

## Eliminating Discriminatory Laws, and Closing Gender Gaps.

### Background

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."<sup>1</sup>

On a global scale, discrimination is most evident in laws and penal codes related to violence against women, and their marital, personal and economic status. According to the World Bank, 155 of 173 economies studied in 2015 (nearly 90%) have at least one legal impediment restricting women's economic opportunities. The organization Equality Now reports that over 50 countries have nationality and citizenship laws that discriminate against women. Today, one in three women experience physical or sexual violence, and 133 million girls and women have experienced female genital mutilation in 29 countries<sup>2</sup>. Access to justice remains a challenge in many countries, as well as the removal of barriers to investigate and prosecute crimes of sexual and gender-based violence.



Despite ratification of numerous international instruments preventing discrimination against women, including the Universal Declaration of Human Rights, the 1967 Declaration on the Elimination of All Forms of Discrimination against Women and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), discrimination against women in the law prevails in many countries. Across regions, laws protecting the rights of women and girls are either lacking completely or discriminate against women directly or indirectly. Even when gender-sensitive laws exist, there is often poor implementation.

Indeed, many studies, including the Beijing+20 reviews during 2015, have found that there are clear gaps between the laws and their actual implementation. Discrepancies between enactment and enforcement are evident where gender-neutral clauses exist in civil codes and constitutions granting all citizens equal rights but are undermined by discriminatory customary laws and practices. UN Women's constitutional

<sup>1</sup> [The Convention on the Elimination of All Forms of Discrimination against Women \(CEDAW\)](#), adopted in 1979 by the UN General Assembly..

<sup>2</sup> UN Women Facts and Figures: Ending Violence against Women <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

database reveals that of the 195 constitutions, 192 have provisions on equality and non-discrimination. However, the existence of specific provisions on participation in public life, affirmative action, or temporary special measures show a clear disconnect between legal equality and substantive equality. Poor implementation is often a result of inadequate funding and poor public services, but also a reflection of structural and cultural barriers that deny women's access to political office, justice, resources and empowerment opportunities<sup>3</sup>.

Strong and comprehensive legal frameworks and oversight mechanisms that advance gender equality are essential to ensure that commitments are adequately implemented and monitored. It is important that any new legislation that is being drafted includes a gender impact analysis and is implemented with a gender perspective that ensures the protection and respect for the human rights of women. Public initiatives demanding stronger female representation to influence policies and effect change to eliminate gender discrepancies between legal codes and to tackle discriminatory practices are critical. Repealing discriminatory laws that impede women's participation is a crucial step towards enacting laws and provision of special measures that promote parity of representation.

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 group's 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.

Introducing gender-sensitive legislation, and amending and removing gender discriminatory laws requires strong collective action and alliances, political will and adequate funding. Attaining gender equality is one of 17 Global Goals that make up the 2030 Agenda for Sustainable Development, with Goal 5 and the related targets and indicators<sup>4</sup> aiming at achieving gender equality and empowering all women and girls. The framework is based on the understanding that eliminating gender gaps in laws and practices can accelerate development and thus offer new opportunities for states, activists and the international community to end discrimination against women and girls once and for all.

## Objective of the e-Discussion

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<sup>3</sup> The UNDP Global Report on [Gender Equality in Public Administration](#) (GEPA) reflects extensive research based on available national data, and provides analysis of the obstacles in the way of women's equal participation and decision-making in public administration.

<sup>4</sup> E.g. Target 5.1: "to end all forms of discrimination against all women and girls everywhere"; 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"; and Target 10.3: "ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action, are particularly relevant".

The e-Discussion seeks to gather examples, best practices and recommendations from policy-makers, experts, practitioners and activists engaged in reforming, enacting, implementing and enforcing laws from a gender perspective. What have you done to amend or repeal any discriminatory legal provisions? What steps did you follow to introduce new legislation protecting women and girls where no law existed? What mechanisms and tools are required for the successful implementation of existing legislation? Respondents are encouraged to highlight national gaps in legislative frameworks, and highlight efforts to harmonize national laws with international frameworks and commitments (e.g. CEDAW, Beijing Platform for Action).

The e-Discussion will take place from **16 May to 12 June 2016**.

## 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.