



## **CONSOLIDATED REPLY**

**Of the e-Discussion on:**

# **Eliminating Discriminatory Laws and Closing Gender Gaps**

**August 2016**



*Empowered lives.  
Resilient nations.*



## LAUNCHING MESSAGE [Spanish](#) [French](#) [Arabic](#)

Worldwide, several challenges to the full realization of women's rights persist, and women continue face discrimination in access to education, work, social protection, inheritance, economic assets, productive resources and participation in decision-making and society at large.

Gender discrimination is defined as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." (The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly).

In 2000, during the five-year review of the implementation of the Beijing Declaration and Platform for Action by the twenty-third special session of the General Assembly, States committed to reviewing legislation with a view to striving to remove discriminatory provisions against women as soon as possible, preferably by 2005. This target has not been achieved. The adoption of the United Nations 2030 Agenda for Sustainable Development in 2015 further called for action to finally end legal discrimination against women and ensure there are strong legal frameworks in place to advance gender equality. Target 5.1: *End all forms of discrimination against women and girls everywhere*; and Indicator 5.1.1: *Whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex*) provide a solid framework to effectively collect data, monitor progress and report results.

Please click [here](#) to read the full concept note of this e-Discussion.

## QUESTIONS

### Addressing gaps: enactment vs. enforcement

1. Please share concrete examples of reforms from your country (e.g. type of law, actors involved, recipe for success)? What entities exist to report and track impact of these reforms?
2. Please identify the major challenges to amend and repeal discriminatory provisions in existing laws in your country *and /or* to introduce new legislation protecting women, including young women, and girls where no law exists *and/or* implement existing gender equality legislation. If possible, please explain the steps and actors involved in making these changes.

### Measures, mechanisms and institutions

1. Did your country adopt temporary measures that increased women's representation in politics and public administration? What gender quality mechanisms or structures exist in your Parliament (committee, caucus etc...)?
2. Are you aware of the existence of gender analysis efforts and gender impact analysis initiatives taken in your country's governmental or parliamentary bodies? Can you share information on

the way such analysis are carried out? Can you share good practices and lessons learned in this regard?

### Collective action

1. Can you give successful examples of concerted coordination between decision makers, civil society organizations and women's rights networks that have made significant changes to legislative frameworks in your country? What factors made it a success?
2. Please provide examples of initiatives that built the capacities of institutions to map, investigate and push for the amendment of laws and if available the positive tangible impacts these had on advancing gender equality in your country.

## CONTRIBUTIONS

From 16 May to 24 June 2016, iKNOW Politics hosted an e-Discussion on [Eliminating Discriminatory Laws and Closing Gender Gaps](#). Twelve experts from the Americas, the Arab region, Asia and the Pacific, Europe, and Sub-Saharan Africa engaged in the online debate and submitted contributions. Ranging from politicians and judges, to academia and civil society representatives, the experts who responded to this e-Discussion commonly stressed the importance of joint efforts between relevant stakeholders to eliminate discriminatory laws. More details about the experts and their contributions are provided below:

- [Dr. Santosh Kumar Mishra](#) (Shreemati Nathibai Damodar Thackerse Women's University): Highlights the new **Gender Equality and Women's Empowerment Operational Plan, 2013-2020**, a roadmap to guide the operations of the Asian Development Bank (ADB). Offers examples from **Bangladesh, Nepal, Cambodia, Lao PDR, and Uzbekistan** are included; gender impact analysis of legislation in the Americas (**Nicaragua, Peru, Haiti, Ecuador, Argentina, Colombia, and Bolivia**); and successful gender-sensitive legislation from **Ghana and Fiji**. The iKNOW Politics Team also published a summary of the original [22 pages contribution](#).
- [Xenia Díaz Castillo](#) (UNDP El Salvador): Provides examples of the joint work between the Parliament Group of Women and UNDP in **El Salvador**.
- [Lana Zananiri](#) (ARDD-Legal Aid Jordan): Addresses the vulnerabilities and challenges to the advancement of gender equality for **Syrian women**.
- [Fauzia Butt](#) (UNDP Pakistan): Elaborates on the Gender Reform Action Plan initiated in **Pakistan** after signing of CEDAW and highlights Pakistan's political and parliamentary restrictions and advancements.
- [Kirthi Jayakumar](#) (Red Elephant Foundation): Explains the evolution of gender-related legislation in **India**, providing specific instances of rape and sexual assault.
- [Carmen Alanís Figueroa](#) (Federal Electoral Tribunal, Mexico): Analyses **Mexico's** constitutional reform (December 2014) and its impact on gender legislation and that of the "Mesa Interinstitucional - Presupuestos para las Mujeres y la Igualdad de Género" on the CEDAW in Mexico and CSW58.
- [Elin Hatakka](#) (Demo Finland): Summarizes the key findings of the report "Gender Equality within Political Parties and Women's Cross-party Corporation" and focuses on **Finland**.

- [Shirin Shabana Khan](#) (People’s Vigilance Committee on Human Rights): Stresses the socioeconomic and cultural challenges preventing women from accessing justice and showcases the **Indian** project “Model Village: A participatory process”.
- [Catherine Watuka](#) (Kenya): Highlights the problems that affect **Kenya’s** governability, preventing affirmative action on gender-related legislation.
- [Sahro Ahmed Koshin](#) (The Somali Institute for Development and Research Analysis-SIDRA): Provides recommendations to improve legislative measures in the region, based on a joint study between SIDRA and UNDP **Somalia**.
- [Manuela Rodríguez](#) (Universidad de Murcia): Describes ‘**México Sin Discriminación**’ - an initiative of the Mexican government which enables citizens to send feedback and provide examples on discriminatory laws via [an online platform](#).

## DISCUSSION SUMMARY

The iKNOW Politics team would like to extend our thanks to all iKNOW Politics members and experts who took the time to answer the questions of this e-Discussion and share experiences, practices and recommendations, which are summarized below.

### *Addressing gaps: enactment vs. enforcement*

The contributions submitted confirmed that gaps between laws and their actual implementation prevail across regions. Respondents recognize that to reduce gender gaps and disparities, many stakeholders need to step up their efforts, particularly the implementation and monitoring phases. The economic gender gap was a strong focus of this section of the e-Discussion.

Traditional roles and responsibilities are giving way to new expectations of women and men at work and at home, including shifting models of the division of labor within families. Women’s expectations of themselves in relation to career and breadwinning, as well as men’s expectations in relation to the family and “care giving”, are both changing, although women still bear a disproportionate share of the unpaid work at home. Finally, gender equality is emerging as a new societal norm, particularly as the media and data transparency shed light on the discrepancies and discrimination. These shifts are also creating adaptive pressures in companies and government.

As gender parity becomes a strategic priority for organizations and governments, demand is increasing for benchmarking tools, best practice exchange and other forms of insights and knowledge that shed light on measuring and addressing gender parity. The **World Economic Forum** has been measuring national gender gaps through the annual Global Gender Gap Report for the past decade, providing governments and other constituents with a consistent tool to track progress. In 2012, it launched the Gender Parity Taskforces to address the need for cooperation between government and business and between businesses to address gender equality. The pilot taskforces aim to close the economic gender gap by up to 10% in three years in Mexico, Turkey, Japan and since mid-2014, the Republic of Korea. While these four initial taskforces are designed to address gender gaps in their respective countries given their unique

local context, they are also expected to serve as potential public-private collaboration models for other countries and regions seeking to address gender disparities

The *Gender Equality and Women's Empowerment Operational Plan, 2013-2020* (Gender Plan) adopted by the **Asian Development Bank** (ADB) in 2013 highlights good practices from different countries, particularly in the area of economic life.

As a first step, the plan recommends that gender parity be clearly developed and articulated as part of any national process to close economic gender gaps. In the context of a rapidly ageing population, **Japanese** government and business leaders clearly advocated for women's integration into the labour force. **Mexico** established a taskforce and launched a status quo assessment of member companies to help ensure that commitments are targeted towards identified challenges and that the right measures and practices are adopted. National analysis, and particularly industry-specific analysis, are mentioned as an important tool for accelerating impact. Highly structured, metrics-based approach for the implementation of commitments and progress tracking were considered key factors for ensuring continued mobilization, sustained momentum and the sharing of best practices. In addition to individual company commitments, agreement on collective action helps to multiply impact. Last but not least, beyond political and business leadership, the engagement of media, academic experts and civil society representatives helps to ensure transparency and success in this transformative process. The following section summarizes examples from across regions presented by the respondents.

In **Australia**, the *Workplace Gender Equality Act 2012* (Act) replaced the *Equal Opportunity for Women in the Workplace Act 1999*. The new, strengthened legislation aims to improve and promote equality for both women and men in the workplace. The Act requires non-public sector employers with 100 or more staff (relevant employers) to submit a report to the Workplace Gender Equality Agency between 1 April and 31 May each year for the preceding 12 month period. Monitoring is facilitated by the Workplace Gender Equality Agency (an Australian Government statutory agency) which collects and analyses the data from employers and develops benchmarks in relation to the Gender Equality Indicators. Reporting under the Act is intended to establish a long-term dataset to provide evidence at the workplace and industry level, and to provide a better understanding of gender dynamics in Australian workplaces. From the data provided by reporting organisations each year, the Agency develops aggregate benchmark data, and individual customised and confidential employer reports in relation to the established indicators.

One respondent, highlighting discrimination on the grounds of nationality and gender, put forward an example from the **European Union** (EU). EU countries, a few years ago, unanimously approved new powers to combat discrimination on the grounds of gender by implementing the principle of equal treatment of men and woman in matters of employment<sup>1</sup>.

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<sup>1</sup> a) Closing the Gender Gap: The Gender Parity Taskforces (2015), World Economic Forum:  
[http://www3.weforum.org/docs/WEF\\_Gender\\_Taskforce\\_Report\\_2015.pdf](http://www3.weforum.org/docs/WEF_Gender_Taskforce_Report_2015.pdf)

b) Workplace Gender Equality Act 2012, Workplace Gender Equality Agency, Australian Government:

In **El Salvador**, the Parliament Group of Women, with the support of the United Nations Development Programme (UNDP), led an initiative to identify, review and update legal frameworks on gender equality through the following steps:

- Definition of a parliamentary consensus with the task to review regulatory frameworks;
- Establishment of a technical support team to the Legislative Commission on Women and Gender Equality, comprising public justice sector institutions and NGOs linked to the promotion of gender equality and equity;
- Legislative diagnosis of the current state of the application and the legal and practical responses generated;
- Technical advice in the design of new regulatory frameworks (new legislation and / or amendments to regulatory frameworks); and
- Exchanges with specialists, other countries or with other sectors for the discussion of policy frameworks.

As a result, draft legislation designed to establish new courts of violence against women, administrative mechanisms to sanction sexist advertising, and a new law for the General Attorney of the Republic was introduced. Other laws were reformed, e.g. criminal law, criminal procedure, family law, law against domestic violence, labour code, Salvadoran Institute of Pensions for Public Employees.

Political buy-in at all levels, including local government, was highlighted in a contribution from Pakistan. After the signing of the CEDAW in 1996, **Pakistan** initiated a Gender Reform Action Plan (GRAP) – a comprehensive reform package focusing on institutional strengthening, and political, social and economic empowerment. The Federal/Central government initiated this call and demonstrated political commitment. This was followed by the legislative adoption and protection of the Action Plan by four provincial Governments. Such consensus, brought together a broad range of stakeholders together (i.e. government, political, donors, CSO, academia). Although the Action Plan is not part of Federal legislation anymore, a constitutional amendment for provincial autonomy allowed it to continue at the Province level.

However, one contribution from **India** pointed to the difficulties that women from impoverished communities face because of limited financial means to access legal institutions. Costs of travel to the district office to file a complaint or do the necessary follow up on a case is expensive, and the District Probation office charges for services (e.g. for obtaining new dates or mediation charges). The Indian Penal Code of 1860 continues to govern criminal activities in India, so whether it's murder or robbery, assault or battery, sedition or defamation, rape or causing miscarriages, the sole repository of authority for the security sector to address crime comes from the Indian Penal Code (aside from other ancillary instruments of legislation that have come up to address specific crimes).

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<https://www.wgea.gov.au/about-legislation/workplace-gender-equality-act-2012>

c) Workplace Gender Equality Act 2012, Federal Register of Legislation, Australian Government:

<https://www.legislation.gov.au/Details/C2012C00899>

d) Legislation, Brussels: European Union (EU):

<http://ec.europa.eu/justice/gender-equality/law/>

The above examples show the improvements made in many countries to end discriminatory laws. However, the contributions also expose sensitivities related to social norms, political will and bureaucratic bottlenecks. Contradictions between declarations made in the legal codes, such as Constitutions, and the practice of discriminatory laws contradicting those principles prevail across regions.

### *Measures, mechanisms, and institutions*

Women continue to experience significant discrimination related to their participation in public and political life in most domains of the public sphere and in all geographical regions. For example, the European Commission recently acknowledged that: “Across the EU, women are still largely outnumbered by men in positions of responsibility in all fields. The reasons for the under-representation of women in power and decision-making are multifaceted and complex”. There are significant barriers to women’s participation in public and political life that stem from economic, social and cultural issues, as well as from negative stereotypes about women and entrenched gender roles.

One key issue, when conceptualizing gender discrimination within the public sphere, is the issue of how public and private spaces are differently gendered. For over two decades, feminist scholars have been working to dismantle the divide between public and private space. A 2005 **IDEA report** underlines how the public sphere has traditionally been a domain for men, stating that “[m]en, across virtually all cultures, are socialized to see politics as a legitimate sphere for them to act in”. While at the international level, there is increasing consensus about the obligations of States to address the barriers to women’s full and active participation in the public sphere; at the domestic level, there is still progress to be made in advancing women’s equality in this domain. National legislation and constitutions adversely affect women’s participation in public and political life in some states by limiting women’s participation through exclusionary or discriminatory clauses, thus restricting women’s ability to fully engage in the public sphere.

Temporary measures to boost women’s numbers in politics and in public institutions can effectively challenge discriminatory social norms and stereotypes on women’s leadership. Supporting women parliamentarians’ action is key to enhance their influence on legislation and oversight. Helping women’s rights groups access decision-making processes is also key in ensuring public accountability on gender equality issues. Furthermore, parliaments and their members, both men and women, have a crucial role to integrate gender-sensitive practices and strategies across all areas of work, and verifying that every single piece of legislation drafted, debated and passed does not actively or passively discriminate against women or men, girls or boys. They can ensure that gender-sensitive reforms and laws are properly financed and implemented so that they truly can make a difference.

On February 10, 2014 **Mexico**, passed an amendment to article 41 of the Federal Constitution stating that political parties should put in place “...rules to ensure gender parity in the nomination of candidates in federal and local congressional elections.” The amendment is the first of its kind in Mexico to oblige political parties to observe and respect the principle of gender parity in the composition of candidates’ lists for elective office. Thanks to this measure, 42% of seats in the Congress and 34% in the Senate were

allocated to women. In addition, in compliance with the agreement of the Steering Committee of the Commission for Gender Equality<sup>2</sup>, the Interinstitutional Table was established on 1 October 2014 to track the physical and financial advancements, problems and projections of resources, as well as the qualitative results of programs. Its establishment was facilitated at a preceding multi-stakeholder meeting, including the President of the National Institute for Women, which laid grounds for the effective functioning of the Gender Equality Commission and its role in developing a gender budget analysis and in the monitoring of the General Law on Women's Access to a Life Free of Violence. The Commission also contributed to promoting advanced research on issues such as the prevention of child sexual abuse, particularly against girls and adolescents; work-life balance; femicide<sup>3</sup>; and online abuse against female politicians.

**An example from Finland** pointed to its unique system of quotas: there are no legal quotas for the elections, but in the municipalities, all committees that are elected after the elections, based on the political mandate of different parties, have to have at least 40% representation of one sex. Committee members are often involved in politics but not all are council members. It is likely that this system has contributed to the increase of the number of women politicians, both at the regional and national levels, as voters have seen that women are as capable as men doing politics. (41.5 % of MPs are women, and of the municipal councillors, women constitute 36.2 %).

Another institutional particularity observed in Finland is the Network of Women Deputies of the Parliament of Finland, established in 1991. All women MPs automatically belong to a caucus, which aims at mainstreaming gender into proposed legislation. It also cooperates with legislators from other countries and organizes seminars on gender equality, often in collaboration with civil society organizations. The network's activities are managed by an executive committee, which is selected annually by the General Assembly. The president and vice president hold their positions for one year, and their selection rotates among the parties. The gender equality law, legislation on public day care for children, a law on special loans for women entrepreneurs and funding of immigrant women's organizations are examples of legislation on which the caucus has been active. Equal pay and violence against women have also been on the agenda. Two more examples were submitted from Sub-Saharan Africa, pointing to more challenging political environments that hamper the establishment of structures that enable women to address discriminatory laws.

In **Kenya**, MPs recently opposed a Gender Bill despite the constitutional provision of affirmative action (Article 27 (8), where the State is required to take legislative and other measures to ensure that not more than two-thirds of the members of elective or appointive bodies are of the same gender. Article 81 further reiterates that the same rule should be applicable in elective public bodies. The resistance to gender related affirmative action has perpetuated discrimination against women in politics, notwithstanding the

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<sup>2</sup> Follow this link to access all the information on the Steering Committee:  
[http://www.senado.gob.mx/comisiones/igualdad\\_genero/](http://www.senado.gob.mx/comisiones/igualdad_genero/)

<sup>3</sup> Femicide is a crime involving the violent and deliberate killing of a woman, but many States do not specifically define such a crime in their criminal codes. As a result, statistics are hard to come by. - See more at:  
<http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america#sthash.yXl2u7TQ.dpuf>



provisions of the Constitution. Women continue to be under-represented in Parliament (the National Assembly has 67 women, 50 short of the 117 which would correspond to the two-thirds gender rule). Opposition to the Gender Bill was attributed to poor governance and a patriarchal society which socializes individuals to put men in the political and public spheres ahead.

In **Somalia** the Somali Institute for Development and Research Analysis (SIDRA), in partnership with UNDP Somalia, conducted a study which assessed the level of Somali women's participation in politics in Puntland. Low participation levels were traced to the lack of clear policy and legal frameworks supporting women's access to the public and political spheres.

Culture was also identified as an important factor influencing people's attitudes and perceptions towards women's participation in politics. The study revealed that although some elders considered women's participation in politics being against Somali tradition, the majority of individuals interviewed spoke positively about women's contribution to politics and the community. Several recommendations to advance women's political participation were made in the study; the issue of gender equality in political and public life cannot be considered in isolation, as women aspiring to participate in political and public life continue to face complex barriers related to the attainment of their full range of human rights, such as social, economic, cultural, family, health and safety rights.

The study recommends that the government establish legal and policy frameworks that promote and support women's political participation and reach out to the public and engage in dialogue. It also recommended that civil society organizations upscale efforts to raise awareness, specifically of religious and traditional leaders, and to mobilize communities to drum up support for women participation in politics on the premise that elected women can be catalyst of change and lead rights based advocacy and actions.

### **Collective action**

Civil society's active contribution was recognized by all respondents as key to eliminate discriminatory laws and practices. In fact, in many cases they are leaders in exposing abuses and gaps between enactment and enforcement and often provide policy makers with the necessary information to start legal review processes. The active participation of civil society organizations, particularly women's groups, in developing policies that ensure equality and overseeing the structures, policies and practices of state institutions was identified as a critical element of the sector's accountability.

Civil society's role as a watchdog has been particularly important in addressing violence against women. The Ark Foundation - an advocacy-based women's human rights - in **Ghana** for example, spearheaded a Policy Advocacy Partnership comprising state and non-state actors to lobby for the adoption of a National Policy and Plan for the implementation of the *Domestic Violence Act* (Act 732 of 2007). It ensures that sexual and gender-based violence issues are addressed through a coordinated approach in institutional arrangements. From 2008 to 2010, the initiative conducted monitoring to assess the status of implementation of the Act. The Ministry of Gender, Children, and Social Protection pushed for the

establishment of a Domestic Violence Board and Secretariat and a legislative instrument, the Domestic Violence Act, was finalized. By 2014, 97 Domestic Violence and Victim Support Units (DOVVSU), were created nationwide, as well as gender-based violence courts in Accra and Kumasi.

Women's groups had an important role to play at the Peace Vigil discussions in **Fiji** during the May 2000 hostage crisis. The National Council of Women of Fiji negotiated with security forces and influenced the decisions to bring together members of the Military Council and other senior officers to meet with representatives of the Peace Vigil. At this meeting, the statement known as 'The Women's Letter' was presented, urging leaders to return to parliamentary democracy; to uphold the 1997 Constitution as the supreme law of the country; and urged the military to respect human rights. Three years later, the National Council of Women and the Military Council held a national dialogue, which resulted in the Fiji Women, Peace and Security Coordinating Committee and the National Council of Women making formal submissions to the National Security and Defence Review which focused primarily on women's participation in security decision-making and violence against women as a barrier to participation. The initiative demonstrated the important contributions of women's networks (from community and national levels) to early warning interventions. In addition, it opened doors for women to participate in local and national decision-making processes.

An example from **Mexico** showed how ICT can act as an enabler for civic engagement. A web-based system was set up by the government on behalf of the President's initiative, and involved civil society organizations in the fight against discriminatory laws. The initiative '[Mexico without Discrimination](#)' facilitates that these actors can send their opinion regarding any law that they considered discriminatory. The initiative will end in July 2016, followed by an analysis which will be made public. In the meantime, the President called upon the Center of Research of Economics and the Institute of Legal Research to work together with the Legal Counsel of the Federal Executive and establish methodologies to take the results of this initiative further.

This e-Discussion exposed positive advances and good practices from different countries. However, most contributions acknowledge that considerable and concerted efforts are still needed to end discriminatory laws and practices by 2030, in some regions more than in others. Advancements to generate equality in the labor force continue in Asia, and work on discriminatory social norms is being implemented in Africa and the LAC region. A combination of political will, engagement of strong civil society / human rights organizations, increased number of women in politics, strategic partnerships, and effective technical assistance has the potential to reduce gender gaps in law and practice, as well as disparities between regions.