



# WORDS GIRLS

The title 'WORDS GIRLS' is rendered in large, bold, white letters. The letters are filled with a collage of images of diverse young women and girls. The 'W' shows a woman in a red headscarf. The 'O' shows a woman with a shaved head. The 'R' shows a woman with a shaved head. The 'D' shows a woman with curly hair. The 'S' shows a woman with curly hair. The 'G' shows a woman in a red headscarf. The 'I' shows a woman in a striped shirt. The 'R' shows a woman in a striped shirt. The 'L' shows a woman in a striped shirt. The 'S' shows a woman in a yellow shirt and denim jacket.

**Holding governments accountable in the  
Beijing +25 review process**

5TH EDITION

# ABOUT EQUALITY NOW

Founded in 1992, Equality Now is an international human rights organization that works to protect and promote the rights of all women and girls around the world. Our campaigns are centered on four program areas: Legal Equality, End Sexual Violence, End Harmful Practices, and End Sex Trafficking, with a cross-cutting focus on the unique needs of adolescent girls. Equality Now combines grassroots activism with international, regional and national legal advocacy to achieve legal and systemic change to benefit all women and girls, and works to ensure that governments enact and enforce laws and policies that uphold their rights.

Equality Now has offices in New York, Nairobi, London and Beirut, presences in Amman, Jordan, Washington, DC, New Delhi, India, Tbilisi, Georgia and partners and members in almost every country in the world.

For more information on our latest campaigns go to [www.equalitynow.org](http://www.equalitynow.org).

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## ACKNOWLEDGEMENTS

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**Research:** Alyssa Oravec, Harvard Law School Public Service Venture Fund Legal Fellow; Caroline Lagat, Legal Fellow; and Florence Wilkinson and Liam Doyle, Interns, in addition to Equality Now staff and consultants worldwide, as well as the organizations and individuals listed at the end of this report.

**Designers:** Peter Wilbourne, Martin Humphreys

**Translators:** Arabic: Nadia Al-Sharif, French: Thomas Forycki, Spanish: Carmen Maestro

**Photographers:** Tara Carey, FG Trade, fotografixx, GCShutter, Ben Ibrahim, jacoblund, Aleksandar Nakic, Leo Patrizi, Francesco Ridolfi, Vardhan

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# ENDING SEX DISCRIMINATION IN THE LAW

*Gender equality is fundamentally a question of power. We live in a male-dominated world with a male-dominated culture. Only when we see women's rights as our common objective, a route to change that benefits everyone, will we begin to shift the balance... As the World Bank found, just six economies give women and men equal legal rights...*

**– UN Secretary - General António Guterres, March 2019**



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# INTRODUCTION

## 25 years ago Gender Equality became a global priority

In **1995**, at the Fourth World Conference on Women in Beijing, 189 governments agreed on a comprehensive roadmap – [the Beijing Platform for Action \(BPfA\)](#)<sup>1</sup> – to advance women’s and girls’ rights and achieve equality for women. As legal equality is an essential first step to achieving gender equality, one of the commitments made by States was that they would “**revoke any remaining laws that discriminate on the basis of sex**”.

Since Beijing, public and political consensus on the global importance of respect for women’s and girls’ rights, including to equality under the law, was affirmed with the adoption of the Sustainable Development Goals (SDGs) in the [2030 Agenda for Sustainable Development](#)<sup>2</sup> by UN member states in **2015**. In particular, SDG indicator 5.1.1 measures if “legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex”.

## Legal equality is an essential first step to gender equality

Equality Now has focused efforts on getting governments to repeal laws that explicitly discriminate on the basis of sex. In our advocacy reports, *Words and Deeds: Holding Governments Accountable in the Beijing+ Review Process*, published in 1999, 2004, 2010 and 2015, and 2020 (with a **special focus on family law (see insert)**), Equality Now highlights a sampling of explicitly sex discriminatory laws affecting women and girls, and their families, over the course of their lives in:

- **marital status** (marriage, divorce, polygamy, wife obedience);
- **personal status** (citizenship, weight of court testimony, travel, sexual exploitation);
- **economic status** (inheritance, property, employment, retirement);
- and in addressing **violence** against women and girls (rape, including *estupro*, domestic violence, “honor” killings).



Since 1995, there has been progress made but it has been slow and inconsistent, and **legal equality for women has not been achieved by the vast majority of States.**<sup>3</sup>

While more than half of laws highlighted by Equality Now as sex discriminatory in our successive reports have been fully or partially repealed, amended or voided ([see Annex](#)), many sex discriminatory laws, particularly those in the area of family law, remain entrenched. While 77% of States guarantee equality on the basis of sex in their constitutions, [23%](#),<sup>4</sup> including the [United States](#),<sup>5</sup> do not have sex equality as a constitutional guarantee.

#### **Too many sex discriminatory laws remain in force**

According to [UN Women's](#)<sup>6</sup> analysis of [World Bank 2018](#)<sup>7</sup> data, ongoing restrictions on women's economic rights alone include:

- 104 countries that have laws which prevent women from working in specific jobs;
- 59 countries that have no laws on sexual harassment in the workplace;
- 18 countries that have laws that allow husbands to legally prevent their wives from working;
- Close to 40 percent of countries that have at least one constraint on women's property rights as measured by the World Bank's "using property" indicator;
- In 36 of 189 countries analysed by the World Bank, widows are not granted the same inheritance rights as widowers;
- 39 countries prevent daughters from inheriting the same proportion of assets as sons;
- 65 countries restrict women from working in mining;
- Women also face job restrictions in industries such as manufacturing, construction, energy, agriculture, water and transportation.

The areas of law that defer to custom or religion, particularly family law, have been intractable. These include laws that recognize guardianship of men over women such as in Saudi Arabia, Algeria, Sudan, and other countries. If women are unequal in the family (the basic unit of society) or if they remain legal minors, they will never reach their full potential. Reform of discriminatory family laws needs to be prioritized.



New discriminatory laws continue to be introduced. For example, a “marry your rapist” legal provision was proposed in Turkey in 2016.<sup>8</sup> It met with global resistance and ultimately failed. In 2019, Iran’s parliament passed a bill, to be approved by the Guardian Council of clerics and jurists, allowing fathers to marry their adopted daughters.<sup>9</sup> And the United States adopted a ban on transgender people serving in the military, further limiting a vulnerable group of people’s economic rights and right to participation.

### **Redoubling efforts to embed legal equality for all women and girls in 2020**

In the era of #MeToo, rising public activism and a global rise in fundamentalisms, women and girls are demanding that equality be expedited. **With political will and commitment, the revocation of explicitly sex discriminatory laws and the strengthening of constitutional protections can be achieved by 2030.**<sup>10</sup> The G7 Gender Equality Advisory Council’s 2019 report calls on governments to guarantee financing to both eliminate discriminatory laws and implement progressive legislative frameworks.<sup>11</sup>

**2020** marks both the 25th anniversary of the adoption of the BPfA and the 5<sup>th</sup> anniversary of the SDGs to eradicate poverty and promote equality globally. Governments must urgently turn words into deeds and finally repeal or amend all laws that discriminate on the basis of sex so that all women and girls can enjoy their rights and live as equal partners in their families, communities and society.

We hope this report will be a useful tool to governments and campaigners alike in this crucial process and at a critical time in world history.



# CALL TO ACTION

**All governments must review and amend their sex discriminatory laws and put in place clear constitutional, or other, guarantees of equality, as a matter of urgency, to protect all women's and girls' civil, political, economic, social, and cultural rights under the Beijing Platform for Action and other international law and commitments.**

## Heads of State and Parliamentarians

- ▶ Urgently review and amend or repeal all sex discriminatory legislation;
- ▶ Adopt and /or enforce equality provisions in your Constitution;
- ▶ Introduce and implement gender-sensitive legislation, where lacking, in compliance with international law and in consultation with women's rights organizations.

## Traditional Leaders

- ▶ Ensure all religious and customary laws and practices comply with constitutional and other equality provisions and international law and standards, including the Beijing Platform for Action and the SDGs, and hold other religious and customary leaders to account for the same.

## Civil Society

- ▶ Urge heads of state in this report to amend or repeal all sex discriminatory laws and fulfill their commitment to the 1995 Beijing Platform for Action and gender equality. You can take action for those mentioned in this report at [www.equalitynow.org](http://www.equalitynow.org);
- ▶ Write to your own President or Prime Minister and parliamentarians and ask them to review the legislation in your country to amend all laws that discriminate directly or have a discriminatory impact on women and girls. You can find a sample letter to download at [www.equalitynow.org](http://www.equalitynow.org);
- ▶ Spread the word and increase the impact! Share this campaign with your networks to hold governments accountable to their international legal obligation to ensure gender equality;
- ▶ Join the movement to end sex discrimination in nationality, child marriage and sexual violence laws and the adoption of positive gender equality laws by taking Action at [www.equalitynow.org](http://www.equalitynow.org)



# SPECIAL FOCUS: REFORMING DISCRIMINATORY FAMILY LAW

## THE LAST BIG LEGAL HURDLE TO GLOBAL GENDER EQUALITY

### What do we mean by Family Law?

**Family law reform** today remains a highly intractable area, not least because most family laws are based on religion, custom, and tradition. Religious, cultural, and ethnic identities are vested in family laws. These laws include, for example, marriage, divorce, custody and guardianship, property rights, as well as inheritance. They may be codified by the State or uncodified and unwritten. Attempts to reform family laws are often portrayed as threats to group identity and rights and used as justifications to resist demands for reform towards further equality.

*“The failure to ensure the equality of women and girls within the family undermines any attempt to ensure their equality in all areas of society.*

*... equality in the private domain - the family - remains one of the biggest hurdles to achieving gender equality.”*

**(UN Working Group on discrimination against women and girls)<sup>12</sup>**

The right to culture and to freedom of religion are also human rights, but they cannot quash a person’s fundamental human right to equality and non-discrimination. It is a derogation of a State’s duty when a State explicitly allows exceptions for customary family law, which may not always be written down. This can be seen around the world - from Zambia where the minimum age of marriage is 21 but under customary law a pubescent girl can be married off, to the United States, where unwritten sex discriminatory religious laws and practices, such as polygamy,<sup>13</sup> child marriage, and inequality in divorce rights in certain communities have gone unchecked.

### The impact on women, girls and society

World Bank data<sup>14</sup> shows that many countries ranked at the bottom of the index for legal equality are those whose family laws, including male guardianship systems, explicitly discriminate against women and girls. This is not surprising. These practices and systems can further violate women’s and girls’ rights to education as well as economic and political opportunity and participation. A recent cross-country study drew the conclusion that “**egalitarian reform of family law may be the most crucial precondition for empowering women economically**”<sup>15</sup> If a man can prohibit his wife from going out to work in the first place, it makes no difference to her whether there is a law in place to protect her from sexual

harassment at work or there is equal pay for equal work.

**Governments must protect women's and girls' rights in all spaces and relationships, public or private, married or not.**

*“[F]reedom of religion or belief can never be used to justify violations of the rights of women and girls, and [that] it can no longer be taboo to demand that women's rights take priority over intolerant beliefs used to justify gender discrimination.”*

**(UN Special Rapporteur on Freedom of Religion and Belief)<sup>16</sup>**

Many governments have failed to secure the **universality of human rights for all women and girls** as they allow the right to religious and cultural freedom to trump those of equality and non-discrimination. State sanction of discriminatory religious and customary laws and practices, including through constitutional exceptions (see map below) can discriminate against some communities of women and girls over others within the same borders; for example the religion-based child custody laws in Lebanon highlighted herein. In addition to the Beijing Platform for Action, Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) makes it clear that all governments (and only seven

States and the Holy See have not ratified this important treaty) must “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations...”

**Enforce the principle that equality is a fundamental human right**

**The right to equality** and to not be discriminated against on the basis of sex, both in the law itself and in practice in everyday life, **is a fundamental human right**. The UN Human Rights Committee has declared that the right to religion does not allow any State, group, or person to violate women's equality rights, including equal protection under the law.<sup>17</sup>

Culture and custom are not static, “Because social norms are created by human beings, and there is no social norm that cannot be changed.” (Chimamanda Ngozi Adichie). Not all customary family law is discriminatory. Fortunately, those laws and practices that are discriminatory can change over time, particularly with the political will and support of religious and traditional leaders.

**Governments can no longer make excuses for sanctioning and perpetuating discrimination within the family**, no matter what form it takes or the origin of the law or practice. As the international community prepares to celebrate Beijing +25, a tremendous opportunity exists to mobilize and grow global action towards achieving universal legal equality and human rights for all women and girls by Beijing +35 and at the conclusion of the 2030 Agenda of the Sustainable Development Goals in 2030.



## Amend or repeal sex discriminatory laws, and replace them with good practice

In the body of this advocacy report, we have included a sampling of sex discriminatory family laws from around the world - all need urgent amendment or repeal by States.

In addition to identifying those laws that should be amended or repealed, the UN Women's report, *Progress of the World's Women 2019: Families in a Changing World*, explores how laws, policies and public action can actually support families, in all their diverse forms, and promote women's rights.<sup>18</sup> In addition some good practice examples include:

- The Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011 in Pakistan prohibits giving a woman in marriage (*wanni/swara*), marriage to the Quran, forced marriages and depriving women of inheritance.<sup>19</sup>
- Article 19 of Namibia's<sup>20</sup> Constitution states that, "Every person shall be entitled to enjoy, practise, profess, maintain and promote any culture, language, tradition or religion subject to the terms of this Constitution and further subject to the condition that the rights protected by this Article **do not impinge upon the rights of others** or the national interest." In addition, Section 1 of the Traditional Authorities Act 25 of 2000, states "Customary law' means the customary law, norms, rules of procedure, traditions and usages of a traditional community **in so far as they do not conflict with the Namibian Constitution** or with any other written law applicable in Namibia."

The Constitution of South Africa is also considered a "good practice" model in seeking to recognize traditional, religious and customary law into the Constitution while also stating that recognition must be consistent with other provisions of the Constitution, which include non-discrimination on the basis of sex and gender. **Implementation, however, remains challenging**, as not all customary and religious marriages, for example, are recognised and subject to the constitutional protections. As a result, as the Women's Legal Centre in South Africa has noted, women can only fall back on religious institutions to deal with their divorce and the distribution of assets which leave many women discriminated against and excluded.

## Key Strategies for Reform

**The principle of universality of human rights with regard to equality in the family should apply to all groups of women and girls, no matter their religion, custom or tradition.**

We must come together to push back against harmful laws, customs, and traditions at the heart of patriarchy, to benefit all women and girls and their families, including the most vulnerable and excluded.

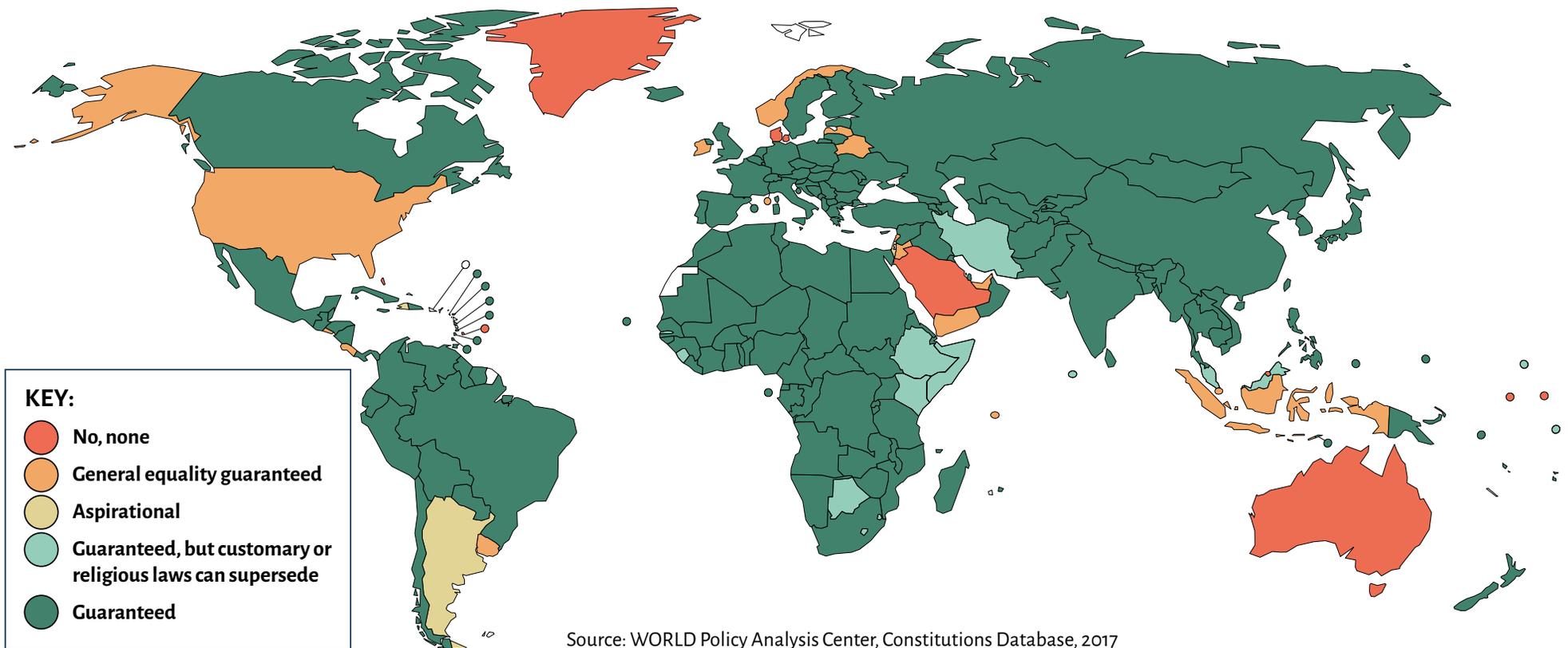
**Governments must amend constitutions that allow for exceptions for sex discriminatory codified, customary, and religious laws as well as reform specific discriminatory family laws and put constitutional guarantees of equality in place. Tactics include:**

- *Movement building* - Momentum is building around the world to launch a Global Campaign for Equality in Family Law:
  - 1) To mobilize international action towards achievement of progressive family law reform around the world and to draw global attention and build global support for the urgent necessity for equality in family law;
  - 2) To bring together civil society actors spearheading campaigns for family law reform at the national level, as well as academics, UN agencies and government allies to create and implement a global campaign to end discrimination against women in family laws; and
  - 3) To strengthen advocacy for reform at the national level through developing knowledge resources and providing technical assistance to share good practices and lessons learnt.
- *Supporting women's organizations, activists and allies in their engagement with religious and traditional leaders* and those working on feminist interpretation of religious and customary laws;
- *Supporting legal advocacy before UN and other international and regional bodies* to influence governments, when they come before them to report, to provide legal equality and non-discrimination in their laws and in practice;
- *Supporting strategic litigation* to get discriminatory laws overturned.

### UN Women's Equality in Law strategy "implementation accelerators" include: <sup>21</sup>

- ▶ Technical support to regional and national stakeholders;
- ▶ Digital tracking through accountability maps showing where progress is being made;
- ▶ Alliances with non-traditional partners;
- ▶ A movement of first spouses;
- ▶ Bottom-up and top-down engagement at the country level;
- ▶ Leverage mandates and influence (the political influence of heads of UN and regional bodies and agencies will be tapped to advocate for reform);
- ▶ Supporting regional and interregional policy dialogue on discriminatory laws;
- ▶ Human rights monitoring & reporting;
- ▶ Building on existing movements and campaigns;
- ▶ Engaging men and boys;
- ▶ Document, share and learn;
- ▶ Promoting South-South triangular cooperation.

### Does the constitution take at least one approach to gender equality?



Source: WORLD Policy Analysis Center, Constitutions Database, 2017

# MARITAL STATUS



## WHAT'S THE ISSUE?

Sex discrimination in marital status laws renders women and girls subordinate in many aspects of family relations before, during, and after marriage.

### Beijing Platform for Action recommendations

Strategic Objective 1.2. Ensure equality and non-discrimination under the law and in practice.

#### Actions to be taken by Governments:

- **232(d) - Review national laws, including customary laws and legal practices in the areas of family, civil, penal, labour and commercial law in order to ensure the implementation of the principles and procedures of all relevant international human rights instruments by means of national legislation, revoke any remaining laws that discriminate on the basis of sex and remove gender bias in the administration of justice;**

### What's the impact on women and girls?

Sex discriminatory marital status laws can result in girls being married off at a younger age than boys and facing potentially lifelong harmful consequences. Women in polygamous marriages may face severe financial loss, including inheritance rights, and potentially fatal health problems such as HIV/AIDS due to their husband having multiple sexual partners. If women and girls are required under the law to “obey” their husbands and/or male guardians they may face violence, including marital rape, and be prevented from leaving the home, working, choosing where to live, and be treated less equally by other family members. If women and girls are not

able to divorce as easily as men they may be trapped in abusive marriages, and when they do divorce they may face losing custody of their children. Men may be designated the “head of household,” unilaterally making decisions, determining, for example, where the family lives.

The UN Working Group on discrimination against women and girls has highlighted that **failure to ensure the equality of women and girls within the family undermines any attempt to ensure their equality in all areas of society**. In its [2018 report](#) to the Human Rights Council, the UN Working Group emphasized that “equality in the private domain - the family - remains one of the biggest hurdles to achieving gender equality.”<sup>22</sup>

### What needs to change

States should take immediate steps to end discrimination against women in family laws and practices to respect, protect and realize women's and girls' rights to equality in the family regardless of the source of family law, be it codified, religious or customary.

**The following are examples of laws which must be amended or repealed.**

# CHILD, EARLY & FORCED MARRIAGE

## WHAT'S THE ISSUE?

Almost a quarter of the world, 24% of countries allow girls to be legally married off at a younger age than boys with parental consent ([WORLD Policy Analysis Center](#).<sup>23</sup> Jan 2019). Forced marriage occurs when a spouse does not give free and full consent and is sometimes even sanctioned by laws allowing male guardians “consenting” for the woman or girl.

### Beijing Platform for Action recommendations

Strategic objective L.1.

Eliminate all forms of discrimination against the girl child

Actions to be taken

#### By Governments:

- **274(e)** - *Enact and strictly enforce laws to ensure that marriage is only entered into with the **free and full consent** of the intending spouses; in addition, **enact and strictly enforce laws concerning the minimum legal age of consent and the minimum age for marriage and raise the minimum age for marriage where necessary;***

#### By Governments and international and non-governmental organizations:

- **275(b)** - *Generate social support for the enforcement of laws on the minimum legal age for marriage, in particular by providing educational opportunities for girls.*

### What's the impact?

Child marriage still affects nearly 12 million girls each year, with lifelong consequences.

Being forced into marriage is being forced into sex and subjected to rape, forced pregnancy, and forced motherhood, often with long term physical consequences for their young under-developed bodies; consequences include reproductive health complications such as fistula that might lead to her being deemed unfit to be a wife and discarded and abused. The mental anguish and effort to protect herself from rape, alongside the perception of her as property, too often lead to further physical and mental domestic violence.

### What needs to change

**To help achieve an end to child marriage, States must implement the BPfA**, particularly paragraphs 274(e) and 275(b) which call on States to “**enact and strictly enforce laws concerning ... the minimum age for marriage and raise the minimum age for marriage where necessary**” and “generate social support for their enforcement”.

**Laws prohibiting marriage under the age of 18, without exception, for both girls and boys are needed.** Such a law is not focused on criminalization and prosecution but rather on making explicit the States', and societies', understanding that young people need time to understand their independent circumstances before entering into a lifelong contract that will affect many aspects of their life. It protects young people from being forced into marriage, and for girls, from being married off to older men as a transfer of property, to settle scores, save the family “honor”, or establish inter-family ties. In November 2019, Palestine raised the minimum age of marriage, from 16 for boys and 15 for girls to 18 for both boys and girls. While this is great progress, the law still allows for exceptions to be authorized by a court. In practice, this means girls may still be married off at a young age - women's rights organizations in Palestine will continue to work to change this.

As a member of [Girls Not Brides](#),<sup>24</sup> Equality Now called on [governments](#) to raise the minimum age of marriage to 18 without exceptions.<sup>25</sup> There should be no exception for religion, custom, tradition, parental or judicial consent, pregnancy or for any other reason. **In 2018, a UN resolution urged States for the first time to adopt minimum age of marriage laws of 18 and to ensure “coherence of these laws and policies at the local level”.**<sup>26</sup>

In the United States though, for example, there is no **federal law** on child marriage and the minimum age of marriage is left to each of the 50 states to decide, 48 of which have ages below 18. Hence, we have included in this report the sex discriminatory law from the state of Mississippi, one of several U.S. states which allows girls to be married off at a younger age than boys.

Relatedly, consistent with the recommendations and general comments of the UN Committee on the Rights of the Child, Equality Now does not promote a specific minimum age of consent to sex. Rather, States should not criminalize adolescents of similar ages for factually consensual, non-coercive and non-exploitative sexual activity. **We must continue to work hard to ensure that no child, anywhere, becomes a bride or groom under legal contract, including under customary or religious law or social contract**, no matter what the age of consent to sex may be.

Below are examples of laws which must be amended or repealed.



## CUBA

### Family Code:

Article 3. *Men and women have authority to make their marriage official when they are over 18 years old. Therefore, those that are younger than 18 years old do not have authority to make their marriage official. Notwithstanding what was just stated, exceptionally there are justified reasons so that those under 18 years old have authority to make their marriage official, as long as the female is at least 14 years old and the male 16 years old.*

**Note:** Cuba's new Constitution came into force in 2019. The Cuban government is reportedly in the process of amending the Family Code to ensure that it complies with the provisions of the new Constitution.

Article 42 of the Constitution of the Republic of Cuba, 2019: **All people are equal before the law**, receive the same protection and treatment from the authorities, and enjoy the same rights, liberties, and opportunities, without any discrimination for reasons of **sex, gender, sexual orientation, gender identity, age, ethnic origin, skin color, religious belief, disability, national or territorial origin, or any other personal condition or circumstance that implies a distinction injurious to human dignity.**

Article 43: **Women and men have equal rights** and responsibilities in the economic, political, cultural, occupational, social, and familial domains, as well as in any other domain.

### Take action – Cuba

President Miguel Diaz Canel

Hidalgo Esq. 6

Plaza de La Revolución, CP 10400

Email: [despacho@presidencia.gob.cu](mailto:despacho@presidencia.gob.cu)

[cuba\\_onu@cubanmission.com](mailto:cuba_onu@cubanmission.com) (Mission to the UN in New York)

Twitter: [@DiazCanelB](https://twitter.com/DiazCanelB)



## DOMINICAN REPUBLIC

### The Civil Code:

Article 144. **Marriage is forbidden for men younger than 18 years old or women under 15 years of age.**

**Note:** Article 39(4) of the Constitution of the Dominican Republic: **Women and men are equal before the law** . . . . *The necessary measures shall be promoted in order to ensure the eradication of gender inequality and discrimination.*

### Take action – Dominican Republic

President Danilo Medina Sánchez  
Palacio Nacional  
Avenida México esquina Doctor Delgado  
Gazcue, Santo Domingo  
DOMINICAN REPUBLIC  
Email: [info@presidencia.gob.do](mailto:info@presidencia.gob.do)  
Twitter: [@PresidenciaRD](https://twitter.com/PresidenciaRD)



## TANZANIA

### The Law of Marriage Act, 1971, as amended by Act 23/73, Act 15/80 and Act 9/96:

Section 10. Kinds of Marriage.

...

(2) A marriage contracted in Tanzania, whether contracted before or after the commencement of this Act shall —

- (a) if contracted in Islamic form or according to rites recognized by customary law in Tanzania, **be presumed**, unless the contrary is proved, **to be polygamous or potentially polygamous**; and  
(b) in any other case, be presumed to be monogamous, unless the contrary is proved.

Section 13. Minimum Age. (1) No person shall **marry** who, being **male** has not attained the apparent age of **eighteen** years, or being **female**, has not attained the apparent age of **fifteen** years.

Section 15. Subsisting Marriage.

- (1) No man, while married by a monogamous marriage, shall contract another marriage.  
(2) No man, while married by a polygamous or potentially polygamous marriage, shall contract a marriage in any monogamous form with any person.  
(3) No woman who is married shall, while that marriage subsists, contract another marriage.

**Note:** In *Rebeca Z. Gyumi v. Attorney General*, the High Court of Tanzania in 2016 found section 13 of the Law of Marriage Act to be unconstitutional. The Court's opinion reads:

*"...we have no option but to find that the two provisions i.e. sections 13 and 17 of the Law of Marriage Act, Cap 29 RE 2002 are unconstitutional to the extent explained herein above. Consequently, exercising the powers vested in this court by Articles 30(5) and 13(2) of the Constitution and the Basic Rights and Duties Enforcement*

### Take action – Tanzania

President John Magufuli  
Office of the President  
The State House  
P.O. Box 9120  
Magogoni Road  
Dar es Salaam  
TANZANIA  
Email: [ps@utonzogov.tz](mailto:ps@utonzogov.tz);  
[katibumkuu@sheria.gov.tz](mailto:katibumkuu@sheria.gov.tz) (Constitution and Legal affairs)  
[ps@pmo.gov.tz](mailto:ps@pmo.gov.tz) (Prime Minister office)  
Twitter: [@MagufuliJP](https://twitter.com/MagufuliJP)

## TANZANIA (CONTINUED)

*Act respectively, we direct the Government through the Attorney General within a period of one (1) year from the date of this order to correct the complained anomalies within the provisions of section 13 and 17 of the Law of Marriage Act and in lieu thereof put 18 years as the eligible age for marriage in respect of both boys and girls.”*

The appeal against the ruling filed by the Attorney General was dismissed by the Court of Appeal in October 2019. The Government now needs to implement the decision of the High Court and rectify the inequality in the law.

Article 13(1) of the Constitution of Tanzania: **All persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law.**



## UNITED STATES OF AMERICA (MISSISSIPPI)

### Mississippi Code 1972:

Section 93-1-5. **1) Every male who is at least seventeen (17) years old and every female who is at least fifteen (15) years old shall be capable in law of contracting marriage.** However, males and females under the age of twenty-one (21) years must furnish the circuit clerk satisfactory evidence of consent to the marriage by the parents or guardians of the parties. It shall be unlawful for the circuit court clerk to issue a marriage license until the following conditions precedent have been complied with....

**(d) If the male applicant is under seventeen (17) years of age or the female is under fifteen (15) years of age, and satisfactory proof is furnished to the judge of any circuit, chancery or county court that sufficient reasons exist and that the parties desire to be married to each other and that the parents or other person in loco parentis of the person or persons so under age consent to the marriage, then the judge of any such court in the county where either of the parties resides may waive the minimum age requirement and by written instrument authorize the clerk of the court to issue the marriage license to the parties if they are otherwise qualified by law....**

**Note:** The Mississippi Code, 1972 applies only to the State of Mississippi. There is no federal law applicable to the entire country which prescribes the minimum age of marriage for all persons within the United States.

However, under 18 United States Code section 2243, it is a defense to the crime of statutory rape of a minor under the age of 16 years if the persons engaging in the sexual act were married to each other. This provision legitimizes child marriage under federal law. It also provides for different standards of protection to minors from statutory rape based on their marital status and in some cases would legitimize rape of children. Take Action [here](#).<sup>27</sup>

Section 2243: **(a) Sexual Abuse Of a Minor.**—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or

### Take Action – United States Of America (Mississippi)

President Donald Trump  
Office of the President  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500  
UNITED STATES OF AMERICA  
Email Portal: <https://www.whitehouse.gov/contact/>  
Email: [president@whitehouse.gov](mailto:president@whitehouse.gov)  
Twitter: [@realDonaldTrump](https://twitter.com/realDonaldTrump)

Governor Phil Bryant,  
Governor of Mississippi  
P.O. Box 139,  
Jackson, MS 39205  
Email: [support@msegov.com](mailto:support@msegov.com)  
Twitter: [@PhilBryantMS](https://twitter.com/PhilBryantMS)

UNITED  
STATES OF  
AMERICA  
(MISSISSIPPI)  
(CONTINUED)

agreement with the head of any Federal department or agency, **knowingly engages in a sexual act with another person who—**

**(1) has attained the age of 12 years but has not attained the age of 16 years; and**

**(2) is at least four years younger than the person so engaging;**

or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

**(c) Defenses.—(2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.**

Although Section 1 of the 14th Amendment to the United States Constitution theoretically provides every person “equal protection of the laws,” the U.S. Constitution **does not explicitly prohibit discrimination on the basis of sex.** The Equal Rights Amendment (ERA), which prohibits the denial of equality of rights under the law on account of sex was passed by the United States Congress in 1972 but needed 38 states to ratify it by 1982. As of January 2020, 38 states have now ratified the ERA, but the deadline still represents a hurdle to its inclusion in the Constitution.

Take Action to help ratify the ERA [here!](#)<sup>28</sup>



## ZAMBIA

### The Marriage Act:

**17. If either party to an intended marriage, not being a widower or widow, is under twenty-one years of age, the written consent of the father, or if he be dead or of unsound mind or absent from Zambia, of the mother, or if both be dead or of unsound mind or absent from Zambia, of the guardian of such party shall be produced.**

**34. Any person who is married under this Act or whose marriage is declared by this Act to be valid, shall be incapable during the continuance of such marriage of contracting a valid marriage under any African customary law, but, save as aforesaid, nothing in this Act contained shall affect the validity of any marriage contracted under or in accordance with any African customary law, or in any manner apply to marriages so contracted.**

### Zambia’s Response to List of Issues and questions with regard to the Combined Fifth and Sixth Periodic Reports to the United Nations Committee on the Elimination of Discrimination Against Women (2011):

*The State party reports that there is **no minimum age of consent to marry for women under customary law.** This is because the current customary practice allows any girl who attains puberty to get married.*

**Note:** Customary law, which is excluded from the purview of the Marriage Act, is not codified in writing. The Zambian Government officially confirmed in its response to the UN Committee on the Elimination of Discrimination against Women that, “there is no minimum age of consent to marry for women under customary law”.

### Take Action – Zambia

President Edgar Lungu

Lusaka

ZAMBIA

Email: [info@SH.gov.zm](mailto:info@SH.gov.zm);

[eclungu@parliament.gov.zm](mailto:eclungu@parliament.gov.zm)

Twitter: [@EdgarCLungu](https://twitter.com/EdgarCLungu)

## ZAMBIA (CONTINUED)

Section 23 of the Constitution of Zambia: (1) *Subject to clauses (4), (5) and (7), no law shall make any provision that is discriminatory* either of itself or in its effect...

(3) *In this Article the expression “discriminatory” mean, affording different treatment to different persons attributable, wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, marital status, political opinions colour or creed...*

(4) *Clause (1) shall not apply to any law so far as that law makes provision...*

c. *with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;*

d. *for the application in the case of members of a particular race or tribe, of customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons..*

## MARRIAGE, DIVORCE, POLYGAMY & WIFE OBEDIENCE

**Apart from child, early, and forced marriage, other marital status issues violating the right to equality and non-discrimination in the law itself are highlighted below.**

Below are examples of laws which must be amended or repealed.

### AFGHANISTAN

#### Shia Personal Status Law of 2009:

Article 123. (1) **The household's supervision is the right of the husband, unless based on the husband's mental deficiency, and by order of the court, it is given to the wife.**

(5) **A wife can leave the house for legal purposes to the extent that local custom allows . . .**

**Note:** Article 22 of the Constitution of Afghanistan: *Any kind of discrimination and distinction between citizens of Afghanistan shall be forbidden. The citizens of Afghanistan, man and woman, have equal rights and duties before the law.*



#### Take Action – Afghanistan

President Ashraf Ghani

Gul Khana, Presidential Palace

Kabul

AFGHANISTAN

Email: [h.chakhansuri@arg.gov.af](mailto:h.chakhansuri@arg.gov.af)

[info@afghanistan-un.org](mailto:info@afghanistan-un.org) (Mission to the

UN in New York)

Twitter: [@ashrafghani](https://twitter.com/ashrafghani); [@ARG\\_AFG](https://twitter.com/ARG_AFG)



## ALGERIA

### The Family Code of 1984 modified by Ordinance No. 05-02 of 27 February 2005:

Article 8. It is permitted to contract **marriage with more than one wife** within the limits of the Shari'a, if there is a just ground and the conditions and intentions of equity can be fulfilled . . .

Article 11. An **adult woman** concludes her marriage contract in the presence of her "wali" [guardian] who is her father or close male relative or any other **male** of her choice.

Article 30. . . . It is equally temporarily **prohibited**: . . . **The marriage of a Muslim woman with a non-Muslim man.**

Article 48. **Divorce** is the dissolution of marriage . . . It arises from the **will of the husband**, mutual consent of the spouses, or the demand of the wife as provided in articles 53 and 54 . . .

Article 53. The wife can seek a divorce on the following grounds: (i) non-payment of maintenance . . . ; (ii) infirmities hindering realization of the objects of marriage; (iii) refusal of the husband to cohabit with his wife for more than four months; (iv) conviction of the husband which is of such a nature as to dishonour the family and render impossible leading of common life and conjugal relations; (v) absence of the husband for more than a year without a valid excuse or maintenance; (vi) violation of provisions of article 8; (vii) an immoral act which is severely reprehensible; (viii) for persistent disagreement between the spouses; (ix) for violation of the clauses stipulated in the marriage contract; and (x) for any recognized legal injury.

Article 54. The wife can separate from her spouse without his agreement, for the payment of a sum . . .

**Note:** Article 29 of the Constitution of Algeria: **All citizens are equal before the law.** No discrimination shall prevail because of birth, race, **sex**, opinion or any other personal or social condition or circumstance.

### Take Action – Algeria

President Abdelkader Bensalah [Interim President]

Présidence de la République  
Place Mohamed Seddik Benyahya  
El Mouradia

16000 Algiers

ALGERIA

Email: [president@el-mouradia.dz](mailto:president@el-mouradia.dz)  
[mission@algeria-un.org](mailto:mission@algeria-un.org) (Mission to the UN in New York)

Twitter: [@AlgeriaUN](https://twitter.com/AlgeriaUN)



## BURUNDI

### Decree-Law No. 1/024 of 28th April 1993 amending the Code of the Person and the Family:

Article 122. Spouses owe each other fidelity, help and assistance. **The husband is the head of the conjugal community.** He performs this function to which the wife contributes morally and materially in the interests of the household and children. A wife undertakes this function when the husband is absent or prohibited from doing so.

### Take Action – Burundi

President Pierre Nkurunziza

Présidence de la République du Burundi  
Boulevard de l'Indépendance

B.P.: 1870 Bujumbura

BURUNDI

Email: [pierre.nkurunziza@burundi.gov.bi](mailto:pierre.nkurunziza@burundi.gov.bi)

Twitter: [@pnkurunziza](https://twitter.com/pnkurunziza)

## BURUNDI (CONTINUED)

**Note:** Article 13 of the Constitution of Burundi: **All Burundians are equal** in worth and dignity. All citizens have equal rights and are entitled to an equal protection under the law. No Burundian will be excluded from the social, economic or political life of the nation because of race, language, religion, **sex** or ethnicity.



## DEMOCRATIC REPUBLIC OF CONGO

### Law 87-010 on the Family Code:

Article 444. **The husband is the head of the household...**

**Note:** Article 12 of the Constitution of the Democratic Republic of Congo: **All Congolese are equal before the law** and entitled to equal protection under it.

### Take Action – Democratic Republic of Congo

President Félix Tshisekedi

Palais de la Nation

Kinshasa

DEMOCRATIC REPUBLIC OF CONGO

Email: [cabinet@presidentrdc.cd](mailto:cabinet@presidentrdc.cd)

[missionrdc@bluewin.ch](mailto:missionrdc@bluewin.ch) (Mission to the UN in Geneva)

Twitter: [@FelixUdps](https://twitter.com/FelixUdps)

Facebook: [facebook.com/Fatshi-President-2219983504918031/](https://facebook.com/Fatshi-President-2219983504918031/)



## INDIA

### The Hindu Minority and Guardianship Act, 1956

Section 6. Natural Guardian: **The natural guardians of a Hindu, minor, in respect of the minor's person as well as in respect of the minor's property (excluding his or her undivided interest in joint family property), are – (a) in the case of a boy or an unmarried girl—the father, and after him, the mother: provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother; (b) in the case of an illegitimate boy or an illegitimate unmarried girl—the mother, and after her, the father; (c) in the case of a married girl—the husband.**

**Note:** Article 14 of the Constitution of India: *The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.*

Article 15(1): *The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.*

### Take Action – India

Prime Minister Narendra Modi

South Block, Raisina Hill,

New Delhi-110011

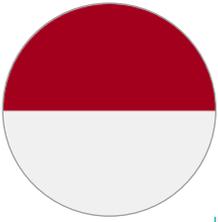
INDIA

Email Portal: <https://www.pmindia.gov.in/en/interact-with-honble-pm/>

Email: [india@un.int](mailto:india@un.int); [indiaun@prodigy.net](mailto:indiaun@prodigy.net) (Mission to the UN in New York)

Twitter: [@narendramodi](https://twitter.com/narendramodi)

Facebook: [facebook.com/narendramodi](https://facebook.com/narendramodi)



## INDONESIA

### Law No. 1 of 1974 on Marriage:

Article 3 (1): *The court may **permit a husband to have more than one wife**. A wife may only have one husband.*

(2): *The court can give permission to a husband to marry more than one person if desired by related parties.*

**Note:** Article 27(1) of the Constitution of Indonesia: **All citizens shall be equal before the law and the government and shall be required to respect the law and the government, with no exceptions.**

### Take Action – Indonesia

President Joko Widodo  
 J.I. Alternatif Cibubur Puri Cikeas Indah  
 No. 2  
 Desa Nagrag Kec. Gunung Putri  
 Bogor 16967  
 INDONESIA  
 Email: [ppid@setkab.go.id](mailto:ppid@setkab.go.id)  
[ptri@indonesiamission-ny.org](mailto:ptri@indonesiamission-ny.org) (Mission to the UN in New York)  
 Twitter: [@jokowi](https://twitter.com/jokowi)



## ISRAEL

### Rabbinical Courts Jurisdiction (Marriage and Divorce) Law (5713-1953):

1. Matters of marriage and divorce of Jews in Israel, being nationals or residents of the State, shall be under the exclusive jurisdiction of rabbinical courts.

2. **Marriages and divorces** of Jews shall be performed in Israel in accordance with **Jewish religious law**.

### “Plonit v. Ploni”, The High Rabbinic Court, 1995:

“... even if it is true that she despises him there is **no basis** on which to **force him to divorce her** as it is written in the *Shulchran Aruch* [Medieval Compilation of Jewish law] section 37 page 2 ‘if the husband wants to divorce her,’ but there is not anything to obligate him and the authorities specified and it appears in the decrees of the rabbis that even **to obligate him to divorce**, without force, it is **not allowed** and this is from the language of the *Shulchran Aruch* which says ‘if he wants,’ that **the matter depends only on what he wants**, and we should therefore grant his appeal.”

### “Plonit v. Ploni”, The Supreme Court of Israel, 1997:

“... there is no basis for us to intervene, within the confines of this court’s supervisory role, into the decisions of the religious courts. That is to say, we do not sit as a level of appeal for those courts... One must add that, according to Section 2 of the *Rabbinical Courts Jurisdiction (Marriage and Divorce) Law 5713-1953*, the law that the rabbinical courts should apply with regard to matters of marriage and divorce is the law of the *torah* [religious law]. The petitioner’s lawyer does not dispute that the rabbinical court did so [applied the religious law], and because the court did so, even if petitioner’s lawyer believes this law is not appropriate, there is no basis for us to intervene.”

**Note:** The Declaration of the Establishment of the State of Israel (May 14, 1948):  
*The State of Israel... will ensure complete **equality** of social and political rights to all its inhabitants irrespective of religion, race, or sex...*

### Take Action – Israel

President Reuven Rivlin  
 Office of the President  
 3 Hanassi St., 92188 Jerusalem  
 ISRAEL  
 Email: [public@president.gov.il](mailto:public@president.gov.il)  
 Twitter: [@PresidentRuvi](https://twitter.com/PresidentRuvi)



## JAPAN

### The Civil Code of Japan:

Article 733. (1) A **woman may not remarry** unless 100 days have passed since the day of dissolution or rescission of her previous marriage.

(2) In the case where a woman had conceived a child before the cancellation or dissolution of her previous marriage, the provision of the preceding paragraph shall not apply.

Article 772. (1) A child conceived by a wife during marriage shall be presumed to be a child of her husband.

(2) A child born after 200 days from the formation of marriage or within 300 days of the day of the dissolution or rescission of marriage **shall be presumed to have been conceived during marriage**.

Article 774. Under the circumstances described in Article 772, **a husband may rebut the presumption** of the child in wedlock.

**Note:** Article 14(1) of the Constitution of Japan: **All of the people are equal under the law** and there shall be **no discrimination** in political, economic or social relations because of race, creed, **sex**, social status, or family origin.

### Take Action – Japan

Prime Minister Shinzō Abe

Prime Minister's Office

1-6-1 Nagata-cho, Chiyoda-ku

Tokyo, 100-8968

JAPAN

Email Portal: [www.kantei.go.jp/foreign/forms/comment\\_ssl.html](http://www.kantei.go.jp/foreign/forms/comment_ssl.html)

Email: [p-m-j@dn.mofa.go.jp](mailto:p-m-j@dn.mofa.go.jp) (Mission to the UN in New York)

Twitter: [@AbeShinzo](https://twitter.com/AbeShinzo)



## JORDAN

### Personal Status Law No. 36 of 2010:

Article 61. (A) A wife, who works outside the home is entitled to Alimony (Nafaqa) under two conditions:

1. The work must be legitimate
2. **The husband gives explicit or manifested consent to the work.**

(B) A husband may not revoke his consent to his wife's work except for a legitimate reason and without causing harm to her.

**Note:** Article 6 of the Constitution of the Hashemite Kingdom of Jordan: Jordanians shall be **equal before the law**. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion.

### Take Action – Jordan

Prime Minister Omar Razzaz

Fourth Circle, Fas Street, Building No. 1

Amman,

JORDAN

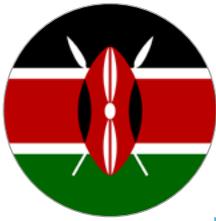
Email: [info@pm.gov.jo](mailto:info@pm.gov.jo)

Twitter: [@OmarRazzaz](https://twitter.com/OmarRazzaz)

Facebook: [facebook.com/Omar-Raz-](https://facebook.com/Omar-Razzaz-123814794918902/)

[zaz-123814794918902/](https://facebook.com/Omar-Razzaz-123814794918902/)

[facebook.com/PMOJO/](https://facebook.com/PMOJO/)



## KENYA

### The Marriage Act No. 4 of 2014:

Section 2. *In this Act, unless the context otherwise requires—*  
**“polygamy” means the state or practice of a man having more than one wife simultaneously.**

Section 3. (1) *Marriage is the voluntary union of a man and a woman whether in a monogamous or polygamous union and registered in accordance with this Act . . . (3) All marriages registered under this Act have the same legal status.*

Section 6. (1) *A marriage may be registered under this Act if it is celebrated . . . (c) in accordance with the customary rites relating to any of the communities in Kenya . . . (3) **A marriage celebrated under customary law or Islamic law is presumed to be polygamous or potentially polygamous.***

**Note:** Article 27 of the Constitution of Kenya: (1) **Every person is equal before the law and has the right to equal protection and equal benefit of the law...** (3) **Women and men have the right to equal treatment**, including the right to equal opportunities in political, economic, cultural and social spheres.

However, this right is limited by Article 24(3) of the Constitution of Kenya: *The provisions of this Chapter on equality shall be qualified to the extent strictly necessary for the application of Muslim law before the Kadhis' courts, to persons who profess the Muslim religion, in matters relating to personal status, marriage, divorce and inheritance.*

### Take Action – Kenya

President Uhuru Kenyatta  
 Office of the President  
 State House  
 Statehouse Road, P.O. Box 40530 00100  
 Nairobi  
 KENYA  
 Email: [ads@mygov.go.ke](mailto:ads@mygov.go.ke)  
[info@kenyaun.org](mailto:info@kenyaun.org) (Mission to the UN in  
 New York)  
 Email Portal: [www.president.go.ke/pages/contact/](http://www.president.go.ke/pages/contact/)  
 Twitter: [@UKenyatta](https://twitter.com/UKenyatta)  
 Facebook: [facebook.com/StateHouseKenya](https://facebook.com/StateHouseKenya)



## LEBANON

### Personal Status Law of the Catholic Sects, 1949:

Article 123: **Breastfeeding concerns the mother. The other rights and duties of the parental authority are, in principle, confined to the father.** *These rights and duties are passed to the mother if the father is deprived of these responsibilities provided that the mother is proved to be eligible by the court and the court provides the mother a notice about the transfer of these responsibilities to her.*

Article 124: **The duration of breastfeeding is two years.**

Article 125: **A mother loses custody of her child for the following:**

- A: if she is recalcitrant, or behaving badly
- B: if she is not capable of raising and rearing her child
- C: if she caused the lack of joint marital life
- D: if she changes her religion, or changes her Catholic sect
- E: if **she remarries** after the dissolution of the marriage, or the death of her husband.

### Take Action – Lebanon

President Michael Aoun  
 Beirut  
 LEBANON  
 Email: [president\\_office@presidency.gov.lb](mailto:president_office@presidency.gov.lb)  
 Twitter: [@General\\_Aoun](https://twitter.com/General_Aoun)  
 Facebook: [facebook.com/LBpresidency/](https://facebook.com/LBpresidency/)

## LEBANON (CONTINUED)

**Note:** Article 7 of the Constitution of the Republic of Lebanon: **All Lebanese are equal before the law.** They equally enjoy civil and political rights and equally are bound by public obligations and duties without any distinction.



## MALAYSIA

### Islamic Family Law (Federal Territories) Act 1984:

14. (1) **No woman shall, during the subsistence of her marriage to a man, be married to any other man.**

23. (1) **No man, during the subsistence of a marriage, shall, except with the prior permission in writing of the Court, contract another marriage with another woman** nor shall such marriage contracted without such permission be registered under this Act: Provided that the Court may if it is shown that such marriage is valid according to Hukum Syarak order it to be registered subject to section 123.

**Note:** Article 8 of the Federal Constitution of Malaysia: (1) **All persons are equal before the law and entitled to the equal protection of the law.** (5) **This Article does not invalidate or prohibit— (a) any provision regulating personal law; (b) any provision or practice restricting office or employment connected with the affairs of any religion, or of an institution managed by a group professing any religion, to persons professing that religion.**

### Take Action – Malaysia

Prime Minister Mahathir Mohamad  
Main Block, Perdana Putra Building,  
Federal Government Administrative  
Centre  
62502 Putrajaya  
MALAYSIA  
Email: [mygovernment@malaysia.gov.my](mailto:mygovernment@malaysia.gov.my)  
Twitter: [@chedetofficial](https://twitter.com/chedetofficial)  
Facebook: [facebook.com/  
TunDrMahathir/](https://facebook.com/TunDrMahathir/)



## MALI

### Law No. 2011 – 087 of December 30, 2011 Relating to the Code of Persons and Family:

Article 307. **Marriage may be contracted:**

- Either under monogamy, in which case a husband cannot contract a second marriage before the dissolution of the first. However, **a man who has opted for a monogamous marriage shall have the right to revise his option with the express consent of his wife.**
- Or under polygamy, in which case it is necessary that the wife consents and **a man shall not be married simultaneously to more than four wives.**

Article 316. Within the respective rights and duties of spouses as enshrined in the Code, **the wife must obey her husband**, and the husband must protect his wife.

Article 319. The **husband is the head of the household . . . The choice of the family residence belongs to the husband.** The wife is obliged to live with him and he shall accommodate her .

..

### Take Action – Mali

President Ibrahim Boubacar Keita  
Présidence  
BP 1463, Koulouba  
Bamako  
MALI  
Email: [presidence@koulouba.ml](mailto:presidence@koulouba.ml); [infomali@agetic.gouv.ml](mailto:infomali@agetic.gouv.ml)  
[malionu@aol.com](mailto:malionu@aol.com) (Mission to the UN in  
New York)  
Twitter: [@IBK\\_PRMALI](https://twitter.com/IBK_PRMALI);  
[@PresidenceMali](https://twitter.com/PresidenceMali)  
Facebook: [facebook.com/Presidence.Mali/](https://facebook.com/Presidence.Mali/)

## MALI (CONTINUED)

Article 366. **A divorced woman shall not remarry before** a period of three months after the divorce.

Article 373. **A widow shall not remarry before** a period of four months and ten days after the death of her husband. **A pregnant widow can only remarry after** childbirth.

If the birth occurs during this time, it is no longer required to complete the period prescribed in the previous paragraph.

**Note:** Article 2 of the Constitution of Mali: **All Malians are** born and live free and equal in their rights and duties. **Any discrimination** based on social origin, color, language, race, **sex**, religion, or political opinion **is prohibited**.



## SUDAN

### The Muslim Personal Law Act of Sudan, 1991:

Section 25(c). *The validity of a marriage contract is conditioned on the existence of a **guardian** who **would conclude the contract [for the woman]**.*

Section 33. *A **guardian of a Muslim woman shall be male, sane, mature and Muslim.***

Section 34. (1) *The **marriage of a pubescent woman shall be concluded by her guardian** with her permission and consent to the husband and the dowry. Her word regarding her attainment of pubescence shall be conclusive unless it contradicts the obvious.*

(2) *A virgin pubescent woman's express or implied affirmation is necessary **if her guardian concluded her marriage contract and informed her later.***

Section 40(3). *The **guardian of a minor girl cannot conclude her marriage contract** unless there is permission from the judge. The guardian has to prove that the marriage will benefit the minor girl, that the husband is suitable and the husband pays the dowry usually paid to women of her status.*

Section 51. *The **wife's rights in relation to the husband** shall be:*

- (a) *to be provided with living expenses;*
- (b) ***to be allowed to visit her parents** and those relatives whom she is prohibited by Shari'a law from marrying and to receive the aforesaid in her home;*
- (c) *the husband must not (i) interfere with her private property, and (ii) harm her financially or emotionally; and*
- (d) *to be treated equally and justly with **her co-wife or co-wives.***

Section 52. *The **husband's rights** in relation to his wife shall be:*

- (a) ***to be taken care of and amicably obeyed;** and*
- (b) *to have the wife **preserve herself** and his property.*

### Take Action – Sudan

Prime Minister Abdalla Hamdok  
Khartoum  
SUDAN

Email: [shakawa@sudan.gov.sd](mailto:shakawa@sudan.gov.sd); [info@sudan.gov.sd](mailto:info@sudan.gov.sd); [sudan@sudanmission.org](mailto:sudan@sudanmission.org)  
(Mission to the UN in New York)

Twitter: [@SudanPMHamdok](https://twitter.com/SudanPMHamdok)

## SUDAN (CONTINUED)

Section 91. *Except in situations involving a violation of Shari'a law, a wife shall always obey her husband if he:*

- (a) has paid her dowry in full,
- (b) could be entrusted with her, and
- (c) provides her with a home that complies with the Shari'a requirement among good neighbors.

Section 92. *If the wife refuses to obey her husband, her right to be provided with a living ceases to be valid during such refusal.*

**Note:** Article 31 of the Constitution of Sudan: **All persons are equal before the law and are entitled without discrimination, as to race, colour, sex, language, religious creed, political opinion, or ethnic origin, to the equal protection of the law.**



## YEMEN

### The Personal Status Act No. 20 of 1992:

Article 23. *The consent of the woman to marriage is required, **silence is the indication of consent of a virgin to marriage.** The consent of a previously married woman should be expressed [at the time of re-marriage].*

Article 40. *A **husband has the right to be obeyed by his wife** in the interest of the family, especially in regard to the following:*

1. ***She must move with him to the conjugal home**, unless she has stipulated in the marriage contract that she must remain in her own home or her family's home, in which case she must permit him to live with her and have access to her;*
2. ***She must permit him to have legitimate intercourse** with her when she is fit to do so;*
3. ***She must obey him** and refrain from disobedience, and perform her work around the conjugal home, as other women do;*
4. ***She must not leave the conjugal home without his permission**, unless for a legitimate excuse or one commonly regarded as not prejudicial to honor or to her duties towards him. She may especially go out to attend to her property interests or to perform a mutually agreed job that does not conflict with Islamic law. A legitimate excuse would be for the woman to take care of her frail parents if she is the only one available to care for either or both of them.*

**Note:** Article 41 of the Constitution of Yemen: **Citizens are all equal in rights and duties.**

### Take Action – Yemen

President Abd-Rabbu Mansour Hadi  
 Presidential Palace  
 Office of the President  
 60 Street  
 Sana'a  
 YEMEN  
 Email: [ymiss-newyork@mofa.gov.ye](mailto:ymiss-newyork@mofa.gov.ye)  
 (Mission to the UN in New York)

# PERSONAL STATUS

## WHAT'S THE ISSUE?

Sex discrimination in personal status laws negatively impacts the ability of women to conduct various aspects of their daily lives. For the purposes of this report, we are categorizing personal status laws to include, beyond family law and marital relations (see marital status section), particularly laws that govern rights to confer citizenship, as well as travel, participation in public life, etc.



The **sexism and stereotypes** inherent in many laws - laws permitting "marriage" of girls to adult men, the impunity for rapists who marry their victims, the requirement of "wife obedience" - are obvious. In other laws, the stereotypes upon which they are based may be less obvious but are nevertheless ingrained. For instance, in the very recent past in Europe and the U.S., the message around **nationality** law has been subtle. Married women and men can pass their nationality to their spouse or children equally, but there is inequality in the law if they are unmarried; then a father must actively claim paternity and alone guarantee financial support. This is sexist towards both women and men.

nationality or citizenship to their children and/or spouses on an equal basis, making them and their families insecure and limiting their participation in public life and the world outside the family unit. Also in public life, if a woman's testimony in court is worth only half that of a man's, then she herself is seen by the law as only worth half that of a man, limiting access to justice and legal remedies. Women cannot move freely if they need the permission of their guardian to travel themselves or for their child to travel with her, or express themselves if their dress is prescribed by law. Women alone may also be subjected to punishment if they are deemed to be a "prostitute".

## Beijing Platform for Action recommendations

Strategic Objective 1.2. Ensure equality and non-discrimination under the law and in practice

Actions to be taken **by Governments:**

- **232(d)** - Review national laws, including customary laws and legal practices in the areas of family, civil, penal, labour and commercial law in order to ensure the implementation of the principles and procedures of all relevant international human rights instruments by means of national legislation, **revoke any remaining laws that discriminate on the basis of sex and remove gender bias in the administration of justice;**
- **232(b)** - provide constitutional guarantees and/or enact appropriate legislation to prohibit discrimination on the basis of sex for all women and girls of all ages and assure women of all ages equal rights and their full enjoyment

## What's the impact?

Sex discriminatory personal status laws violate women's civil and political rights. In almost 25% of countries around the world, women, and some men, are excluded from giving their

## What needs to change

Equality Now continues to call for full equality in nationality rights globally building on progress since our advocacy reports, including *The State We're In - Ending Sexism in Nationality Laws*.<sup>29</sup> The Global Campaign for *Equal Nationality Rights*<sup>30</sup> is also building momentum amongst governments, UN agencies and civil society to end sex discrimination in nationality laws.

**To achieve legal equality, implement** paragraphs 232(b) and (d) of the BPfA by amending or repealing any sex discriminatory laws and providing constitutional guarantees of non-discrimination on the basis of sex above any other right, including to culture, tradition and religion.

**Below are examples of laws which must be amended or repealed.**

# CITIZENSHIP

Below are examples of laws which must be amended or repealed.



## BAHRAIN

### Decree Law No.12 Amending Bahraini Citizenship Act of 1963:

Article 4. A **person shall be deemed a Bahraini national** in the following cases:

A. If he/she was born in Bahrain or abroad and the **father**, at the time of the birth, was a **Bahraini national**.

B. If he/she was born in Bahrain or abroad and the **mother**, at the time of birth, was a **Bahraini national, providing that the father was either unknown or paternity was not legally proven**.

**Note:** Article 18 of the Constitution of Bahrain: *People are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the basis of sex, origin, language, religion or creed.*

### Take Action – Bahrain

King Hamad bin Isa Al Khalifa  
Riffa Palace  
Office of the King  
Manama  
BAHRAIN  
Email: [contactcenter@ega.gov.bh](mailto:contactcenter@ega.gov.bh)  
Twitter: [@eGovBahrain](https://twitter.com/eGovBahrain)  
Facebook: [facebook.com/pages/King-Hamad-Bin-Isa-Al-Khali-fa/201882409844087](https://facebook.com/pages/King-Hamad-Bin-Isa-Al-Khali-fa/201882409844087)



## BRUNEI

### Brunei Nationality Law No. 4 of 1961, as amended by S 43/00 and S 55/02:

Section 4. (1) On and after the appointed day the **following persons, and no others, shall be subjects of His Majesty the Sultan and Yang Di-Pertuan by operation of law**—

(a) any person born in Brunei Darussalam . . . and any person born outside Brunei Darussalam . . . **whose father was**, at the time of birth of such person, a subject of His Majesty the Sultan...

Section 5. (6) . . . **a woman who — (a) is not a subject of His Majesty the Sultan . . . ; and (b) is or has been married to a subject of His Majesty the Sultan . . . , shall . . . be eligible to be registered as a subject of His Majesty the Sultan . . .**

Section 9. (5) A person who has the status of a subject of His Majesty the Sultan . . . **shall cease to have such status** if—(b) **being a woman** who has acquired such status by registration [through marriage to a subject of His Majesty the Sultan and thereafter] she acquires by reason of her subsequent marriage the nationality or citizenship of her husband being the nationality or citizenship of any State or country outside Brunei Darussalam.

### Take Action – Brunei

His Majesty Sultan Haji Hassanal Bolkiah  
Mu'izzaddin Waddaulah ibni Al-Marhum  
Sultan Omar Ali Saifuddien Sa'adul  
Khairi Waddien  
Prime Minister's Office  
Jalan Perdana Menteri  
Bandar Seri Begawan BB3913  
Negara  
BRUNEI Darussalam  
Email: [info@jpm.gov.bn](mailto:info@jpm.gov.bn)  
Facebook: [facebook.com/egnc.gov.bn](https://facebook.com/egnc.gov.bn)



## ESWATINI

### Constitution of the Kingdom of Swaziland Act 2005:

Article 43. (1) A **person born in Swaziland** after the commencement of this Constitution is a **citizen** of Swaziland **by birth** if at the time of birth **the father of that person** was a citizen of Swaziland in terms of this Constitution.

(2) A **person born outside Swaziland** after the commencement of this Constitution is a **citizen** of Swaziland if at the time of birth **the father of that person** was a citizen of Swaziland in terms of this Constitution . . .

(4) Where a child born outside of marriage is **not adopted by its father or claimed by that father** in accordance with Swazi law and custom and the mother of that child is a citizen of Swaziland, the child shall be a citizen of Swaziland by birth . . .

Article 44. (1) A **woman** who is not a citizen of Swaziland at the date of her marriage to a person who is a citizen (otherwise than by registration) shall become a citizen by lodging a declaration in the prescribed manner with the Minister responsible for citizenship or with any Diplomatic Mission or Consular Office of Swaziland or at any other prescribed office, either before or at any time during the marriage, accepting Swaziland citizenship.

(2) A **woman** who lodges a declaration in terms of subsection (1) shall be a citizen from the date of her marriage, where the declaration is lodged before the marriage, or where the declaration is lodged after marriage, from date of lodgement . . .

**Note:** Article 20(1) of the Constitution of the Kingdom of Swaziland Act 2005: **All persons are equal before and under the law** in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.

### Take Action – Kingdom of eSwatini

Prime Minister Ambrose Mandvulo  
Dlamini  
PO. Box 395  
Mbabane  
SWAZILAND  
Email: [simelanep@gov.sz](mailto:simelanep@gov.sz)  
[swaziland@un.int](mailto:swaziland@un.int); [swazinymission@yahoo.com](mailto:swazinymission@yahoo.com) (Mission to the UN in New York)  
Twitter: [@AmbroseDumile](https://twitter.com/AmbroseDumile)



## MONACO

### Law No. 1155 on Nationality (December 18, 1992) as amended by Law No. 1276 (December 22, 2003), Law No. 1387 (December 19, 2011) and Law No. 1470 (June 17, 2019):

Article 1. A Monegasque is:

1. Every person **born of a Monegasque father** unless he acquired his nationality by declaration under the provisions of Article 3.
2. Every person born of a **mother who was born Monegasque and who still has Monegasque nationality** on the date of that person's birth.
3. Every person born of a **Monegasque mother and who has a Monegasque-born ancestor** on the mother's side of the family.

### Take Action – Monaco

Prince Albert II  
Palais de Monaco  
Boit Postal 518  
98015 Monte Carlo  
MONACO  
Email Format: <https://en.gouv.mc/Contact-us>  
Email: [centre-info@gouv.mc](mailto:centre-info@gouv.mc)  
Twitter: [@GvtMonaco](https://twitter.com/GvtMonaco)

## MONACO (CONTINUED)

4. Every person born of a **Monegasque mother** who acquired Monegasque nationality **by naturalization, by reestablishment of nationality, or by application** of the provisions of the second paragraph of article 6 or the fourth paragraph of article 7 of this law.

5. Every person born of a **mother who acquired Monegasque nationality by declaration** following a simple adoption.

6. Every person born in Monaco from unknown parents.

**Note:** While Article 1 of Law No. 1155 was amended in 2003 to expand the categories by which a child can obtain citizenship through his/her mother, and again in 2019 to grant citizenship to children born in Monaco from unknown parents, Article 1 is still **discriminatory in that fathers, unlike mothers, have unconditional rights in passing nationality to their children.**

Article 17 of the Constitution of Monaco: *The **citizens of Monaco** enjoy **equality before the law.** No preferential status or treatment is accorded to any of them.*



## TOGO

### Ordinance No. 78-34 of 7 September 1978 establishing the Code of Togolese Nationality:

Article 5. ... **a foreign woman who marries a Togolese man acquires the Togolese nationality at the time of the marriage.**

Article 12. ... **a foreigner ... married to a Togolese woman** [can be naturalized under Article 10 **by decree following an investigation**].

Article 23. **Loses Togolese nationality:** ... (3) **a foreign woman divorced from her Togolese husband.**

**Note:** Article 2 of the Constitution of 1992 of Togo: *The Togolese Republic guarantees **equality before the law for all citizens** without distinction of origin, race, **sex**, social status or religion.*

### Take Action – Togo

Prime Minister Komi Sélom Klassou

Lomé

TOGO

Email Portal: [www.republicoftogo.com/Liens-premier-niveau/Contactez-nous](http://www.republicoftogo.com/Liens-premier-niveau/Contactez-nous)

Email: [togo@un.int](mailto:togo@un.int) (Mission to the UN in New York)

Twitter: [@republicoftogo](https://twitter.com/republicoftogo)

Facebook: [facebook.com/pages/REPUBLIC-OF-TOGO/6683533941](https://facebook.com/pages/REPUBLIC-OF-TOGO/6683533941)



## UNITED STATES OF AMERICA

### The Immigration and Nationality Act (codified at 8 U.S.C. 1401):

Section 309. Children born out of wedlock.

(a) *The provisions of paragraphs (c), (d), (e), and (g) of section 301 [granting United States citizenship to persons born outside the United States] shall apply as of the date of birth to a person born out of wedlock if-*

(1) *a **blood relationship** between the person and the **father** is **established** by clear and convincing evidence,*

(2) *the **father had the nationality of the United States** at the time of the person's birth,*

(3) *the **father** (unless deceased) has **agreed** in writing **to provide** financial **support** for the person until the person reaches the age of 18 years, and*

(4) *while the person is under the age of 18 years -*

(A) *the person is legitimated under the law of the person's residence or domicile,*

(B) *the father acknowledges paternity of the person in writing under oath, or*

(C) *the paternity of the person is established by adjudication of a competent court.*

....

(c) *Notwithstanding the provision of subsection (a) of this section, a person born, after December 23, 1952, outside the United States and out of wedlock shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth . . . .*

**Note:** In *Sessions v. Morales-Santana* 137 S. Ct.1678 (2017), the U.S. Supreme Court held that going forward, unmarried American fathers and mothers will have the same residency requirements in order to pass on citizenship to their children born abroad, although the new length of the residency is still to be determined by Congress.

**Previously, fathers had to satisfy a longer residency time period than mothers, which the court found unconstitutional.** The Court's opinion written by Ruth Bader Ginsburg states:

*"At the time §1409 was enacted as part of the Nationality Act of 1940 (1940 Act), two once habitual, but now untenable, assumptions pervaded the Nation's citizenship laws and underpinned judicial and administrative rulings: In marriage, husband is dominant, wife subordinate; unwed mother is the sole guardian of a nonmarital child."*

Unfortunately, parts of Section 309 remain discriminatory as it still confers citizenship on children of unmarried U.S. citizen fathers and noncitizen mothers born outside the U.S. only if they meet certain requirements, including their father's guarantee of financial support and longer residency requirements than for U.S. citizen mothers.

### Take Action – United States of America

President Donald Trump

Office of the President

The White House

1600 Pennsylvania Avenue NW

Washington, DC 20500

UNITED STATES OF AMERICA

Email Portal: <https://www.whitehouse.gov/contact/>

Email: [president@whitehouse.gov](mailto:president@whitehouse.gov)

Twitter: [@realDonaldTrump](https://twitter.com/realDonaldTrump)

## UNITED STATES OF AMERICA (CONTINUED)

Although Section 1 of the 14th Amendment to the United States Constitution theoretically provides every person “equal protection of the laws,” the U.S. Constitution **does not explicitly prohibit discrimination on the basis of sex**. The Equal Rights Amendment (ERA), which prohibits the denial of equality of rights under the law on account of sex was passed by the United States Congress in 1972 but needed 38 states to ratify it by 1982. As of January 2020, 38 states have now ratified the ERA, but the deadline still represents a hurdle to its inclusion in the Constitution.

Take action to help ratify the ERA [here](#)!<sup>31</sup>

## EVIDENCE

**Women’s testimony is worth half that of men in these discriminatory laws.**

Below are examples of laws which must be amended or repealed.



### IRAN

#### The Islamic Penal Code of 2013, Books I, II and V:

Article 199. *The **standard [of proof] for testimony** in all offenses shall be **two male witnesses**; unless in zina, livat, tafkhiz, and musaheqeh which shall be proved by **four male witnesses**. In order to prove a zina punishable by the hadd punishment of flogging, shaving [of head] and/or banishment, testimony of **two just men and four just women** shall be sufficient. If the punishment provided is other than the above, testimony of at least **three men and two women** shall be required. In such cases, if **two just men and four just women** testify for the offense, only the hadd punishment of flogging shall be given. Bodily offenses punishable by diya shall also be proved by **one male witness and two female witnesses**.*

Article 209. *Where, in financial claims such as diya for bodily offenses, and also in claims which are about claiming a sum of money such as a negligent or quasi-intentional bodily offense which must be compensated by a diya, the private claimant is unable to provide an admissible evidence which meets the requirements under Shari’a, s/he [still] can produce **one male witness or two female witnesses** together with an oath and prove the financial part of his/her claim.*

Article 638. **Women** who appear in public without **prescribed Islamic dress** (hejab-e-shar’i), shall be sentenced to either imprisonment of between 10 days and 2 months, or a fine of between 50,000 and 500,000 rials.

#### Take Action – Iran

President Hassan Rouhani  
 Presidency Office  
 Pasteur Avenue  
 Tehran 13168-43311  
 IRAN  
 Email: [rouhani@csr.ir](mailto:rouhani@csr.ir)  
[iran@un.int](mailto:iran@un.int) (Mission to the UN in New York)  
 Twitter: [@HassanRouhani](https://twitter.com/HassanRouhani)

## IRAN (CONTINUED)

**Note:** *Zina* is defined as illicit sex outside of marriage. *Livat*, *tafkhez* and *musaheqeh* are defined as various forms of homosexual sexual activity either between men or women. *Hadd* is a punishment for certain crimes as specified under Shari'a. *Diya* are fines imposed under Shari'a for certain crimes.

Article 20 of the Constitution of Iran: **All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria.**

However, all provisions of the Constitution can be superseded by Islamic principles as per Article 4 of the Constitution: *All civil, penal financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution as well as to all other laws and regulations, and the fuqaha' of the Guardian Council are judges in this matter.*



## PAKISTAN

### The Qanune Shahadat Order, 1984 (Law of Evidence):

Article 17. Competence and number of witnesses.

(1) *The competence of a person to testify, and the number of witnesses required in any case shall be determined in accordance with the injunctions of Islam as laid down in the Holy Quran and Sunnah.*

(2) *Unless otherwise provided in any law relating to the enforcement of Hudood or any other special law,*

*(a) in matters pertaining to financial or future obligations, if reduced to writing, the instrument shall be attested by two men, or one man and two women, so that one may remind the other, if necessary, and evidence shall be led accordingly; and*

*(b) in all other matters, the Court may accept, or act on, the testimony of one man or one woman or such other evidence as the circumstances of the case may warrant.*

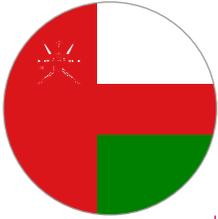
**Note:** Article 25 of the Constitution of Pakistan: (1) **All citizens are equal before law and are entitled to equal protection of law.** (2) *There shall be no discrimination on the basis of sex.*

### Take Action – Pakistan

President Arif Alvi  
President of the Islamic Republic of  
Pakistan  
President's Secretariat  
Aiwan-E-Sadr  
Islamabad  
PAKISTAN  
Email: [info@pmo.gov.pk](mailto:info@pmo.gov.pk)  
[pakistan@un.int](mailto:pakistan@un.int) (Mission to the UN in  
New York)  
Twitter: [@ArifAlvi](https://twitter.com/ArifAlvi)

## TRAVEL

Below is an example of a law which must be amended or repealed.



### OMAN

#### Personal Status Law, 1997:

Article 134. **The custodian of the child cannot travel abroad with the child without the approval of the guardian.** If the guardian refuses, the matter may be submitted to a judge for resolution.

Article 11. (B) **The guardian must be a male, wise, adult, not forbidden by Hajj or 'Umrah, Muslim if the child is a Muslim.**

**Note:** Article 17 of the Constitution of Oman: *All Citizens are equal before the Law and share the same public rights and duties. There shall be no discrimination amongst them on the ground of gender, origin, colour, language, religion, sect, domicile, or social status.*

#### Take Action – Oman

Sultan: Haitham bin Tariq  
 P.O. BOX - 1807 PC 130,  
 Al Athaiba Sultanate on Oman  
 Email: [inquiries@mofa.gov.om](mailto:inquiries@mofa.gov.om)  
[oman@un.int](mailto:oman@un.int) (Mission to UN in New York)  
 Email Portal: <https://omanportal.gov.om/wps/portal/index/contactus>  
 Twitter: [@HMHaithamTariq](https://twitter.com/HMHaithamTariq)

## SEXUAL EXPLOITATION

Below is an example of a law which must be amended or repealed.



### PHILIPPINES

#### The Revised Penal Code as amended by Act No. 10158 (March 27, 2012):

Article 202. Prostitutes; Penalty. –

*For the purposes of this article, women who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct, are deemed to be prostitutes. Any person found guilty of any of the offenses covered by this article shall be punished by arresto menor [minor arrest] or a fine not exceeding 200 pesos, and in case of recidivism, by arresto mayor [major arrest] in its medium period to prision correccional [correctional prison] in its minimum period or a fine ranging from 200 to 2,000 pesos, or both, in the discretion of the court.*

**Note:** No one should be criminalized for being sexually exploited or having to sell their body for sex.

Article II, Section 14 of the Constitution of the Philippines: *The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.*

#### Take Action – Philippines

President Rodrigo Duterte  
 Malacañang Palace  
 Jose P. Laurel Street, San Miguel  
 Manila, 1005  
 THE PHILIPPINES  
 Email: [info@pms.gov.ph](mailto:info@pms.gov.ph);  
[pco@pms.gov.ph](mailto:pco@pms.gov.ph)  
[newyorkpm@gmail.com](mailto:newyorkpm@gmail.com) (Mission to the UN in New York)  
 Twitter: [@pcoogov](https://twitter.com/pcoogov)

# ECONOMIC STATUS

## WHAT'S THE ISSUE?

Sex discrimination in economic status laws restricts women from being economically independent, limiting access to inheritance and property ownership as well as to employment opportunities, thereby reinforcing gender stereotypes and roles.



### Beijing Platform for Action recommendations

Strategic Objective 1.2. Ensure equality and non-discrimination under the law and in practice

Actions to be taken **by Governments:**

- **232(d)** - Review national laws, including customary laws and legal practices in the areas of family, civil, penal, **labour and commercial law** in order to ensure the implementation of the principles and procedures of all relevant international human rights instruments by means of national legislation, **revoke any remaining laws that discriminate on the basis of sex** and remove gender bias in the administration of justice;
- **232(b)** - provide constitutional guarantees and/or enact appropriate legislation to prohibit discrimination on the basis of sex for all women and girls of all ages and assure women of all ages equal rights and their full enjoyment;

Strategic objective F.1. Promote women's economic rights and independence, including access to employment, appropriate working conditions and control over economic resources

Actions to be taken **by Governments:**

- **165(b)** - **Adopt and implement laws against discrimination based on sex** in the labour market, especially considering older women workers, hiring and promotion, the extension of employment benefits and social security, and working conditions;

- **165(e)** - Undertake legislation and administrative reforms to **give women equal rights with men to economic resources**, including access to ownership and control over land and other forms of property, credit, inheritance, natural resources and appropriate new technology;

### What's the impact?

Sex discriminatory labor (e.g. types of jobs and hours), property, inheritance, retirement, and parental leave laws inhibit women's full social and economic participation and opportunities, hurting them - including by making them more vulnerable to exploitation, their families, communities, and society as a whole. Women are more likely to live on less than \$1.90 a day than men.<sup>32</sup>

### What needs to change

**Revoke any remaining laws that discriminate on the basis of sex** and remove gender bias in the administration of justice (para 232(d)); provide constitutional guarantees and/or enact appropriate legislation to prohibit discrimination on the basis of sex (para 232(b)).

**Below are examples of laws which must be amended or repealed.**

# INHERITANCE AND PROPERTY

Below are examples of laws which must be amended or repealed.



## CAMEROON

### The Civil Code of the Republic of Cameroon:

Article 1421. *The husband **alone administers the common property**. He can sell, dispose of and mortgage them without the cooperation of the wife.*

Article 1428. *The husband has the administration of all the personal property of the wife. He alone can exercise all the property and possessory actions belonging to the wife.*

**Note:** Preamble to the Constitution of Cameroon: **All persons shall have equal rights** and obligations. *The State shall provide all its citizens with the conditions necessary for their development... The State shall guarantee all citizens of either sex the rights and freedoms set forth in the Preamble of the Constitution.*

Article 1 of the Constitution of the Republic of Cameroon, 1972: (2) *The Republic of Cameroon shall be a decentralized unitary State.... It shall ensure the **equality of all citizens before the law**.*

### Take Action – Cameroon

President Paul Biya  
Office of the President  
Yaoundé  
CAMEROON  
Email: [cellcom@prc.cm](mailto:cellcom@prc.cm)  
[cameroon.mission@yahoo.com](mailto:cameroon.mission@yahoo.com) (Mission to the UN in New York)  
Twitter: [@PR\\_Paul\\_BIYA](https://twitter.com/PR_Paul_BIYA)



## CHILE

### The Civil Code:

Article 1749. *The **marital partnership** is to be **headed by the husband**, who shall **administer the spouses' joint property as well as the property owned by his wife**, subject to the obligations and limitations set forth in this Section and those agreed to at the time of marriage...*

**Note:** Article 19(2) of the Constitution of Chile: ... **Men and women are equal before the law**.

### Take Action – Chile

President Sebastian Pinera  
Palacio de la Moneda  
Oficina del Presidente  
Santiago  
CHILE  
Email Portal: <https://escribenos.presidencia.cl/Formulario?seleccion=Presidente>  
Email: [chile.un@minrel.gov.cl](mailto:chile.un@minrel.gov.cl) (Mission to the UN in New York)  
Twitter: [@sebastianpinera](https://twitter.com/sebastianpinera)



## SRI LANKA

### Matrimonial Rights and Inheritance Ordinance (Jaffna), Ordinance No. 1 of 1911:

Section 6. **All movable or immovable property to which any woman married after the commencement of this Ordinance may be entitled at the time of her marriage, or which she may during the subsistence of the marriage acquire or become entitled to by way of gift or inheritance or by conversion of any property to which she may have been so entitled or which she may so acquire or become entitled to, shall, subject and without prejudice to the trusts of any will or settlement affecting the same, belong to the woman for her separate estate** .....Such woman shall, subject and without prejudice to any such trusts as aforesaid, have as full power of disposing of and dealing with such property by any lawful act inter vivos without the consent of the husband in case of movables, or with **his written consent in the case of immovables, but not otherwise**, or by last will without consent, as if she were unmarried.

**Note:** The provisions of the Matrimonial Rights and Inheritance Ordinance (Jaffna), included the discriminatory section 6 highlighted above apply only to the Tamil community to whom the customary Tesawalamai law applies.

Article 12 of the Constitution of Sri Lanka: (1) All persons are **equal before the law** and are entitled to the **equal protection of the law**. (2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, **sex**, political opinion, place of birth or any one of such grounds.

However, the equality guarantee in Article 12 does not apply to the Matrimonial Rights and Inheritance Ordinance due to Article 16 of the Constitution: (1) **All existing written law and unwritten law shall be valid and operative notwithstanding any inconsistency with the preceding provisions of this Chapter** (which includes Article 12), as the Ordinance came into effect before the Constitution.

### Take Action – Sri Lanka

President Gotabaya Rajapaksa  
 Presidential Secretariat Galle Face,  
 Colombo 1  
 SRI LANKA  
 Email: [info@pmoffice.gov.lk](mailto:info@pmoffice.gov.lk)  
[prun.newyork@mfa.gov.lk](mailto:prun.newyork@mfa.gov.lk) (Mission to  
 the UN in New York)  
 Twitter: [@GotabayaR](https://twitter.com/GotabayaR)  
 Facebook: [facebook.com/ngotabayara-  
 japaksa](https://facebook.com/ngotabayarajapaksa)



## TUNISIA

### Personal Status Code of 1956:

Section 103. *There are three cases that apply to immediate daughters:*

1. A sole **daughter inherits half** of the estate;
2. Two or more **daughters collectively inherit two thirds** of the estate;
3. **Where there are any sons, the male inherits twice as much as the female.**

**Note:** Former President Bejj Caid Essensi and the Council of Ministers approved a bill on 23 November 2018 which would amend section 103 to provide equal inheritance rights to men and women. The bill is still pending in Parliament.

Article 21 of the Constitution of Tunisia: **Male and female citizens are equal in rights and duties. They are equal before the law without any discrimination.**

### Take Action – Tunisia

Prime Minister Youssef Chahed  
Place du Gouvernement - La Kasbah  
Tunis 1030  
TUNISIA  
Email: [boc@pm.gov.tn](mailto:boc@pm.gov.tn); [youssefchahed.official@gmail.com](mailto:youssefchahed.official@gmail.com)  
[tunisnyc@nyc.rr.com](mailto:tunisnyc@nyc.rr.com) (Mission to the UN in New York)

Speaker of the Assembly of Representatives  
Mr. Mohamed Ennaceur  
Bardo 2000  
Republic of TUNISIA  
Email: [arp@arp.tn](mailto:arp@arp.tn)  
Twitter: [@MohamedEnnaceur](https://twitter.com/MohamedEnnaceur)



## UNITED ARAB EMIRATES

### Federal Law No. 28 of 2005 of the UAE Personal Affairs Law:

Article 334. 1. *Where there is a combination of male and female heirs:*

- (a) *When the deceased has one or more daughters and one or more sons;*
- (b) *When the deceased has one or more granddaughters and one or more grandsons who are of the same degree of descent or lower, if needed to ward off her exclusion; a male of higher ascendancy, however, would exclude her;*
- (c) *When the deceased has one or more sibling sisters and one or more sibling brothers;*  
*and*
- (d) *When the deceased has one or more half sisters and one or more half brothers.*

2. *In such cases, the male inherits twice as much as the female.*

**Note:** Article 25 of the Constitution of the United Arab Emirates: **All persons are equal before the law.**

### Take Action – United Arab Emirates

President Khalifa bin Zayed Al Nahyan  
Abu Dhabi  
UNITED ARAB EMIRATES  
Email Portal: <https://government.ae/en/help/contact-us/this-portal>  
Email: [info@pmo.gov.ae](mailto:info@pmo.gov.ae)  
Twitter: [@HHShkMohd](https://twitter.com/HHShkMohd)

# EMPLOYMENT

Below are examples of laws which must be amended or repealed.



## BRAZIL

### Law No. 8213 of 24 July 1991 providing for the Social Security Benefit Plans and other measures:

Article 51. **Retirement by age may be required by the company**, provided that the insured employee has completed the grace period and **completed 70 (seventy) years of age if male, or 65 (sixty-five) years if female**, being compulsory, in which case the employee will be guaranteed the compensation provided for in the labor legislation, considered as the date of termination of the employment contract, immediately prior to the beginning of retirement.

**Note:** Article 5 of the Constitution of Brazil: Everyone is **equal before the law**, with no distinction whatsoever, guaranteeing to Brazilians and foreigners residing in the Country the inviolability of the rights to life, liberty, equality, security and property, on the following terms: I. **Men and women have equal rights** and duties under the terms of this Constitution...

### Take Action – Brazil

President Jair Bolsonaro

BRAZIL

Email: [presidencia@planalto.gov.br](mailto:presidencia@planalto.gov.br)

[gabinete@planalto.gov.br](mailto:gabinete@planalto.gov.br)

[distri.delbrasonu@itamaraty.gov.br](mailto:distri.delbrasonu@itamaraty.gov.br)

(Mission to the UN in New York)

Twitter: [@jairbolsonaro](https://twitter.com/jairbolsonaro)

Facebook: [facebook.com/jairmessias.bolsonaro/](https://facebook.com/jairmessias.bolsonaro/)



## CAMEROON

### The Civil Status Registration (Ordinance No. 81-02 of 29 June 1981):

Article 74. (1) A married woman may exercise a trade different from her husband.

(2) **The husband may object to the exercise of such a trade in the interest of the marriage or their children.**

(3) The President of the Court with jurisdiction shall decide by order on such an objection by the husband within ten days of being seized of the matter. His decision shall be rendered free of charge and shall be taken only after the parties have been heard.

**Note:** Preamble to the Constitution of Cameroon: **All persons shall have equal rights and obligations.** The State shall provide all its citizens with the conditions necessary for their development . . . The State shall guarantee all citizens of either **sex** the rights and freedoms set forth in the Preamble of the Constitution.

Article 1 of the Constitution of the Republic of Cameroon, 1972: (2) The Republic of Cameroon shall be a decentralized unitary State.... It shall ensure the **equality of all citizens before the law.**

### Take Action – Cameroon

President Paul Biya

Office of the President

Yaoundé

CAMEROON

Email: [cellcom@prc.cm](mailto:cellcom@prc.cm)

[cameroon.mission@yahoo.com](mailto:cameroon.mission@yahoo.com) (Mission to the UN in New York)

Twitter: [@PR\\_Paul\\_BIYA](https://twitter.com/PR_Paul_BIYA)



## CHINA

### The Labour Act (1994):

Chapter VII. Special Protection for Female and Juvenile Workers.

Section 59. *It is **prohibited to arrange female workers to engage in work down the pit of mines, or work with grade IV physical labour intensity as stipulated by the State, or other work that female workers should avoid.***

**Note:** Article 48 of the Constitution of China: ***Women in the People's Republic of China enjoy equal rights with men in each sphere of life, in political, economic, cultural, social and family life. The state protects the rights and interests of women, applies the principle of equal pay for equal work to men and women alike and trains and selects cadres from among women.***

### Take Action – China

President Xi Jinping  
Guojia Zhuxi  
Beijingshi 100017  
PEOPLE'S REPUBLIC OF CHINA  
Email: [english@mail.gov.cn](mailto:english@mail.gov.cn)  
[ChinaMissionUN@gmail.com](mailto:ChinaMissionUN@gmail.com) (Mission to the UN in New York)



## IRELAND

### Social Welfare Consolidation Act No. 26 of 2005, as amended by the Social Welfare and Pensions Act No. 8 of 2007:

Section 47. (5) *Subject to this Chapter, **maternity benefit** [government financial support] shall be **payable to***

- (a) a woman ...
- (c) **a man...**
  - (I) **[only] where the mother dies...**
  - (II) ... [within 40 weeks after giving birth] ...

### Paternity Leave and Benefit Act 2016:

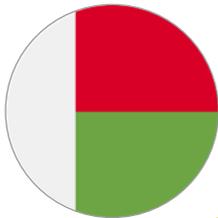
Section 6: (1) *Subject to this part, an employee who is a **relevant parent** in relation to a child shall be entitled to **2 weeks' leave** from his or her employment, to be known... as "**paternity leave**", to enable him or her to provide, or assist in the provision of, care to the child or to provide support to the relevant adopting parent or mother of the child, as the case may be, or both.*

**Note:** On 26 January 2016, the Irish government's Department of Justice and Equality announced that fathers will now be entitled to two weeks of paid paternity leave starting in September 2016. Previously fathers only received benefits if the mother died within a certain time period after giving birth. We welcomed the news and encourage the government to continue to review the issue and consider additional paid paternity leave so that parents are treated equally.

Article 40 of the Constitution of Ireland: (1) **All citizens shall, as human persons, be held equal before the law.**

### Take Action – Ireland

President Michael D. Higgins  
Áras an Uachtaráin  
Phoenix Park,  
Dublin 8  
IRELAND  
Email: [info@president.ie](mailto:info@president.ie)  
Twitter: [@MichaelDHiggins](https://twitter.com/MichaelDHiggins)



## MADAGASCAR

### The Labor Code (Law No. 2003-44 of 28 July 2004):

Article 85. ... **Women, regardless of age, shall not be employed at night** in any industrial establishment of any kind, public or private, secular or religious, nor in any annex of one of these establishments even if these establishments are of a professional or charitable character, except for establishments where the only ones employed therein are members of one same family.

**Note:** Article 6 of the Constitution of Madagascar: **All individuals are equal under the law**, and enjoy the same fundamental liberties protected by law without discrimination based on **sex**, education, wealth, origin, religious belief or opinion.

### Take Action – Madagascar

President Andry Rajoelina  
 Palais de Mahazoarivo  
 Antananarivo  
 MADAGASCAR  
 Email: [sg@senat.gov.mg](mailto:sg@senat.gov.mg)  
 Twitter: [@SE\\_Rajoelina](https://twitter.com/SE_Rajoelina)



## RUSSIAN FEDERATION

### Resolution No. 162 of 25 February 2000:

List of heavy work and work in harmful or dangerous conditions in which the **employment of women is prohibited**.

### Order No. 512H of the Ministry of Labor and Social Protection of the Russian Federation of July 18, 2019:

List of productions, works and positions with harmful and (or) dangerous working conditions, on which the **use of women's labor is limited**.

### Labor Code – Federal Law No. 197-FZ of 2001:

Article 253. **Labor of females on hard, dangerous and/or unhealthy trades as well as underground working excluding non-physical work or sanitary and domestic services is forbidden.** Labor of females on the work related to manual lifting of weights exceeding maximum permissible standards **[is forbidden]**. The lists of industries, professions, and jobs with unhealthy and/or dangerous work conditions with restricted female labor as well as maximum permissible weights for manual lifting and handling by females are approved in the procedure fixed by the Government of Russian Federation taking into account opinion of the Russian Trilateral Committee on Social and Labor Relations.

**Note:** Resolution No. 162 passed in 2000 lists **456 types of work women may not engage in**. In July 2019, the Ministry of Labour and Social Protection passed Order 512H referred to above, which has liberalized the list - **there will still be 100 types of works and positions which women may not engage in**, including in the production or use of yellow phosphorus, to drive self-propelled vehicles in open-cast mining, or to prepare brown mud manually. The list will enter into force on 1 **January 2021**.

Article 19 of the Constitution of the Russian Federation: (1) **All people shall be equal**

### Take Action – Russian Federation

President Vladimir Putin  
 President of Russia  
 23, Ilyinka Street  
 Moscow 10313  
 RUSSIAN FEDERATION  
 Email: [accredit@gov.ru](mailto:accredit@gov.ru)  
[press@russiaun.ru](mailto:press@russiaun.ru) (Mission to the UN in  
 New York)  
 Twitter: [@KremlinRussia\\_E](https://twitter.com/KremlinRussia_E)

## RUSSIAN FEDERATION (CONTINUED)

**before the law and court.** (2) *The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances . . .* (3) **Man and woman shall enjoy equal rights and freedoms and have equal possibilities to exercise them.**



## SWITZERLAND

### Federal Law supplementing the Swiss Civil Code of 30 March 1911:

Article 329 (f). *Obligations of the employer / VIII. Days off work, holidays, leave for youth work, maternity leave....* 4. **Maternity leave: After having given birth, a female employee is entitled to maternity leave of at least 14 weeks.**

**Note:** Article 329 of the Federal Law supplementing the Swiss Civil Code is discriminatory since it does not provide any paternity leave for fathers. On 27 September 2019, the Swiss Parliament passed an amendment to Art. 329(g) introducing **two weeks of paternity leave** for fathers, which will go into effect unless a referendum is asked for by 23 January 2020.

Article 8 of the Federal Constitution of the Swiss Confederation: (3) *Men and women have equal rights. The law shall ensure their equality, both in law and in practice, most particularly in the family, in education, and in the workplace. Men and women have the right to equal pay for work of equal value.*

### Take Action – Switzerland

President Ueli Maurer

Bern

SWITZERLAND

Email: [info@bk.admin.ch](mailto:info@bk.admin.ch)

[nyc.vertretung-un@eda.admin.ch](mailto:nyc.vertretung-un@eda.admin.ch)

(Mission to the UN in New York)

Twitter: [@BR\\_Sprecher](https://twitter.com/BR_Sprecher)



## UNITED STATES OF AMERICA

### Department of Defense Directive-type Memorandum (DTM)-19-004 - Military Service by Transgender Persons and Persons with Gender Dysphoria dated March 12, 2019:

Policy: ... **Service members who access in their preferred gender or received a diagnosis of gender dysphoria from, or had such diagnosis confirmed by, a military DTM-19-004, March 12, 2019 3 medical provider before the effective date of this DTM will be allowed to continue serving in the military pursuant to the policies and procedures in effect before the effective date of this DTM.**

Attachment 3 - Procedures: Section II: b. **Appointment, Enlistment, or Induction into the Military Services.** *Individuals who are not exempt will be accessed or commissioned based on the following medical standards, provided they are medically qualified in all other respects in accordance with DoDI 6130.03: (1) A history or diagnosis of gender dysphoria is disqualifying unless: (a) As certified by a licensed mental health provider, the applicant demonstrates 36 consecutive months of stability in the applicant's biological sex immediately preceding submission of the application without clinically significant distress or impairment*

### Take Action – United States of America

President Donald Trump

Office of the President

The White House

1600 Pennsylvania Avenue NW

Washington, DC 20500

UNITED STATES OF AMERICA

Email Portal: <https://www.whitehouse.gov/contact/>

Email: [president@whitehouse.gov](mailto:president@whitehouse.gov)

Twitter: [@realDonaldTrump](https://twitter.com/realDonaldTrump)

**UNITED STATES OF AMERICA (CONTINUED)**

*in social, occupational, or other important areas of functioning; and (b) The applicant demonstrates that the applicant has not transitioned to his or her preferred gender and a licensed medical provider has determined that gender transition is not medically necessary to protect the health of the individual; and (c) The applicant is willing and able to adhere to all applicable standards, including the standards associated with the applicant's biological sex.*

**(2) A history of cross-sex hormone therapy or a history of sex reassignment or genital reconstruction surgery is disqualifying.**

**Note:** Although Section 1 of the 14th Amendment to the United States Constitution theoretically provides every person “equal protection of the laws,” the U.S. Constitution **does not explicitly prohibit discrimination on the basis of sex**. The Equal Rights Amendment (ERA), which prohibits the denial of equality of rights under the law on account of sex was passed by the United States Congress in 1972 but needed 38 states to ratify it by 1982. As of January 2020, 38 states have now ratified the ERA, but the deadline still represents a hurdle to its inclusion in the Constitution.

Take action to help ratify the ERA [here](#)!<sup>33</sup>



# VIOLENCE

## WHAT'S THE ISSUE?

Sex discrimination in laws purporting to address violence, or silence on the issue within the law, can actually promote or perpetuate violence against women and girls because there is little to deter perpetrators from committing crimes or inadequate recourse for victims; intimate partner and sexual violence is disproportionately inflicted upon women and adolescent girls.



## Beijing Platform for Action recommendations

Beijing +5 Political Declaration  
Chapter IV Actions and initiatives

- **69(a)** - *As a matter of priority, review and revise legislation, where appropriate, with a view to introducing effective legislation, including on violence against women, and take other necessary measures to ensure that all women and girls are protected against all forms of physical, psychological and sexual violence, and are provided recourse to justice;*

## What's the impact?

Global estimates published by [WHO](#) indicate that about 1 in 3 (35%) of women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime.<sup>34</sup>

According to [UNICEF](#), around 120 million girls worldwide, just over 1 in 10, have experienced “forced intercourse or other forced sexual acts” at some point in their lives.<sup>35</sup> Of these, at least 15 million alone have been raped.<sup>36</sup>

*Sexual violence and sexually transmitted diseases, including HIV/AIDS, have a devastating effect on children's health, and girls are more vulnerable than boys to the consequences of unprotected and premature sexual relations. Girls often face pressures to engage in sexual activity. Due to such factors as their youth, social pressures, lack of protective laws, or failure to enforce laws, **girls are more vulnerable to all kinds of violence, particularly sexual violence**, including rape, sexual abuse, sexual exploitation.... (BPfA para 269)*

The staggering numbers of women and girls affected may in part be due to the inequality and discrimination and sanctioned violence in the law itself. This can be seen in “marry

your rapist” laws which allow a perpetrator to go unpunished if they marry their victim, as well as laws that are silent or make exception for rape within marriage, excusing a rapist simply because he is already married to his victim; laws that allow men to “punish” or “correct” their wives; and laws that punish murder of “adulterous” women less harshly.

Globally, many countries have spearheaded new laws and legal reforms on violence against women:<sup>37</sup>

- 144 States now have legislative provisions that specifically address domestic violence;
  - 77 States now explicitly criminalize marital rape;
  - 154 States now have some form of legislative provision against sexual harassment;
  - 168 States now have legislative provisions criminalizing trafficking in human beings;
  - 59 States around the world now have laws against FGM.
- However, implementation of these laws remains challenging at many levels.

## What needs to change

**To help achieve an end to sexual violence, implement Beijing+5 Political Declaration paragraph 69(a) by “review[ing] and revis[ing] legislation, where appropriate, with a view to introducing effective legislation, including on violence against women, and tak[ing] other necessary measures to ensure that all women and girls are protected against all forms of physical, psychological and sexual violence, and are provided recourse to justice”.**

Below are examples of laws which must be amended or repealed.

# RAPE

Below are examples of laws which must be amended or repealed.



## BAHAMAS

### The Sexual Offences and Domestic Violence Act, 1991:

Section 3. **Rape is the act of any person not under fourteen years of age having sexual intercourse with another person who is not his spouse**

- (a) without the consent of that other person;
- (b) with consent which has been extorted by threats or fear of bodily harm;
- (c) with consent obtained by personating the spouse of that other person; or
- (d) with consent obtained by false and fraudulent representations as to the nature and quality of the act.

**Note:** There are no criminal penalties for marital rape.

Article 15 of the Constitution of the Commonwealth of the Bahamas: *Whereas every person in the Bahamas is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following namely— (a) life, liberty, security of the person and the protection of the law . . .*

### Take Action – Bahamas

Prime Minister Hubert Minnis  
Office of the Prime Minister  
Sir Cecil Wallace Whitfield Centre  
P.O. Box CB 10980  
Nassau, N.P.  
BAHAMAS  
Email: [primeminister@bahamas.gov.bs](mailto:primeminister@bahamas.gov.bs)  
Twitter: [@minnis\\_dr](https://twitter.com/minnis_dr)



## INDIA

### Indian Penal Code 1860, as amended by the Criminal Law (Amendment) Act No. 13 of 2013:

Section 375. A man is said to commit “rape” if he (a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman . . . under the circumstances falling under any of the following seven descriptions . . . Sixthly. –With or without her consent, when she is under eighteen years of age.

Exception 2. **Sexual intercourse or sexual acts by a man with his own wife, [the wife not being under fifteen years of age,] is not rape.**

**Note:** In 2005, India passed The Protection of Women from Domestic Violence Act No. 43 which provides for women to access various civil remedies for domestic violence including sexual abuse. In *Independent Thought v. Union of India*, the Indian Supreme Court in 2017 held that the part of Exception 2 to section 375 which excused marital rape of minors between the ages of 15-18, was

### Take Action – India

Prime Minister Narendra Modi  
South Block, Raisina Hill,  
New Delhi-110011  
INDIA  
Email Portal: <https://www.pmindia.gov.in/en/interact-with-honble-pm/>  
Email: [india@un.int](mailto:india@un.int) (Mission to the UN in New York)  
Twitter: [@narendramodi](https://twitter.com/narendramodi)  
Facebook: [facebook.com/narendramodi](https://facebook.com/narendramodi)

## INDIA (CONTINUED)

*unconstitutional*. However, there are **no criminal penalties for marital rape when a wife is over 18 years old**.

The failure to criminalize marital rape is also compounded by section 9 of the Hindu Marriage Act, 1955, which allows for the court to grant the remedy of “restitution of conjugal rights” when either the “husband or the wife has, without reasonable excuse, withdrawn from the society of the other”. Allowing the court to enforce “conjugal rights” when the wife does not wish to live with her husband makes the wife vulnerable to sexual violence, particularly since marital rape is not considered a criminal offence under Indian law.

Article 14 of the Constitution of India: *The State shall not deny to any person **equality before the law** or the equal protection of the laws within the territory of India.*

Article 15(1): *The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them*



## KUWAIT

### Law no. 16 of 1960 promulgating the Penal Code:

Article 182: *If the abductor marries the one he abducted, in a legally-recognized marriage with the permission of her guardian, and the guardian agrees that the abductor not undergo punishment, **then he is not sentenced to punishment**.*

**Note:** Article 29 of the Constitution of Kuwait: *The people are peers in human dignity and **have, in the eyes of the Law, equal public rights and obligations**.*

### Take Action – Kuwait

Amir of Kuwait Sheik Sabah Al-Ahmad Al-Jaber  
Kuwait

Email: [amiroffice@da.gov.kw](mailto:amiroffice@da.gov.kw)  
[contact@kuwaitmission.org](mailto:contact@kuwaitmission.org) (Mission to the UN in New York)

Twitter: [@egovkw](https://twitter.com/egovkw)

Facebook: [facebook.com/egovkw/](https://facebook.com/egovkw/)



## LIBYA

### The Penal Code:

Article 424. *Extinction of Offences and Stay of Execution of Penalties: **If the offender marries the woman against whom the offense is committed, the offense and penalty shall be extinguished and the penal effects thereof shall cease. This shall apply both to the offender and to his accomplices, provided that the personal status law applicable to the offender does not authorise divorce or judicial divorce.***

*But if the personal status law applicable to the offender authorises divorce or judicial divorce, then the marriage of the offender shall only stay criminal proceedings or execution of the penalty for a period of three years. The stay shall cease before the passage of three years from the date of the offense if the woman against whom the offense was committed is judicially divorced for no reasonable reason or if a ruling of divorce is issued on her behalf.*

**Note:** Article 6 of the Constitutional Declaration 2011 of Libya: *Libyans shall be **equal before the law**. They shall enjoy equal civil and political rights with, have the same*

### Take Action – Libya

Prime Minister Fayez al-Sarraj  
Tripoli  
LIBYA

Email: [presidential.affairs@libyan-parliament.org](mailto:presidential.affairs@libyan-parliament.org)

[info@libyanmission-un.org](mailto:info@libyanmission-un.org) (Mission to the UN in New York)

LIBYA  
(CONTINUED)

opportunities in all areas and be subject to the same public duties and obligations, without distinction on the grounds of religion, belief, language, wealth, **gender**, kinship, political opinions, social status, or tribal, regional or familial loyalty.



## PARAGUAY

**Paraguay Penal Code:**

Article 137. (1) *The man who persuaded a **woman of fourteen to sixteen years of age to perform extramarital intercourse, will be punished with penalty of fine.***

**Note:** Article 137 of the Paraguay Penal Code is known as an 'estupro' provision which prescribes a lower penalty for sexual offences against adolescent girls between the ages of 14 - 16 than for rape of a child or a woman. Estupro provisions too often result in impunity for rapists when the victim is between 14 and 16 years old. Such estupro provisions are common across many Latin American countries, including Bolivia.

Chapter III of the Constitution of Paraguay: Article 47. *The State will guarantee to all inhabitants of the Republic: 1. Equality in access to justice, for which effect it will level the obstacles that would prevent it; 2. **Equality before the laws** ...* Article 48. **Men and women have equal civil, political, social, economic and cultural rights.**

**Take Action – Paraguay**

President: Mario Abdo Benítez  
Palacio de Gobierno,  
El Paraguayo Independiente entre O'leary  
y Ayolas  
PARAGUAY  
Email: [paraguay@un.int](mailto:paraguay@un.int) (Mission to the  
UN in New York)  
Twitter: [@MaritoAbdo](https://twitter.com/MaritoAbdo)  
Facebook: [facebook.com/MaritoAb-  
do2018/](https://facebook.com/MaritoAbdo2018/)



## SINGAPORE

**Penal Code:**

Chapter XVI. Offences Affecting the Human Body.

Article 375. Rape.

(1) *Any man who penetrates the vagina of a woman with his penis —*  
(a) *without her consent; or*  
(b) *with or without her consent, when she is under 14 years of age,*  
*shall be guilty of an offence...*

(1A) *Any man (A) who penetrates, with A's penis, the anus or mouth of another person (B) —*  
(a) *without B's consent; or*  
(b) *with or without B's consent, when B is below 14 years of age,*  
*shall be guilty of an offence."...*

(4) **No man shall be guilty of an offence under subsection (1)(b) or (1A)(b) for an act of penetration against his wife with her consent.**

Article 376A. Sexual Penetration of Minor Under 16.

(1) *Any person (A) who*  
(a) *penetrates, with A's penis, the vagina, anus or mouth, as the case may be, of a person under 16 years of age (B); ...*

**Take Action – Singapore**

President Halimah Yacob  
Orchard Road Istana 238823  
SINGAPORE  
Email: [halimah\\_yacob@istana.gov.sg](mailto:halimah_yacob@istana.gov.sg)  
[singapore@un.int](mailto:singapore@un.int) (Mission to the UN in  
New York)  
Twitter: [@govsingapore](https://twitter.com/govsingapore)

## SINGAPORE (CONTINUED)

(2) Whoever commits an offence under this section against a person (B) who is of or above 14 years of age but below 16 years of age—

(a) in a case where the offender is in a relationship that is exploitative of B, shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning; and

(b) in any other case, shall be punished with imprisonment for a term which may extend to 10 years, or with fine, or with both.

(3) Whoever commits an offence under this section against a person (B) who is under 14 years of age shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning.

(4) **No person shall be guilty of an offence under this section for an act of penetration against his or her spouse with the consent of that spouse.**

**Note:** The Criminal Law Reform Act, 2019 has removed the immunity for marital rape. Now, husbands who rape their wives can be found guilty of rape under Articles 375 and 376-A of The Penal Code. However, the amended law maintains marital immunity for sexual activity with minors under the age of 16 who are said to “consent”.<sup>38</sup> These provisions encourage “child marriage” and assume the children, mostly girls, are willingly consenting to sexual activity and not coerced merely because they are married to the offender.

Article 12(1) of the Singapore Constitution: **All persons are equal before the law and entitled to the equal protection of the law.**



## THAILAND

### Criminal Code, B.E 2499 (1956):

Section 277: *Whoever, has **sexual intercourse with a girl not yet over fifteen years of age and not being his own wife**, whether such girl shall consent or not, shall be punished with imprisonment of four to twenty years and fined of eight thousand to forty thousand Baht. If the commission of the offence according to the first paragraph is committed against a girl not yet over thirteen years of age, the offender shall be punished with imprisonment of seven to twenty years and fined of fourteen thousand to forty thousand Baht, or imprisonment for life....*

*The offence as provided in the first paragraph, if the offender being the man commits against the girl over thirteen years but not yet over fifteen years of age with her consent **and the Court grants such man and girl to marry together afterwards, the offender shall not be punished for such offence. If the Court grants them to marry together while the offender is imprisoned, the Court shall release such offender.***

**Note:** Section 27 of the Constitution of the Kingdom of Thailand: *All persons are equal before the law, and shall have rights and liberties and be protected equally under the law. **Men and women shall enjoy equal rights.***

### Take Action – Thailand

Prime Minister Prayut Chan-o-cha  
No. 1, Nakhon Pathom Road, Dusit  
District,  
Bangkok 10300  
THAILAND  
Email: [soc@soc.go.th](mailto:soc@soc.go.th);  
[prforeign@prd.go.th](mailto:prforeign@prd.go.th)  
[thailand@un.int](mailto:thailand@un.int) (Mission to the UN in  
New York)  
Twitter: [@prayutofficial](https://twitter.com/prayutofficial)

# DOMESTIC VIOLENCE

Below are examples of laws which must be amended or repealed.



## IRAQ

### Iraqi Penal Code No. 111 of 1969:

**Article 41.** *There is no crime if the act is committed while exercising a legal right. The following are considered to be in exercise of a legal right: (1) **The punishment of a wife by her husband**, the disciplining by parents and teachers of children under their authority within certain limits prescribed by law or by custom.*

**Note:** Article 14 of the Constitution of Iraq: *Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.*

### Take Action – Iraq

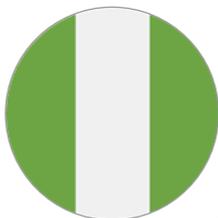
Prime Minister Adil Abdul-Mahdi  
Baghdad

IRAQ

Email: [iraq.mission@un.int](mailto:iraq.mission@un.int) (Mission to the UN in New York)

Twitter: [@IraqiPMO](https://twitter.com/IraqiPMO)

Facebook: [facebook.com/Adil.Abd.Al.Mahdi/](https://facebook.com/Adil.Abd.Al.Mahdi/)



## NIGERIA

### The Penal Code of Northern Nigeria:

Section 55. Correction of Child, Pupil, Servant or Wife.

(1) **Nothing is an offence** which does **not** amount to the **infliction of grievous hurt** upon any persons which is **done**:

(a) **by a parent** or guardian for the purpose of **correcting his child** or ward ...

(b) **by a schoolmaster** for the purpose of **correcting a child** ...

(c) **by a master** for the purpose of **correcting his servant** or apprentice ...

(d) **by a husband** for the purpose of **correcting his wife**, such husband and wife being subject to any native law or custom in which such correction is recognized as lawful.

**Note:** Article 42(1) of the Constitution of Nigeria: **A citizen of Nigeria** of a particular community, ethnic group, place of origin, sex, religion or political opinion **shall not**, by reason only that he is such a person: -(a) **be subjected** either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, **to disabilities or restrictions** to which citizens of Nigeria of other communities, ethnic groups, places of origin, **sex**, religions or political opinions are not made subject ...

### Take Action – Nigeria

President Muhammadu Buhari  
Presidential Villa

State House, Aso Rock  
Abuja

NIGERIA

Email: [info@nigeria.gov.ng](mailto:info@nigeria.gov.ng)

[permny@nigeriaunmission.org](mailto:permny@nigeriaunmission.org) (Mission to the UN in New York)

Twitter: [@MBuhari](https://twitter.com/MBuhari)

# “HONOR” KILLINGS

Below are examples of laws which must be amended or repealed.



## EGYPT

### Penal Code No. 58 of 1937:

Article 237. *Whoever surprises **his wife in the act of adultery** and **kills her** on the spot together with her adulterer-partner **shall be punished with detention instead of the penalties prescribed in articles 234 and 236.***

**Note:** Article 237 of the Egyptian Penal Code **allows for a lesser punishment for men who kill their wives than for other forms of murder.**

Article 53 of the Constitution of Egypt: **All citizens are equal before the law.** *They are equal in rights, freedoms and general duties without discrimination based on religion, belief, **sex**, origin, race, color, language, disability, social class, and affiliation.*

### Take Action – Egypt

President Ibrahim Mahlab Abdel Fattah el-Sisi  
Magless El Shaàb Street  
Al Kasr El Einy  
Cairo  
EGYPT  
Email: [feedback@sis.gov.eg](mailto:feedback@sis.gov.eg)  
[egypt@un.int](mailto:egypt@un.int) (Mission to the UN in New York)  
Twitter: [@AlsisiOfficial](https://twitter.com/AlsisiOfficial)  
Facebook: [facebook.com/egyptgovportal](https://facebook.com/egyptgovportal)



## SYRIA

### The Penal Code:

Article 548. *He who catches his **wife, sister, mother or daughter** by surprise, engaging in an **illegitimate sexual act** and **kills or injures them** unintentionally must serve a minimum of **two years in prison.***

**Note:** In 2009 Syria amended Article 548, which previously exempted men who killed their female relatives for ‘honor’ from punishment. This **amended law, rather than treating “honor” killings as any other murder, merely imposes a minimum two year prison sentence.** In 2011 Syria again amended Article 548, which previously imposed a minimum two year prison sentence, to raise the minimum sentence to five years but **placed a ceiling of seven years maximum.** The punishment for murder is hard labor for 20 years.

Article 23 of the Constitution of Syria: *The **state guarantees women all opportunities** enabling them to fully and effectively participate in the political, social, cultural, and economic life. The state shall work on removing the restrictions that prevent women’s development and participation in building society.*

### Take Action – Syria

President Bashar al-Assad  
Presidential Palace  
Abu Rummeneh  
Al-Rashid Street  
Damascus  
SYRIA  
Email Portal: [http://portal.egov.sy/contact\\_us.en\\_contactus/en/o/o/module.page.html](http://portal.egov.sy/contact_us.en_contactus/en/o/o/module.page.html)  
Email: [exexec.syria@gmail.com](mailto:exexec.syria@gmail.com) (Mission to the UN in New York)  
Twitter: [@Presidency\\_Sy](https://twitter.com/Presidency_Sy)

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# ANNEX

## PROGRESS TO END SEX DISCRIMINATION IN THE LAW

There has been progress in removing legal discrimination against women. Equality Now is pleased to report that more than half of the countries highlighted in all four previous reports have repealed or fully or partially amended the discriminatory laws indicated. Among these countries are:



COUNTRIES	LEGAL PROVISION REPEALED OR AMENDED SINCE 2000
<b>MARITAL STATUS</b>	
Algeria, Democratic Republic of Congo	Wife obedience is no longer mandated
Colombia, Japan, Mexico, Romania, Turkey	The minimum age of marriage for males and females are now the same
Democratic Republic of Congo	Husband no longer has the right to manage his wife's property and the wife can appear in civil court without husband's authorization
Guinea	Husband no longer has the right to determine place of residence; or to object to separate profession of his wife
Nicaragua, Republic of Korea, Turkey	Men are no longer designated as head of the family
Mexico	Women are no longer prohibited from remarrying for a specified time after divorce or widowhood
<b>PERSONAL STATUS</b>	
Bangladesh, Kenya	Women can now pass citizenship to their children on the same basis as men
Iraq	Women can now obtain a passport without having to get approval from a male guardian or a husband
Kenya, Monaco, Venezuela	Women can now pass their nationality to their foreign spouse on the same basis as men
Kuwait	Women now have the right to vote
Pakistan	Discriminatory evidentiary standards applied to proving rape under the Zina Ordinance have been removed
Saudi Arabia	Women now have the right to drive but as of October 2019, <u>women's rights activists who fought for this right were still in prison</u> , and women can still be arrested for being "absent" from the home (taghayoub).
United States of America	Unmarried American fathers and mothers will have the same residency requirements in order to pass on citizenship to their children born abroad

<b>ECONOMIC STATUS</b>	
Australia, Switzerland, United Kingdom	Women are now allowed to apply for all jobs in the army
Bahamas	Women now have equal inheritance rights to men
Bolivia, France	Women are no longer prohibited from working at night
Latvia	Women are no longer prohibited from working overtime and travelling for work during pregnancy and one year after childbirth
Lesotho	Property can now be registered in the name of women married in community property
Nepal	Certain restrictions on women's property rights have now been lifted
eSwatini (formerly Swaziland)	A woman married in community of property can now register property in her own name
Poland	Women are no longer restricted from passing their surname to their children
<b>VIOLENCE</b>	
Argentina	A sexual abuser is no longer exempt from punishment by agreeing a settlement with the victim
Costa Rica, Ethiopia, Guatemala, Lebanon, Palestine, Peru, Uruguay	A rapist can no longer avoid punishment by marrying the victim
India*, Malaysia, Papua New Guinea, Serbia and Montenegro, Singapore, Tonga	Marital rape is now a crime
Haiti, Jordan, Morocco	There is no longer an exemption from penalty for men who murder their wives and/or female relatives in certain circumstances
Malta	A perpetrator is no longer exempt from punishment by marrying the victim that he abducted

\* Although India's domestic violence law of 2006 gives women the option to bring a civil case for marital rape, India continues to exempt marital rape from its criminal law when the wife is over the age of 18.

\*\* Malaysia added a new provision to the Penal Code which criminalizes a husband who "causes hurt or fear of death or hurt to his wife" in order to have sex with her, which is a positive step toward addressing marital rape. However, it did not delete the exception for "sexual intercourse by a man with his own wife" in the provision on rape and does not criminalize the act of rape itself committed by a man against his wife. This does not afford women full protection against marital rape.

Partial amendments have been undertaken in Japan (waiting period for remarriage) and Ireland (paternity leave), and will soon take effect in Russia (number of occupations restricted to women).

# CAMPAIGN PARTNERS

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**Bahrain:** Bahrain Women Union

**Brazil:** Levy & Salomao Associates

**Burundi:** Collectif Des Associations et ONG Feminines du Burundi (CAFOB)

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**Kuwait:** Abolish 153

**Lebanon:** Justice without Borders

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**Malaysia:** Musawah

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**Singapore:** AWARE – Association for Action and Research

**Sri Lanka:** Musawah

- Sudan:** Seema centre; SORD  
**Syria:** Syrian Women League  
**Tanzania:** The Legal and Human Rights Centre (LHRC)  
**Togo:** Question de Femme  
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## ADDITIONAL ADVICE KINDLY PROVIDED BY:

- Mabel Bianco** FEIM, Fundación para Estudio e investigación de la Mujer  
**Catherine Harrington** Campaign Manager, Global Campaign for Equal Nationality Rights  
**Emma Kaliya** Malawi  
**Charlene May** Women's Legal Centre, South Africa  
**WORLD Policy Analysis Center**

# Protecting and Promoting the Human Rights of Women and Girls Around the World

## AMERICAS OFFICE

NEW YORK | USA  
125 Maiden Lane  
9th Floor, Suite B  
New York NY 10038  
USA

Phone: +1-212-586-0906

Fax: +1-212-586-1611

Email: [info@equalitynow.org](mailto:info@equalitynow.org)

## AFRICA OFFICE

NAIROBI | KENYA  
Bishops Garden Towers, 1st Floor  
Bishops Road, Nairobi  
KENYA

Phone: +254-20-271-9913/9832

Fax: +254-20-271-9868

Email: [equalitynownairobi@equalitynow.org](mailto:equalitynownairobi@equalitynow.org)

## EUROPE/EURASIA OFFICE

LONDON | UK  
1 Birdcage Walk  
London SW1H 9JJ  
UNITED KINGDOM  
Phone: +44 (0) 20 7304 6902  
Email: [ukinfo@equalitynow.org](mailto:ukinfo@equalitynow.org)

## MENA OFFICE

BEIRUT | LEBANON  
Qubic Square Business Center, Sin el Fil  
Daoud Ammoun Street, Office 5 E  
Beirut  
LEBANON  
Phone: 00961-81-405 346  
Email: [menainfo@equalitynow.org](mailto:menainfo@equalitynow.org)

## Beijing+25: Take Action Now!

