

WORDS & DEEDS

Holding Governments Accountable to the Beijing +30 Review Process



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About Equality Now

Since its founding in 1992, Equality Now has been using a unique combination of legal advocacy, regional partnership-building and community mobilization to encourage governments to adopt, improve and enforce laws that protect and promote the human rights of women and girls around the world. With an international team, our campaigns are centered on four program areas: Achieve Legal Equality, End Sexual Violence, End Harmful Practices, and End Sexual Exploitation, with a cross-cutting focus on the unique needs of adolescent girls.

Our advocacy has contributed to the repeal of over 50 sex discriminatory laws¹, including recently in Syria, Switzerland, Lebanon, and Jordan. We have been instrumental in the enactment of laws against all forms of violence against women, including rape, sex trafficking, and harmful practices such as child marriage, "honor" crimes, and female genital mutilation. Equality Now is a global organization with partners and members all around the world. You'll find our 70+ team across the world in places such as Benin, Beirut, London, Geneva, San Jose, New York, Nairobi, Tbilisi, Washington DC among others.

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About Words and Deeds

The 4th UN Conference on Women in 1995 was the birthplace of The Beijing Platform for Action, the most progressive blueprint ever for advancing women's rights. Governments around the world pledged to change or remove their existing unfair laws and make legal equality a reality. But that goal is far from being realized.

Only 14 out of 190 economies surveyed by the World Bank's Women, Business and the Law group in 2023 had achieved legal equality, and a typical economy only grants women 75% of the same rights as men.

Every five years since 1999, Equality Now has highlighted explicitly sex discriminatory laws that need to be reformed in our *Words & Deeds* reports. As we approach 30 years since the adoption of the Beijing Platform for Action we have produced a series of focused briefs that update on progress - this is the fourth and last in that series, exploring the impact of sex discrimination in laws related to personal status and what still needs to change.

¹ "Sex" is the term used in the Beijing Platform for Action and most other international law. Equality Now aims to be inclusive in its legal analysis and advocacy to address sex discriminatory laws and [uses the term broadly](#). We recognize that people may be discriminated against because of both their sex and gender identity. All people, regardless of their sex or gender identity, deserve equality and full enjoyment of their human rights.

PERSONAL STATUS

What is 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 our Sex discrimination in marital status laws brief](#)), laws that govern rights to confer citizenship, as well as travel, and participation in public life.

The right to be free from discrimination based on sex is recognized clearly in international human rights law and frameworks, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). In addition, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) specifically recognizes the right of women to pass their nationality on to their children, as well as to their husbands. CEDAW also requires States to provide the right to freedom of movement equally to men and women, and the right to be treated equally in all stages of procedures in courts and tribunals.

The Beijing Platform for Action, adopted in 1995, recommends concrete actions that governments can take to remove any laws that discriminate on the basis of sex.

Strategic Objective I.2. Ensure equality and nondiscrimination 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.

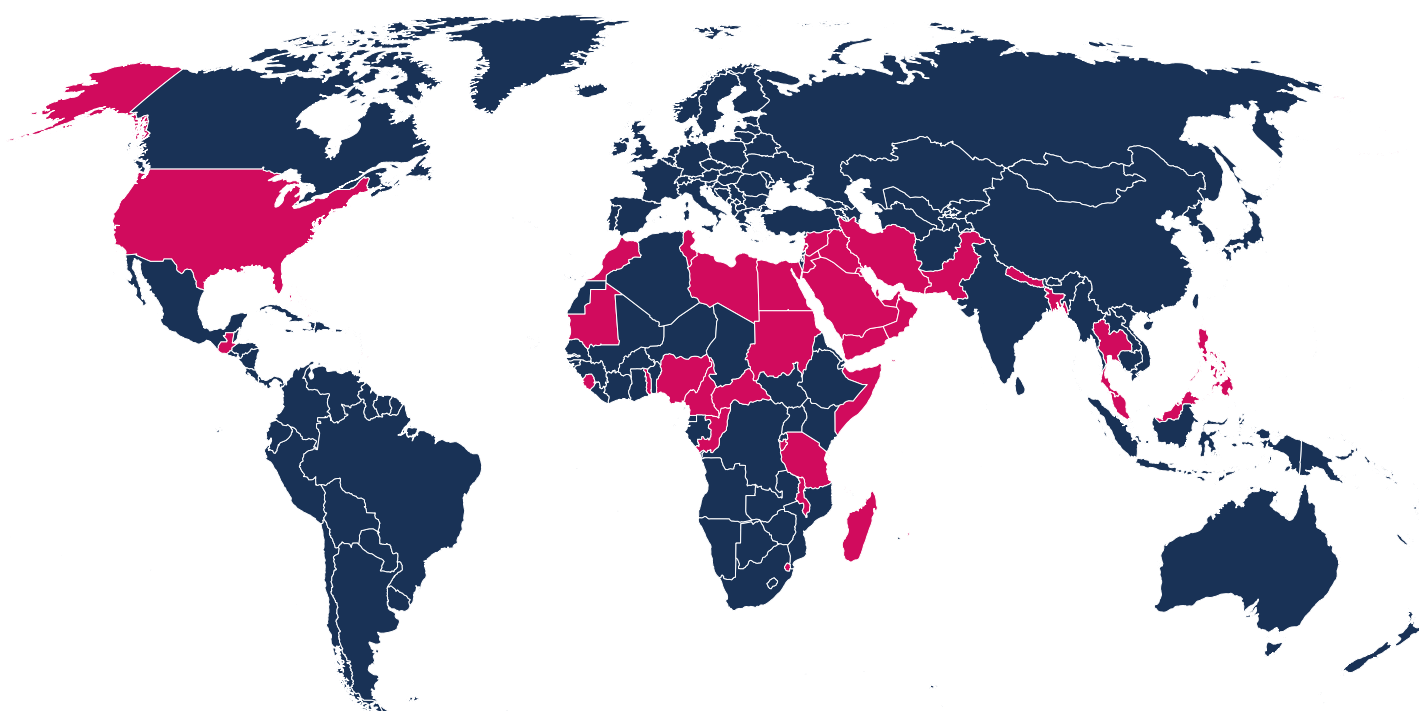




What is the impact on women and girls?

Sex discriminatory personal status laws violate women's civil, political, social, economic, and cultural rights. In addition to violating anti-discrimination obligations, the unequal treatment of women's nationality in law and practice, for example, restricts the full and meaningful realization of other rights, including: equality in the family, the ability to participate equally in public and political life, freedom of movement, access to public services and the rights to housing, health and education, among other economic, social and cultural rights. These rights are indivisible and interdependent and in practice, one right cannot be enjoyed effectively without the full realization of the others.

- **In almost 25% of countries around the world, women, and some men, are excluded from giving their nationality or citizenship to their children and/or spouses on an equal basis.** This can make them and their families economically insecure, for example, due to exclusion from certain occupations, professional associations or unions as well as precarity in employment situations, and limit their participation in public and political life, and the world outside the family unit.



- 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.
- Close to 30% of countries limit women's freedom of movement, according to *Women, Business and the Law 2023*.

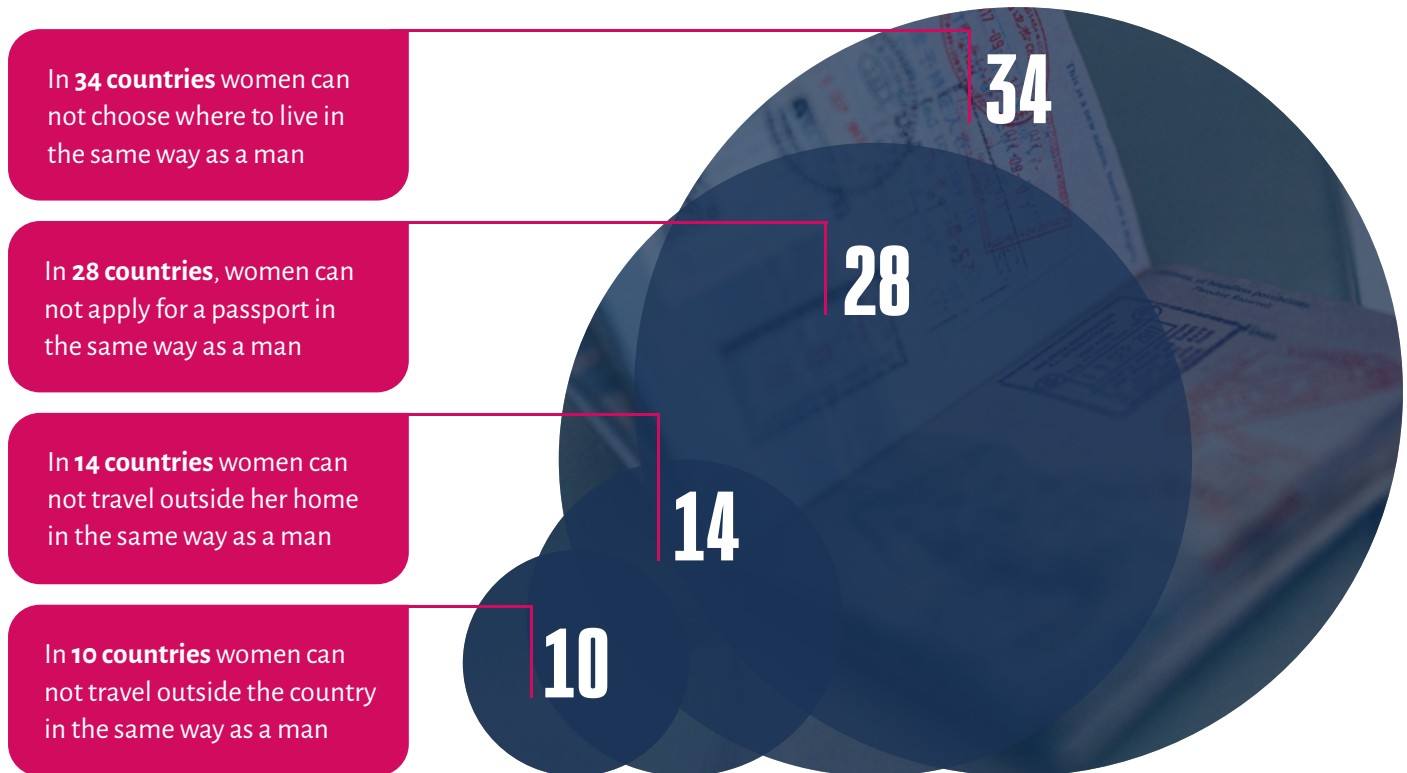


Photo by Convertkit/Unsplash

- Women are not free to express themselves if their dress in public spaces is prescribed by law. They may even face deadly violence as the world witnessed in Iran in September 2022.
- Women alone may be deemed to be dishonorable or a "prostitute", and subjected to punishment.
- These discriminatory laws curtail women's freedom, increase their vulnerability and fail to protect them from abusive marriages, relationships, and environments.



Photo by Gayatri Malhotra/Unsplash

Mahsa Amini's story - discriminatory dress law

Mahsa (Jina) Amini, a 22-year old young woman, died on September 16, 2022 whilst in custody of the morality police after she was arrested for not wearing the *hijab* properly. Her death sparked protests across Iran demanding “Woman, Life, Freedom” (See this [Video \(English\)](#) and [Farsi](#)) and calling for accountability in the face of increasing oppression and violence, including rape, killing, arrests, and violation of detainees.

In November 2022, Equality Now issued a [solidarity statement](#) signed onto across the world and coordinated a [joint oral statement](#) on the case and reports of sexual violence committed against protestors of her death at the UN Human Rights Council, in support of a resolution and the need for a UN independent fact-finding mission, which was established. The [resolution](#) also called upon Iran to end all forms of violence and discrimination against women and girls in law and practice, and is an essential step towards protecting human rights in Iran and eliminating legal discrimination that put Mahsa Amini and other women at deadly risk.

We also welcomed the UN Human Rights Committee's recent [List of Issues](#), which calls on the Iranian government, ahead of their dialogue together in October 2023 regarding Iran's implementation of the International Covenant on Civil and Political Rights (ICCPR), to:

- “indicate the measures it has taken to combat the excessive use of force by security, border and law enforcement officials, particularly against women who are arrested and detained for allegedly violating **hijab laws**, including in the case of Mahsa Amini...”;
- “inform the Committee on any steps taken to prevent and combat harassment and violence against women who allegedly do not comply with **hijab laws**”; and
- “provide updated information on measures taken to **amend or repeal discriminatory legal provisions** concerning, *inter alia*, marriage, divorce, child custody, guardianship, inheritance and transfer of nationality to children.”

There is, however, potential for a dangerous further rollback on rights contained in pending discriminatory bills, including an increased punishment for *hijab* violations under Article 178 of the criminal code. In addition, the proposed criminal code introduces punishments for acts that have not been criminalized in the past. According to the new draft criminal code, under Article 179, any person, in the real or virtual space, who promotes *bihijabi* (not wearing *hijab*) in any way, will be sentenced. Article 180 introduces punishments for the owners of professions, trades, and operators of public places such as stores, restaurants, cinemas, and stadiums, and their employees for non-observance of standards of modesty and *hijab*. We and our partners, including the Centre for Supporters of Human Rights (CSHR), will continue to call for accountability and long-lasting reform.



Photo by Sam Miri/Pexels

What needs to change?

According to the [Women, Business and the Law 2023](#) report by the World Bank, women globally still have only three-quarters of the legal rights of men, and nearly 2.4 billion women of working age still do not have the same legal rights as men. Furthermore, the **progress toward gender equality in the law has decelerated to its slowest pace in 20 years**.

Indeed, since Equality Now's [Words & Deeds report in 2020](#), women's status in law and in practice in some countries has significantly worsened or stagnated, particularly with regard to personal status laws. In Afghanistan, women's right to movement, expression, education, culture, and a life with dignity is being systematically and institutionally eroded since the Taliban took control of the country in 2021.

Saudi Arabia, for the first time, codified [Personal Status Laws](#) in 2022. Unfortunately, it codifies sex discrimination, including under [articles 45 and 55](#) which provide that if a woman refuses without a "legitimate excuse" to have sex with him or travel with him, she loses her right to spousal maintenance from her husband. Women in Saudi Arabia are not allowed to travel with their children outside of the country for more than 90 days, and any travel beyond this

period requires consent of a male guardian. This rule is not applicable to men.

Also since 2020, despite ongoing legal advocacy by women, civil society organizations and human rights advocates, the United States of America still has not fully prohibited discrimination and inequality based on sex, since the [Equal Rights Amendment](#) (ERA), turning 100 this year, is yet to be added to the Constitution. In February 2023, the United States Court of Appeals for the District of Columbia Circuit [decided](#) that "... the States have not clearly and indisputably shown that the [Federal] Archivist had a duty to certify and publish the ERA or that Congress lacked the authority to place a time limit in the proposing clause of the ERA," but leaving room for Congress to take action. New bills, SJ Res 4 and HJ Res 25, were introduced at the beginning of 2023 in support of the validity of the ERA, and a historic [Senate hearing](#) was held in anticipation of a vote. On 27 April 2023, although the majority of senators voted in favor of SJ Res 4, it did not gain the required 60 votes needed to pass to the House of Representatives. A motion to reconsider has been filed.

Sexism, misogyny, and gender stereotypes continue to exist in the law in many jurisdictions across the world.



These laws violate the basic human rights of all women. **Some women and girls, however, are disproportionately impacted by discriminatory laws, especially women living with disability, LGBTQ+ women, ethnic minorities, racialized women, refugee women, Indigenous women, and Black women who experience other forms of systemic discrimination** and can be further marginalized by discriminatory personal status laws. Even in countries, for example, that provide legal recognition to same-sex relationships, the lack of biological links to surrogate or adopted children can affect the ability of same-sex couples to pass nationality to their children.

Equality Now continues to call for full equality in all personal status laws and to keep building on the progress made, as noted in our advocacy reports, including [The State We're In: Ending Sexism in Nationality Laws - 2022 Edition - Update for a Disrupted World](#). In the report, Equality Now, with the support of partners, provided an overview of the progress made with regards to nationality rights and identified 49 countries, now 47 with recent reforms in Liberia and Benin, that must still undertake legal reform to end sex-based discriminatory laws. The [Global Campaign for Equal Nationality Rights](#) continues to maximize momentum amongst governments, UN agencies, and civil society to end sex discrimination in nationality laws, including with a new upcoming UN Human Rights Council resolution.

To comprehensively achieve legal equality, **we call on governments to fully implement the Beijing Platform for Action and amend or repeal any sex discriminatory laws**, not just personal status laws, and provide constitutional guarantees of non-discrimination on the basis of sex without exceptions for culture, tradition, and religion. Equality Now recognises that removing sex-based discrimination from the law formally is not enough; To bring complete and substantive equality for women, girls and their families it is important that any legal reforms are followed by full, effective and multi sectoral implementation of the changes and are reflected in structural changes in all related institutions and policies.

Canada in 2019, for example, passed [Bill S-3](#) which amended the *Indian Act*² and removed sex-based discriminatory provisions which had historically denied First Nations women and their descendants *Indian* status if the women married a man without status. Men, on the other hand, did not lose Indian status in the same way and were also able to pass these on to their wives and children. Although this discrimination was removed from the law in 2019, there are delays in registration, lack of information for remote communities, and procedural complexities. Until all the women are fully registered and the status of the women and their descendants is restored, the discrimination and associated vulnerabilities and disadvantages continue for thousands of women and their children. This was evidenced by the Standing Committee of Indigenous Peoples in the Senate of Canada which undertook a comprehensive [review in 2022](#). The Committee recommended, among others, that the government of Canada work with communities to develop an action plan and remove all remaining inequalities in the Act.



² The term "Indian" has been historically used as a derogatory term rooted in colonialism. First Nations is the political and appropriate term to identify Indigenous persons who are eligible under the Act for status. The term "Indian" is only used in this report as a legal term under the *Indian Act*.

PERSONAL STATUS LAWS - RIPE FOR REFORM

Below are examples of laws that must be amended or repealed, as highlighted in our 2020 report,

[*Words and Deeds: Holding Governments Accountable in the Beijing +25 Review Process.*](#)

Additional examples of laws ripe for reform that have an economic impact on women, girls and their families can be found in our:

- [*Words & Deeds: Sex Discrimination in Marital Status Laws*](#) policy brief (Oct. 2022)
- [*Words & Deeds: Sex Discrimination in Violence Laws*](#) policy brief (Nov. 2022)
- [*Words & Deeds: Sex Discrimination in Economic Status Laws*](#) policy brief (Jan. 2023)
- [*The State We're In: Ending Sexism in Nationality Laws - 2022 Edition - Update for a Disrupted World*](#) (July 2022)

Citizenship and nationality rights



Bahrain: Article 4 of Bahrain's Decree Law No. 12 amending the Bahraini Citizenship Act of 1963 allows Bahraini mothers to only pass on their citizenship to their children under certain conditions not applicable to Bahraini fathers.



Brunei: Sections 4, 5 and 9 of Brunei's Nationality Law No. 4 of 1961, as amended by S 43/00 and S 55/02, do not allow a Bruneian woman to transfer her nationality to her children and foreign spouse on an equal basis with Bruneian men.



Eswatini (formerly Swaziland): Articles 43 and 44 of the Constitution of the Kingdom of Swaziland Act 2005 do not allow a Swazi woman to transfer her nationality to her children and foreign spouse on an equal basis with Swazi men.



Monaco: Article 1 of Monaco's Law No. 1155 on Nationality (Dec. 18, 1992) as amended by Law No. 1276 (Dec. 22, 2003) and Law No. 1387 (Dec. 19, 2011) does not give mothers the same unconditional rights as fathers to pass on their nationality to their children.



Togo: Articles 5, 12 and 23 of Ordinance No. 78-34 of 7 September 1978 of the Togolese Nationality Code do not allow a Togolese woman to transfer her nationality to her foreign spouse on an equal basis with Togolese men and remove Togolese nationality from a naturalized Togolese woman if she is divorced from her Togolese husband.

Following a high-level event on Achieving Gender Equal Nationality Laws ([video recording](#)) on the sidelines of the UN General Assembly in 2020 where the Togolese Minister of Justice spoke about the Government's commitment to reform, as well as the Government's acceptance of recommendations for nationality law reform during the [2022 Universal Periodic Review](#), action still needs to be taken.



United States of America: Section 309 of the Immigration and Nationality Act does not allow unmarried fathers and non-citizen mothers to confer citizenship on children born outside the U.S. unless they meet certain requirements, including their father's guarantee of financial support.

Evidence



Iran: Articles 199, 209 and 638 of Iran's Islamic Penal Code of 2013, Books I, II and V provide that in cases of adultery and other sexual activity and where *diya* (fines imposed under Shari'a for certain crimes) is involved, the testimony of a woman is worth half that of a man, and women may be imprisoned or fined for failure to wear prescribed Islamic dress (*hejab-e-shar'i*).



Pakistan: Article 17 of Pakistan's Qanun-e-Shahadat Order, 1984 (Law of Evidence) provides that women's testimony is worth half that of men in certain civil matters.

Prostitution



The Philippines: Article 202 of the Philippines' Revised Penal Code defines "prostitution" as a crime only women can commit.

Travel



Afghanistan: On March 27, 2021, a guidance was issued that prohibits women from traveling outside of the country without a male relative (a *mahram*)³; expanding on earlier decrees stating that when traveling within Afghanistan and farther than 75 km from their home, they must be accompanied by a *mahram* and only in cases of necessity.



Oman: Articles 11 and 134 of Oman's Personal Status Law of 1997 restrict the right of the child's custodian (normally the mother) to travel abroad with the child without the approval of the guardian (who is required to be male).



Yemen: Article 40 of Yemen's Personal Status Act No. 20 of 1992 mandates a wife's obedience to her husband, including by restricting her movements outside the marital home and by requiring her to have sexual intercourse with him.



³ *Mahram*, a male relative, includes a father, brother, husband, son etc. with whom a Muslim woman is permissible to be around, to travel with and to be seen without a headscarf. Among other consequences, the *mahram* policy makes it harder for survivors of gender-based violence to seek help.

WORDS & DEEDS

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