory laws, policies and practices (targets 10.3 and 16.b)

This section focuses on the status and progress made in eliminating discriminatory laws, policies and practices against persons with disabilities. This section relates to SDG targets 10.3 and 16.b: target 10.3 calls for ensuring equal opportunity and reducing inequality by, among others, eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; and target 16.b calls for promoting and enforcing non-discriminatory laws and policies for sustainable development. The section concludes with recommendations to achieve these targets based on current evidence.

The Convention on the Rights of Persons with Disabilities (CRPD) recognizes that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person (preamble (h)). Discrimination on the basis of disability is defined in CRPD article 2 as any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.

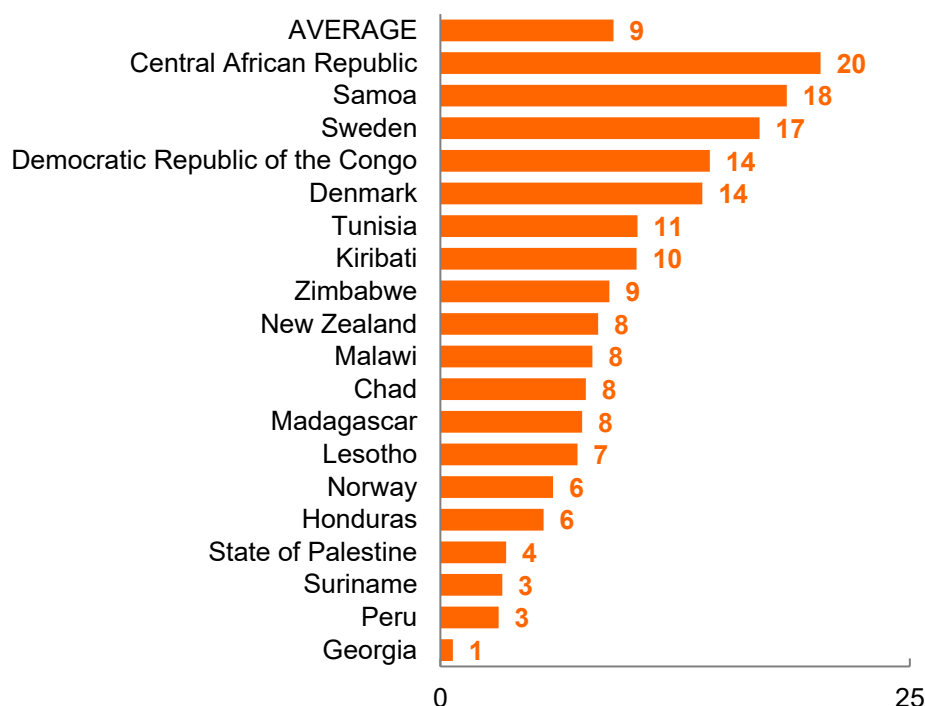
The CRPD stipulates that States Parties are to ensure the full realization of all human rights and fundamental freedoms for persons with disabilities without discrimination, including by modifying or abolishing existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities (article 4, paragraph 1(b)), by prohibiting all discrimination on the basis of disability and by guaranteeing equal and effective legal protection against discrimination on all grounds (article 5, paragraph 2). In addition, the CRPD calls for the elimination of discrimination against persons with disabilities in the areas of family (article 23), education (article 24), health (article 25), work and employment (article 27), living standards (article 28) and political participation (article 29).

Discrimination remains a major barrier to the social, economic and political inclusion of persons with disabilities, to the reduction of inequalities between persons with and without disabilities and ultimately to the achievement of Goal 10 and of targets 10.3 and 16.b in particular.

Current situation and progress so far

Persons with disabilities face discrimination in many facets of life. Evidence from 19 countries or areas indicates that on average 9 per cent of persons with disabilities felt discriminated against on the basis of disability (Figure 167). This percentage varies from 1 per cent in Georgia to 20 per cent in the Central African Republic. Progress in eliminating discriminatory attitudes is limited. For example, in Peru, from 2015 to 2019, the percentage of persons with disabilities who felt discriminated against due to their disability decreased only slightly from 4 per cent to 3 per cent; in Sweden, from 2015 to 2018, this percentage increased slightly from 15 per cent to 17 per cent (Figure 168). Many persons with disabilities also face discrimination in public services (see the chapter on Goal 16).

Figure 167. Percentage of persons with disabilities who felt discriminated against on the basis of disability, in 19 countries or areas, in 2020 or latest year available.

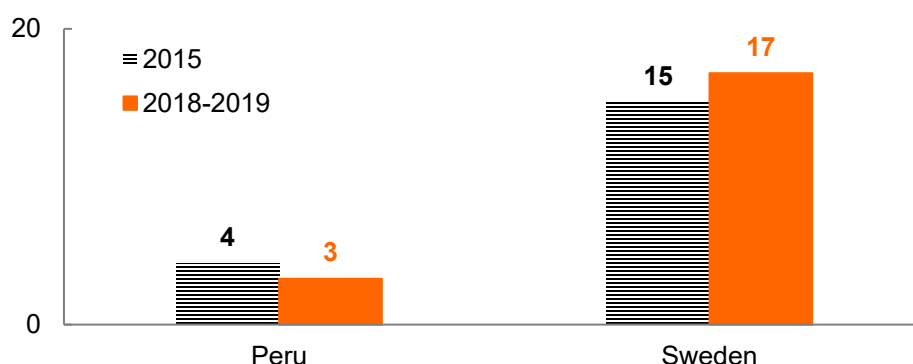


Source: UN SDG Indicators database.²⁸⁵

In legislation, progress has been made in recent years. In national constitutions, explicit guarantees of equality or non-discrimination for persons with disabilities existed for 53 countries in 2022 up from 52 countries in 2017.⁴⁶⁸ In 2021, compared to 2016, more countries had included protections in their labour legislation that explicitly prohibit discrimination on the basis of disabilities: 79 per cent compared to 74 per cent in hiring, 78 per cent compared to 72 per cent in terminations, 76 per cent compared to 70 per cent in promotions or demotions and 76 per cent compared to 69 per cent in access to employer-provided

training (Figure 169). Furthermore, 74 per cent of countries in 2021 up from 66 per cent in 2016 prohibit discriminatory workplace harassment, and 37 per cent in 2021 up from 33 per cent in 2016 prohibit indirect discrimination on the basis of disability. Adoption of legal protections against indirect discrimination is particularly low compared to other protections.

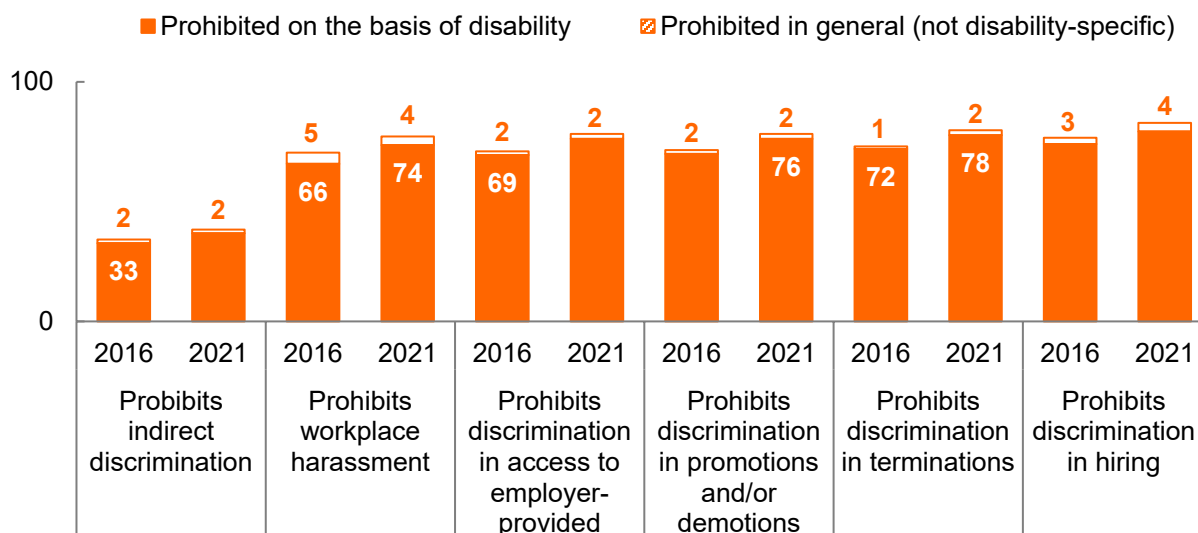
Figure 168. Percentage of persons with disabilities who felt discriminated against due to their disability, in 2 countries, from 2015 to 2018-2019.



Note: Data from Peru refer to 2019; from Sweden to 2018.

Source: UN SDG Indicators database.²⁸⁵

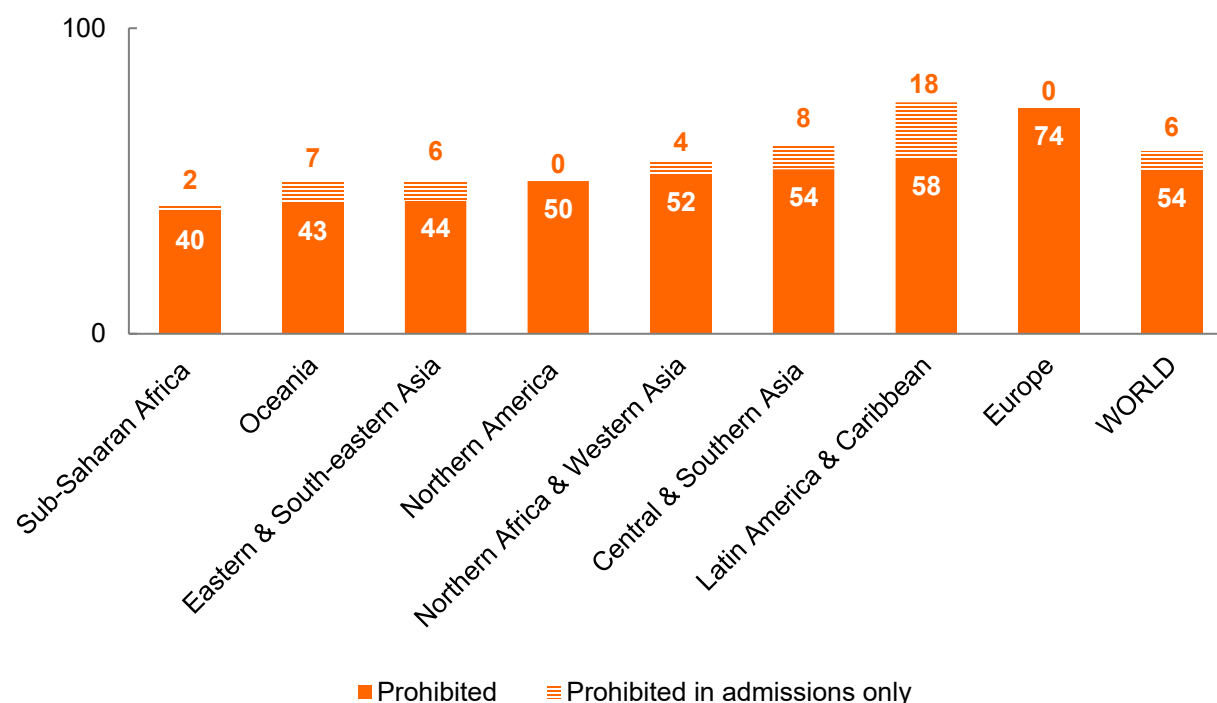
Figure 169. Percentage of countries that prohibit discrimination against persons with disabilities in their laws regulating labour, among the 193 United Nations Member States, in 2016 and 2021.



Note: Indirect discrimination indicates imposing unreasonable standards, criteria or other requirements that may apply to all but disproportionately impact persons with disabilities in a negative way.

Source: World Policy Analysis Center.²³¹

Figure 170. Percentage of countries that prohibit discrimination against persons with disabilities in the laws regulating education, for the world and by region, in 2018.



Note: Based on data from 188 United Nations Member States.

Source: World Policy Analysis Center.²³¹

In the laws regulating education, 54 per cent of countries prohibit discrimination on the basis of disability and another 6 per cent make this prohibition in school admissions only (Figure 170). In Eastern and South-eastern Asia, Oceania and sub-Saharan Africa, less than 50 per cent of countries prohibit discrimination on the basis of disability in their laws regulating education; in Europe, 74 per cent of countries have these protections.

Impact of the COVID-19 pandemic

Discriminatory practices continued throughout the pandemic, becoming in some countries a more acute and challenging concern experienced by more persons with disabilities. Persons with disabilities may have been more likely to develop severe symptoms or die from COVID-19 as a result of discriminatory triaging practices in some health facilities. For instance, in a review of triage policies for intensive-care units in 14 European countries in 2020, in more than half of the countries triage protocols recommended the consideration of functional status or frailty assessments,¹²⁸ terms which can be conflated with disability and may have led to many persons with disabilities receiving unequal and discriminatory medical treatment (see the chapter on Goal 3).

Persons with disabilities also faced discrimination in the pandemic response, which lacked reasonable accommodation measures in general. COVID-19 testing as well as many COVID-19 outpatient and inpatient services, including online health services, were not always accessible and did not always provide reasonable accommodations for persons with disabilities (see the chapter on Goal 3).⁴⁶⁹

Discriminatory practices during the pandemic may also have affected persons with disabilities in other ways. In some countries, persons with disabilities lost jobs at much higher rates than persons without disabilities (see the chapter on Goal 8).

Moreover, as courts and other public mechanisms to report and address discrimination closed due to the pandemic lockdowns in many countries, persons with disabilities found themselves without the resources to fight discrimination and realize their rights.

Summary of findings and the way forward

Discrimination is a major cause of exclusion of persons with disabilities and impedes persons with disabilities from realizing their rights and participating equality in society and development. One in ten persons with disabilities feels discriminated on the basis of disability. To combat this, a majority of countries has adopted laws prohibiting discrimination on the basis of disability: 79 per cent of countries prohibit discrimination on the basis of disability in job hiring and 54 per cent prohibit discrimination against persons with disabilities in education. Only 37 per cent of countries prohibit indirect discrimination in the workplace and in hiring.

These achievements reflect continued and sustained progress, including in recent years, in expanding the number of countries with laws prohibiting discrimination on the basis of disability. However, despite this positive trend, current rates of expansion are too slow to ensure that persons with disabilities in all countries will be legally protected against discrimination by 2030. For labour laws, to ensure protection in all countries by 2030, countries should adopt provisions prohibiting discrimination on the basis of disability in hiring, terminations, promotions and training at a rate twice as fast as current trends. For indirect discrimination in the workplace, legal provisions are particularly lacking. These provisions will need to be adopted at a rate that is eight times faster than current rates to guarantee that all persons with disabilities are legally protected against indirect discrimination in the workplace by 2030. Efforts to expand legal protections against the discrimination of persons with disabilities are particularly needed in Eastern and South-eastern Asia, Oceania and sub-Saharan Africa.

Discriminatory practices during the COVID-19 pandemic affected persons with disabilities, as they were affected by discriminatory healthcare due to triage rules at the height of the pandemic and dismissed from jobs at higher rates than others.

To eliminate discrimination against persons with disabilities, and achieve targets 10.3 and 16.b by, for and with persons with disabilities, it is recommended to:

- 1. Review national laws and policies, including laws and policies responding to crisis situations, to identify discriminatory provisions against persons with disabilities and modify or abolish these provisions.** Include in the reviews policies made to respond to emergency and other crisis situations, like the COVID-19 pandemic, to ensure persons with disabilities are protected against discrimination in times of crisis. Guarantee the participation of persons with disabilities in the revision process to ensure that their needs and perspectives are considered. Laws and policies should also prohibit discrimination on the basis of disability by any person, organization, public authority or private enterprise.
- 2. Raise awareness about persons with disabilities through public campaigns to combat negative stereotypes against them.** Engage persons with disabilities and organizations of persons with disabilities in such outreach activities. These campaigns should focus on raising awareness among the population on the needs and abilities of persons with disabilities.
- 3. Develop mechanisms for reporting and addressing discrimination, including during emergencies and other crises.** Approaches to developing such mechanisms include the creation of a public service, where persons with disabilities can file or report incidences of discrimination, or the carrying out of periodic surveys and collection of feedback from persons with disabilities regarding how anti-discriminatory laws are being implemented in practical terms. These mechanisms would benefit from having contingency plans to operate during emergencies and other crises, such as the COVID-19 pandemic, to ensure the services to support persons with disabilities in reporting discrimination are not interrupted. Involve persons with disabilities and their organizations in developing these mechanisms to ensure that they are accessible to them and sensitive to their needs and perspectives. These mechanisms should address discrimination on the basis of disability by any person, organization, public authority or private enterprise.