

***Meeting global commitments to gender equality: National laws, policies
and constitutions in the 186 nations that have ratified CEDAW***

Tina-Marie Assi, Ph.D.
University of Toronto

Alison Earle, Ph.D.
University of California, Los Angeles

Isabel Latz, M.Phil.
University of Texas at El Paso

Amy Raub, M.S.
University of California, Los Angeles

Jessica Looze, Ph.D.
University of Kansas

Aleta Sprague, J.D.
University of California, Los Angeles

Jody Heymann, M.D., Ph.D.
University of California, Los Angeles



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Abstract

Nearly all UN Member states (186) have adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a landmark global treaty recognizing the importance of gender equality and calling for policies to advance girls' and women's rights. CEDAW's effectiveness depends on whether ratifying countries have translated the agreement's provisions into their national policies. Using a new global database of constitutional, legislative, and national policy indicators, this study examines steps ratifying countries have taken to comply with their commitments in CEDAW regarding education, marriage, work and family responsibilities, employment, economic and social life, and political and public life. We find some areas of progress. For example, 93% of constitutions that were adopted since CEDAW ratification contain guarantees of equality for women compared to 77% of constitutions adopted before CEDAW ratification. Significant gaps remain in equal rights in legislation about the family and workplace. Details on policy successes and gaps are described. The potential of increased monitoring of the alignment among national laws and policies with the principles in international treaties to improve the effectiveness of global agreements is discussed.

Introduction

In 1979, the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a landmark global agreement aimed at advancing gender equality that has since been ratified by 186 nations. This treaty provides a strong, comprehensive, and legally binding framework for the practical realization of substantive gender equality (Abaka, 2001; McPhedran, Bazilli, Erickson, and Byrnes, 2000). CEDAW's thirty provisions oblige States Parties to address gender discrimination and to ensure substantive and legal gender equality in areas including education, employment, political participation, citizenship, and health care (UN General Assembly, 1979).

The Potential for CEDAW to Transform Outcomes

Beyond its centrality to human rights, gender equality is recognized as essential for addressing challenges across social development, well-being, poverty, and economic growth (World Health Organization, 2012; Pande, Malhotra, and Grown, 2003; Smith, Ramakrishnan, Ndiaye, Haddad, and Martorell, 2002; Clinton, Gates, and Clinton, 2015).

Achieving equality in education, Article 10, provides one illustrative example. Each additional year of maternal education translates into an estimated 0.32 additional years in school for her child (and slightly longer for girls) (UNESCO, 2014). Overall, research estimates that ensuring universal completion of primary school by women in low- and lower-middle-income countries would reduce the under-5 child mortality rate by 15%, while achieving universal secondary school completion would result in a 49% reduction—the equivalent of saving 2.8 million lives each year (Gakidou, 2013). Equal access to education also has economic benefits. As more girls complete their education, more women join the labor force and gain access to higher-paying

jobs, which strengthens both individual earnings and the wider economy (Cuberes and Teignier-Baque, 2011). World Bank analysis of 65 low- and middle-income and transitional countries suggests that the economic cost of failing to educate girls at the same level as boys is \$92 billion annually (Plan International, 2008).

Approaches to Date for Measuring Progress on CEDAW

In order for CEDAW to be fully effective, State Parties must embed its provisions within their national legal and policy frameworks (Neo, 2013; Swingel, 2012).

Since CEDAW's adoption, both UN agencies and independent researchers have conducted qualitative analyses of national legal reforms to advance women's rights in line with CEDAW's provisions. For example, the International Women's Rights Project at the University of Victoria in British Columbia conducted a pilot study of the implementation of CEDAW principles in ten countries (McPhedran, Bazilli, Erickson, and Byrnes, 2000). De la Vega, Seleke, and Wilch, (2015) reviews CEDAW-related policies in six African countries while Pruitt analyzes policies implementing CEDAW Article 14 in China, Ghana, India and South Africa (Pruitt, 2009). The UN has conducted regional studies assessing whether countries have passed laws implementing specific CEDAW principles such as equal inheritance rights (United Nations, 2001) and citizenship rights (Equality Now, 2013; UN Division for the Advancement of Women, 2003). Global studies relevant to CEDAW include the World Bank's analysis of legal restrictions on women's economic participation (World Bank, 2013; Hallward-Driemeier, Hasan, and Rusu, 2013).

While existing studies provide insight into individual countries' progress toward aligning their laws and policies with particular CEDAW provisions, to date, there has been no global

assessment of the domestic incorporation of CEDAW commitments across policy areas. CEDAW's official monitoring mechanism produces valuable, detailed information about nations' performance via State Reports and concluding observations. However, given their length, format, and infrequency, these reports do not enable straightforward cross-country comparisons or a global overview of progress.

Adding Globally Comparative, Longitudinal Data to the Monitoring Progress

This study fills this gap by examining the extent to which countries' legal frameworks align with CEDAW's provisions based on systematically collected, comparable, quantitative data on relevant laws and policies across policy areas in all ratifying nations. This quantitative data supplements the current qualitative monitoring system by allowing rapid identification of progress and stagnation, facilitating straightforward comparisons across countries, and informing accessible visualizations of the state of the world. This approach also facilitates measurement of countries' approaches over time and, when linked with relevant outcomes, can facilitate future analyses of particular policies' effectiveness. Finally, this type of data can facilitate future examinations of whether gender disparities stem more from the absence of relevant laws and policies or from inadequate implementation of existing laws and policies. Gender protections across the following dimensions were examined: fundamental equality, political and public life, nationality, education, employment, work and family responsibilities, health, economic and social life, movement, and marriage and family. Findings are reported based on the order in which their corresponding article appears in CEDAW. All articles in the treaty are important but comparative data was not yet available on all articles. This paper demonstrates an approach to increasing transparency using recently developed data.

Methods

Sample

Indicators of the national incorporation in law and policy of rights enshrined in CEDAW were examined for all 186 ratifying countries. Depending on the indicator, we were able to produce quantitative measures for between 133 and 186 countries.

Data

We examined national action at three levels: constitutional rights, national laws, and policies. Examining all three is important. National constitutions outline the legal relationship between individuals and the state, and like treaties, generally articulate rights in broad language. Laws and policies establish individual rights and institutional practices in an array of public and private settings, and often provide significantly more detail about implementation and enforcement.

Within constitutions, this study examines both civil and political rights, which have been typical features of constitutions for centuries, as well as key social and economic rights, which have become increasingly common in constitutions in recent decades. These two kinds of rights are also often referred to as “negative” rights and “positive” rights, with negative rights ostensibly requiring that the government simply refrain from infringement, while positive rights require government action and resources to fulfill. Although some have argued that the judicial fulfillment of social and economic constitutional rights in lower resource countries is not feasible, landmark cases from countries like South Africa have shown that courts can apply and enforce these rights by evaluating whether the government has taken reasonable steps to fulfill them (Sachs 2007). Moreover, as Sunstein (2005) and others have argued, “[m]ost of the so-called negative rights require governmental assistance, not governmental abstinence;” the right to

vote, for example, cannot be fulfilled without the government investing resources to ensure that voting processes are fair, accessible, and accurate.

Since national constitutions are often the highest form of national law and typically more difficult to amend than legislation, enshrining rights constitutionally creates a particularly strong guarantee, while helping to shape norms and providing a legal foundation for citizens to challenge discrimination. However, constitutional rights often only directly apply to violations by state actors, which means that they may provide limited protection against discrimination by and within private institutions (Gardbaum 2011). By contrast, national laws extend more easily to the private sphere, and more commonly provide a mechanism for prohibiting discrimination in private employment, for example. National laws also often address more specific aspects of rights, ranging from working conditions and minimum ages of labor to legal minimum ages of marriage and inheritance rights. Finally, certain areas are much more commonly governed through policy than through laws, including aspects of education.

To assess how all three types of legal instruments address gender equality in the areas examined, this study uses legal data from four different global databases we developed at the WORLD Policy Analysis Center (WORLD), (1) the Constitutions database (constitutional rights), (2) the Adult Labor database (national laws), (3) the Education database (national laws and policies) and (4) the Child Marriage database (national laws). Each database contains quantitative policy indicators generated from the collection and systematic analysis of available information.

WORLD data are principally coded from the primary text found in relevant legal documents in their original language or in translation, and reflect what is explicitly written. When necessary, information was filled in or corroborated using reliable secondary sources from national governments, regional or global bodies. Coding frameworks were established to accurately

capture policy details, and permit meaningful comparisons across approaches taken by different nations. Information was coded independently by two researchers to ensure accuracy and consistency of coding. Outliers were verified using additional sources whenever possible. For further details on our database development methodology, please see our previously published articles (Cassola, Raub, Foley, and Heymann, 2014; Heymann, Cassola, and Raub, and Mishra, 2013; Daku, Raub, and Heymann, 2012; Heymann, Raub, and Earle, 2013; Heymann, McNeill, and Earle, 2013; Heymann, Raub, and Earle, 2011). WORLD data featured in this article and supporting documentation is publically available and can be downloaded from the WORLD website (<http://worldpolicycenter.org>).

Constitutional rights

Constitutional rights pertaining to women's general equality and non-discrimination, political and public life, health, education, employment, and marriage were coded from national constitutions as amended and in force as of May 2014. These constitutional texts were accessed through compendiums created by the UN, legal institutes, universities and government websites including: Constitutions of the Countries of the World Online; Constitution Finder (a database of constitutions sourced by the University of Richmond); and HeinOnline's World Constitutions Illustrated. Documents and laws that are considered to have constitutional status were coded for countries that do not have written constitutions or have a series of constitutional laws. The constitutions database includes approximately fifty rights including civil, political, economic, social, and cultural rights across twelve distinct social categories (such as gender, religion, disability, etc.).

National laws

WORLD databases include national laws in the areas of parental working conditions, minimum ages of marriage, social security systems, and minimum ages for different types of work. These laws were primarily coded from original legislative texts in their source languages or UN language translations obtained from government websites or through online, globally representative compendiums such as the International Labor Organization's (ILO) NATLEX database, the Lexadin World Law Guide legislation database, and the World Bank's Women Business and the Law (WBL) database. For legislative texts that were not available online, hard copies were obtained from UCLA, Harvard University, McGill University, and ILO Headquarters' libraries. In the minority of cases when original source legislation was unavailable, supplementary information was gathered from globally or regionally comparative and representative sources such as the Social Security Programs Throughout the World reports, the International Review of Leave Policies, the ILO Travail database, the EU's Mutual Information System on Social Protection, the Mutual Information System on Social Protection of the Council of Europe, country reports and concluding observations of the Committee on the Elimination of All Forms of Discrimination Against Women, and several others. For this specific analysis, we looked at laws governing parental leave, leave for a family member's health needs, breastfeeding breaks, and minimum legal ages of marriage. All laws were coded from legislation in force as of March 2014, with the exception of child marriage laws, which were coded from legislation in force as of June 2013.

Policies

For this study, data on gender equality in access to tuition-free and compulsory primary and secondary education were developed through a systematic review and analysis of national

governments' reports to the United Nations Educational, Scientific and Cultural Organization (UNESCO) International Bureau of Education , the 48th International Conference on Education , as well as official documents available through Planipolis, a portal of education plans and policies in UNESCO member states; Eurydice, a network on education systems and policies in Europe; and several others including national legislation where possible. All policy data were updated as of July 2014.

Supplementary indicators

In some areas where WORLD did not have data, we supplemented with information available as of June 2014 from the World Bank's WBL database, which contains data on 138 UN countries, including 135 CEDAW States Parties. These areas included: legal restrictions on women's freedom of movement, rights to nationality and children's nationality, legal barriers to women starting a business, legal restrictions on women's access to jobs, and legal protections against gender discrimination in hiring and in pay. The coding of these data represents the analysis of the World Bank, and has not been independently verified. Throughout this article, we explicitly note where we used WBL data in our analyses. For all other analyses, WORLD data were used.

Measures

Thirty-three measures of national-level guarantees of CEDAW's rights and protections were generated. Comparable national-level data on laws, policies, and constitutions in the ratifying countries were available on rights and protections stipulated in eleven of CEDAW's articles (Articles 1, 2, 7, 9, 10, 11, 12, 13, 15, 16 and 24). Rights and protections (and corresponding measures) were grouped by type/theme and analyzed in the order in which the Convention addresses them: fundamental equality; political and public life; nationality; education;

employment, and work and family responsibilities; health; economic and social life; movement; and marriage and family. Table 1 provides key excerpts of each Article, and the 33 corresponding measures from the WORLD and WBL databases used to assess it.

Analysis

Two types of analyses were conducted to assess national action by CEDAW States Parties with respect to the Convention's provisions. Specifically, we calculated the percentage of countries that ratified CEDAW that have constitutions, national legislation, or policies in place aligning with CEDAW's provisions. Second, we assessed whether constitutions adopted after countries' ratification of CEDAW are more likely to guarantee the treaty's provisions. The percentage of countries whose constitution is consistent with a provision contained in CEDAW was compared for two subsets of countries: 1) countries that adopted their constitutions prior to CEDAW ratification and 2) countries that adopted their constitution in the same year or subsequent to CEDAW ratification. Although the results of this analysis cannot evaluate whether there is a causal link between CEDAW ratification and the adoption of relevant constitutional provisions, these comparisons are nevertheless valuable in illustrating whether countries that adopted their constitutions following CEDAW ratification reflect more attention to issues surrounding gender equality compared to countries that adopted their constitutions prior to CEDAW ratification.

Findings

Fundamental Equality

Constitutional protection of gender equality

Articles 1 and 2 of CEDAW emphasize the need for protection of women's equality and prohibition of discrimination on the basis of gender at the national level. Specifically, Article 1

defines discrimination as “any distinction, exclusion or restriction made ... on the basis of sex.” Article 2 calls on States Parties to “embody the principle of the equality of men and women in their national constitutions or other appropriate legislation.” Eighty-five percent of CEDAW States Parties take a constitutional approach to protecting gender equality, while 28% allow for positive action towards equality. Constitutions adopted after a country ratified CEDAW are more likely to explicitly guarantee gender equality than those adopted before CEDAW (93% compared to 77%). All constitutions adopted after CEDAW ratification either take an approach to guaranteeing equality for women or, at minimum, guarantee general equality without mentioning gender, whereas 8% of constitutions adopted before CEDAW do not mention any approach to equality.

Political and Public Life

Article 7 calls on States Parties to “take all appropriate measures to eliminate discrimination against women in political and public life, ... ensure to women, on equal terms with men, the right to ... vote, ... to participate in the formulation of government policy, ... [and to] hold public office and perform all public functions at all levels of government.”

Constitutional right of political association

The constitutions of most CEDAW ratifiers (57%) protect women’s right of political association specifically (38%) or women’s right of association or assembly (19%). An additional 38% guarantee citizens the right to political association, association, or assembly without mentioning gender, and 2% aspire to protect women’s right to associate politically. Constitutional protections of women’s right of political association are becoming more prevalent: 48% of

constitutions that were adopted after CEDAW specifically guarantee women's right of political association compared to 27% of constitutions that were adopted prior.

Constitutional right to vote

Nearly one-third of CEDAW ratifiers (31%) explicitly protect women's voting rights while an additional 48% of ratifiers guarantee all citizens the right to vote and broadly protect women from discrimination. An additional 19% of ratifiers guarantee all citizens the right to vote but do not mention women specifically, another 1% aspire to protect women's right to vote, and 1% do not have universal suffrage. Similar to patterns for the right to political association, constitutions adopted after CEDAW were more likely to guarantee the right to vote specifically to women than constitutions adopted after CEDAW ratification (38% versus 24%).

Constitutional right to hold legislative office

Similar to the previously examined political rights, the majority of States Parties (77%) constitutionally protect women's right to hold legislative office. Constitutions either explicitly guarantee this right to women (28%) or guarantee the right to hold legislative office to citizens and provide general protection against discrimination (49%).

As with the rights to vote and to political association, a higher percentage of constitutions that were adopted after CEDAW ratification protect women's right to hold legislative office (either explicitly protecting this right for women or guaranteeing citizens' right to hold legislative office and broadly protecting women from discrimination) (83% versus 70%).

Education

Article 10 calls on States Parties to “take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.”

Constitutional protections for gender equality in education

Sixty-one percent of CEDAW ratifiers constitutionally guarantee girls’ right to education or guarantee this right universally and provide general protection against gender discrimination (not specifically in education). In addition, 5% aspire to protect girls’ right to equality in education and 14% universally guarantee the right to education without mentioning gender.

Twenty percent of constitutions do not include any protections of girls’ right to equality in education, which can be considered a significant gap, given the broad nature of the right.

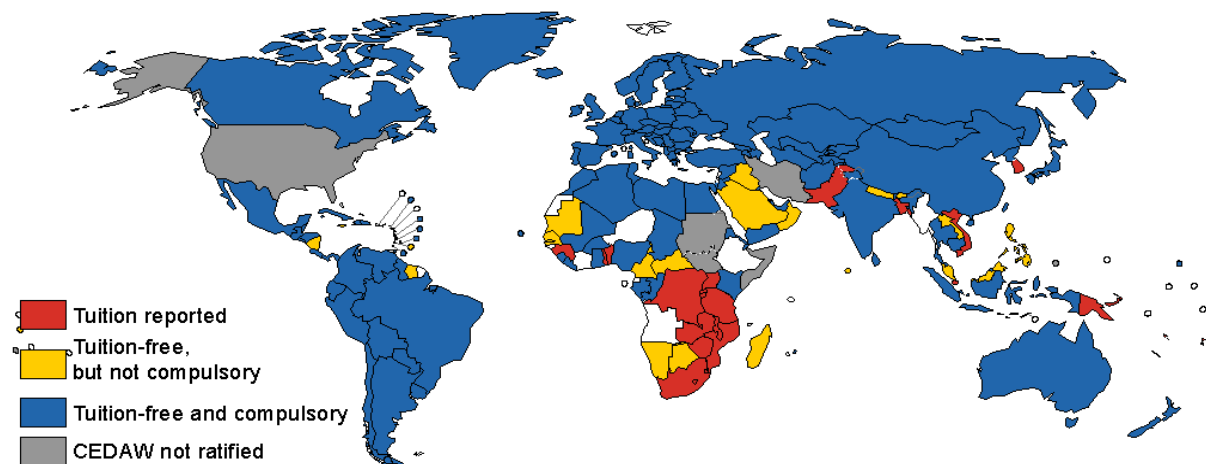
Nonetheless, constitutional protection of girls’ right to equality in education is more common among constitutions that were adopted after CEDAW ratification relative to pre-CEDAW adopted constitutions (96% versus 65%). Constitutions that were adopted after CEDAW ratification also more commonly incorporate specific protections of girls’ right to equality in education or guarantee education to citizens and protections against discrimination based on gender (76% versus 47%).

National policies guaranteeing tuition-free and compulsory schooling

Ensuring tuition-free and compulsory education helps all marginalized children, but it disproportionately benefits girls. While 89% of countries that have ratified CEDAW guarantee both tuition-free and compulsory primary education, 7% have made primary school tuition-free but not compulsory, and 4% still report tuition fees. More substantial gaps persist at the secondary level; 73% of CEDAW States Parties have made the first year of secondary education

tuition-free and compulsory, 13% have made the first year of secondary education tuition-free but not compulsory, and 14% still report tuition fees (Figure 1). An even smaller proportion of CEDAW States Parties assure the completion of secondary education. Only 18% of ratifiers have made secondary education tuition-free and compulsory through completion, 58% have made secondary education tuition-free but not compulsory through completion, and 25% still report tuition fees before students complete secondary school.

Figure 1: Is beginning secondary education tuition-free and compulsory?



Tuition-free includes cases where no tuition is charged. Other fees may be charged. Global data to compare additional fees across countries is not available.

Policy data updated as of July 2014

Employment, Work and Family Responsibilities

Article 11 calls on States Parties to “take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and

women, the same rights, including ... the right to the same employment opportunities ... the right to free choice of profession and employment ... and the right to equal remuneration....”

Constitutional protections against workplace discrimination

Relatively few constitutions (20%) explicitly protect women from workplace discrimination or protect citizens generally from discrimination at work and broadly prohibit gender discrimination. In addition, 5% grant protections against discrimination to women in non-authoritative terms or guarantee protection in only one area of work, such as hiring, promotion, or working conditions; an additional 1% grants protections to citizens generally without mentioning gender. The majority of constitutions (74%) thus include no protections against gender-based workplace discrimination. However, as noted previously, since many courts are likely to find that these rights only apply against public employers, addressing workplace discrimination through legislation may ultimately create a more inclusive protection. At the same time, some countries have taken steps to address both public and private discrimination constitutionally, simply by making the language explicit. For example, Article 49 of the Constitution of Bolivia (2008) provides that:

“The State shall promote the incorporation of women into the workforce and shall guarantee them the same remuneration as men for work of equal value, both in the public and private arena.”

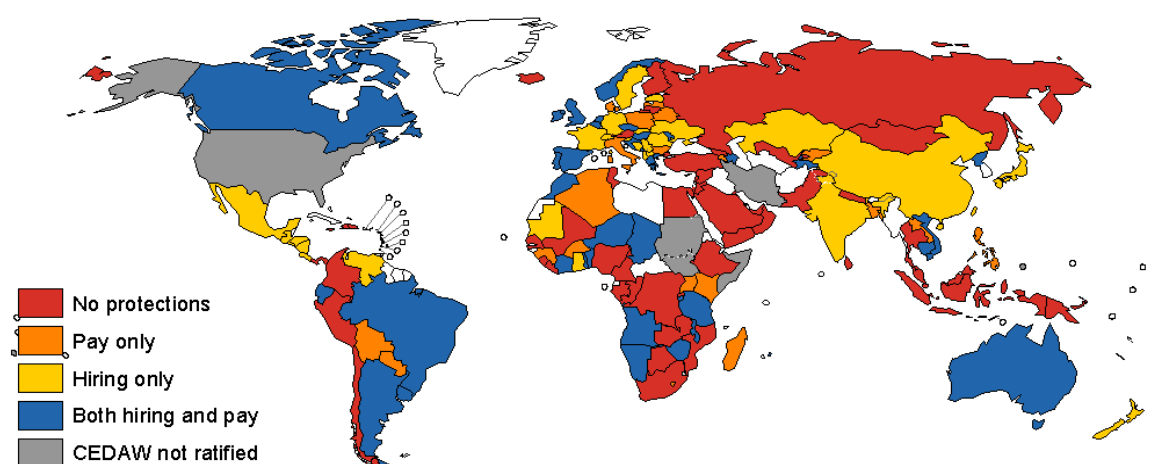
Moreover, as observed for other rights, constitutional protections of equal rights in employment appear more frequently in constitutions that were adopted after CEDAW ratification relative to constitutions that were adopted prior (34% versus 6%) (Table 2).

To date, 32% of CEDAW ratifiers constitutionally guarantee the right to equal pay for equal work either universally or to women explicitly or aspirationally, whereas 68% do not mention this right in their constitution. Protections of this right are again considerably more common among constitutions that were adopted post-CEDAW ratification (45% vs 19%) (Table 2).

Legislative protections for gender equality in hiring and pay

Among CEDAW-ratifying countries for which WBL has data, 28% legally prohibit gender discrimination in both hiring and pay (Figure 2). Thirty-five percent protect against gender discrimination in one aspect or the other: 20% prohibit gender discrimination only in hiring, while 15% prohibit gender discrimination only in pay. More than one-third of countries, 37%, have no legal protections against gender discrimination in either hiring or pay.

Figure 2: Are there legal protections against gender discrimination in hiring and pay?



National laws as reported in the World Bank's *Women, Business and the Law* dataset, available at <http://wbl.worldbank.org/data>, accessed June 2014

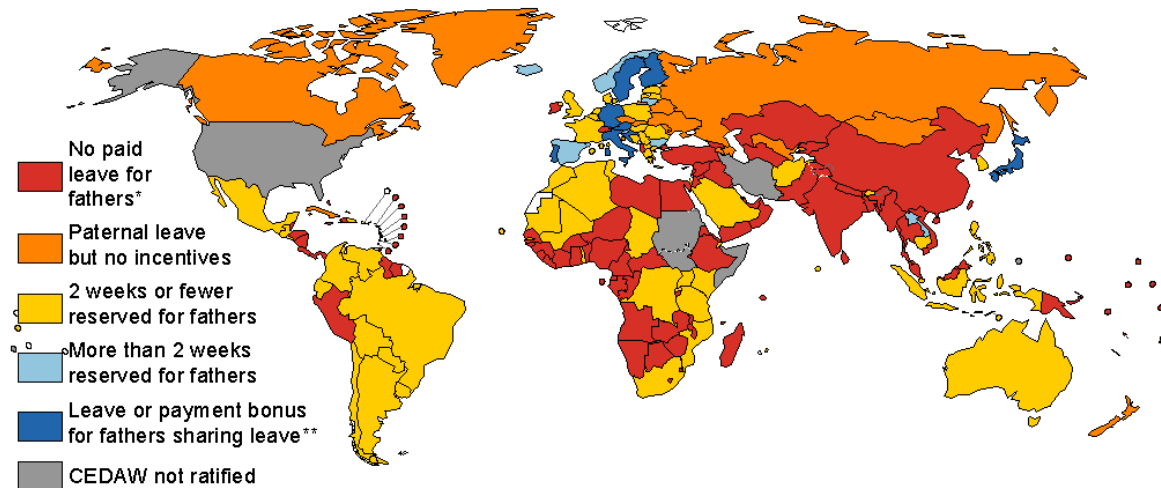
Legislative guarantees of paid maternal leave

CEDAW Article 11 includes guarantees of “maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances ...”. All but five CEDAW-ratifying countries (Marshall Islands, Micronesia, Nauru, Papua New Guinea and Suriname) worldwide (3%) provide paid leave for mothers after childbirth either through maternity leave or gender-neutral parental leave. However, 43% of countries provide less than the fourteen weeks recommended by the International Labour Organization. The majority of CEDAW ratifiers (75%) provide between 85% and 100% of wages for all or part of the leave, while 12% provide between 66% and 84% of wages, 9% provide less than 66% of wages, and three countries (Australia, China and Kyrgyzstan) provide a flat-rate benefit.¹

Legislation guaranteeing equal leave for mothers and fathers

Equal treatment of mothers and fathers is essential to achieving gender equality both at work and in the home. Only one in five CEDAW-ratifying countries (23%) provides at least fourteen weeks of paid paternal leave, 3% provide between three and thirteen weeks, and 25% provide less than three weeks. Just under half (49%) of CEDAW States Parties provide no paid leave for fathers (Figure 3). Only 38% of CEDAW ratifiers guarantee fathers access to leave with a payment between 85% and 100% of wages. Low wage replacements discourage fathers from taking paternal leave. Only 42% of countries provide paid leave specifically designated for fathers (and 34% of these provide it for two weeks or less). However, eight countries provide bonuses when both parents take leave, designed to incentivize higher uptake of leave by fathers.

Figure 3: Is paid leave structured to incentivize working fathers to share infant caregiving responsibilities?



*Paid leave for fathers includes both paid paternity leave, which is leave reserved for fathers of infants, and paid parental leave, which is leave available to either parent.

**In these countries, there are incentives for parents to share their parental leave. Parents may receive additional leave if both parents use parental leave or a higher payment while on leave. These measures encourage fathers to take parental leave.

Policy data updated as of March 2014.

Legislative guarantees of paid breastfeeding breaks

Article 12 of CEDAW calls on States Parties to “ensure to women appropriate services in connection with pregnancy, confinement, and the post-natal period...” Breastfeeding breaks facilitate mothers’ ability to breastfeed their infants and remain employed (Atabay, et al, 2014). Nearly three-quarters of CEDAW States Parties guarantee breastfeeding breaks for mothers until the child is at least six months old, the age recommended by the World Health Organization for exclusive breastfeeding. An additional two countries (Bhutan and Swaziland) guarantee breaks for less than six months. Fifty-three percent of CEDAW States Parties guarantee women either paid maternal leave or paid breastfeeding breaks for at least six months, while 23% guarantee both options.

Legislative guarantees of leave to care for family members' health needs

Although 40% of CEDAW-ratifying countries offer gender-neutral leave to care for family members, many impose eligibility restrictions based on which family members need care. Twenty-nine percent provide both men and women leave to care for any immediate family member (a parent, spouse, or child); 3% limit family caregiving leave to care for children and spouses; and 8% restrict the leave to child caregiving. In 5% of countries, leave to care for family members' health needs is only available to women.

Health

Article 12 of CEDAW calls on States Parties to ensure that women and girls have equal access to health care services, including those related to family planning.

Constitutional right to medical care

We examine a range of constitutional approaches to the right to medical care including terms such as “curative services,” “health-care services,” “disease treatment,” or discussion of the state’s responsibility to restore/rehabilitate health. Currently, 31% of CEDAW States Parties protect women’s right to medical care, either by guaranteeing the right to women explicitly (17%) or by guaranteeing the right to citizens and prohibiting gender discrimination (14%). The majority of States Parties (53%) have no constitutional protections of the right to medical care for women. Yet as observed for other rights, constitutions adopted after CEDAW ratification more commonly address women’s right to medical care, either by guaranteeing the right specifically to women or by granting the right to all citizens and prohibiting gender discrimination (42% versus 20% pre-ratification) (Table 3).

Constitutional right to public health

The majority of CEDAW States Parties do not mention the right to public health in their constitutions (84%). Twelve percent of constitutions protect women's right to public health explicitly or guarantee the right to citizens and broadly prohibit gender discrimination. While guarantees of this right are quite low, a higher percentage of constitutions adopted after CEDAW ratification protect women's right to public health (16%) compared to constitutions adopted prior (7%) (Table 3).

Any constitutional approach to health

Constitutions were considered to take an approach to women's health when they addressed any of the following: women's right to health, which includes a right to "health," "health security," or "physical well-being"; public health; or medical services. Currently, 44% of constitutions guarantee an approach to health for women or for all citizens and broadly prohibit gender discrimination. Guarantees of an approach to women's health are more common in constitutions adopted after CEDAW ratification (58% versus 30% pre-ratification) (Table 3).

Economic and Social Life

Article 13 calls on States Parties to "take all appropriate measures to eliminate discrimination against women in other areas of economic and social life ... in particular, the right to bank loans, mortgages and other forms of financial credit."

Legislative barriers to participation in economic life

Among WBL countries that have ratified CEDAW, 9% restrict married women from engaging in at least one of the following activities: signing a contract, registering a business, opening a bank account, or owning property.

Legislative guarantees of gender equality in inheritance rights

CEDAW Article 16 obligates states to guarantee “The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property.” Eighty-two percent of CEDAW States Parties guarantee gender equality in inheritance rights, by guaranteeing equal inheritance rights between both daughters and sons and male and female surviving spouses. Sixteen percent of countries do not guarantee gender equality in inheritance rights in either circumstance. Just 2% guarantee equal inheritance rights for either daughters and sons or surviving spouses, but do not guarantee this right to both.

Movement

Legislative guarantees to freedom of movement

CEDAW Article 15 calls on States Parties to ensure equal rights to “movement of persons and the freedom to choose their residence and domicile.” Among WBL countries that have ratified CEDAW, six countries (Jordan, Kuwait, Malaysia, Oman, Syria, and Yemen) specifically restrict married women’s freedom of movement, which often means women risk losing financial support from their husbands if they leave their houses without permission. Only one country (Saudi Arabia) restricts all women’s freedom of movement.

Marriage and Family

Article 16 of CEDAW calls for states to ensure that men and women have “the same right to enter marriage... [and] [t]he same rights and responsibilities during marriage and at its dissolution.”

Constitutional protections of women’s right to equality in marriage

The majority of CEDAW States Parties (66%) do not take any constitutional approach to protecting women’s right to equality in marriage, reflecting a considerable gap in this area.

Thirty percent of constitutions guarantee women’s equality within marriage or when entering and exiting, and an additional 5% either guarantee women’s right to equality in entering marriage or aspire to protect women’s right to equality in entering, exiting, or within marriage.

While constitutional protections of this right remain uncommon overall, relevant provisions appear more frequently in constitutions adopted after CEDAW ratification (Table 4).

Specifically, 40% of constitutions passed after CEDAW protect women’s right to equality within marriage as well as in entering and/or exiting marriage, and an additional 6% protect women’s right to equality in entering marriage or one of the areas in aspirational terms (compared to 20% and 3% of pre-CEDAW ratifiers, respectively).

Legislative protection from early marriage

Article 24 requires that states not recognize child marriages and “specify a minimum age for marriage.” The majority of CEDAW States Parties (89%) set a legal minimum age of marriage of at least 18. Nonetheless, a significant minority still legally permit early marriage. Two countries (Saudi Arabia and Yemen) do not establish a legal minimum age of marriage and one country (Lebanon) legally allows girls to be married as young as 9 years old. In addition, three

countries (Bahrain Chad and Kuwait) legally permit girls to be married at age 14 or 15, and 8% legally allow marriage of girls at 16 or 17 years old.

Legislative exceptions to the legal age of marriage: parental consent

Accounting for lower legal ages of marriage with parental consent, only half of all CEDAW ratifiers legally protect girls from marriage before the age of 18. Further, six countries (Djibouti, Nauru, Saudi Arabia, Sri Lanka, and Trinidad and Tobago, and Yemen) have no explicit minimum age of marriage with parental consent. Colombia, Ecuador, and Lebanon legally permit girls to be married at ages 9 to 13, as did Uruguay until a 2014 law increased the age to 16. Sixteen percent of CEDAW countries allow girls to be married at ages 14 or 15 years with parental consent.

Legislative exceptions to the legal age of marriage: religious and customary law

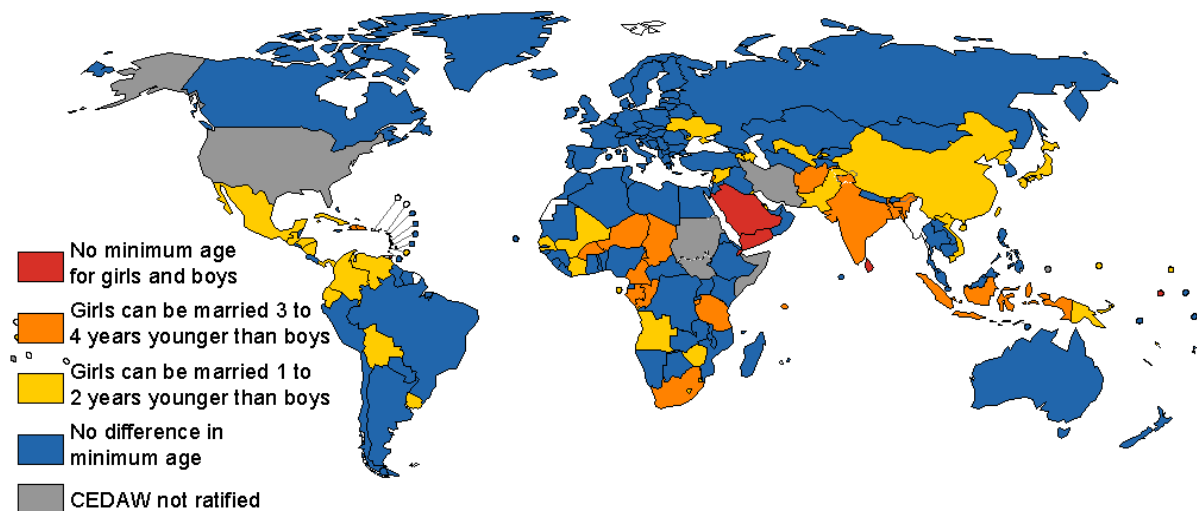
Exceptions to the minimum age of marriage based on customary or religious laws facilitate child marriage in many regions, and thus are also important to consider. Among all CEDAW-ratifying countries that permit exceptions of this nature, 8% have no explicit minimum age of marriage, an additional 3% allow girls as young as 9 to 13 to be married, 1% legally permit girls to be married at ages 14 and 15, and 8% legally permit girls to be married at ages 16 and 17.

Legislative equality in legal ages of marriage for boys and girls

Twelve percent of CEDAW States Parties establish a lower legal minimum age of marriage for girls than for boys. Notably, 4% of countries (Bahrain, Bangladesh, Chad, India, Lebanon, Nicaragua, and Republic of the Congo) set an age for girls that is three to four years younger and an additional 8% set an age that is one to two years younger for girls. When parental consent

exceptions are considered, the disparity widens even further (Figure 4). While more than two-thirds of CEDAW States Parties establish a gender-neutral minimum age of marriage with parental consent, 10% allow girls to be married three to four years younger, and an additional 21% allow girls to be married one to two years earlier.

Figure 4: Is there a gender disparity in the minimum legal age of marriage with parental consent?



There are no cases where the minimum age for boys is younger than the minimum age for girls. In 8 countries, the minimum age of marriage for females is 18 years old or older, but legislation specifies a higher minimum age of marriage for males. The difference in age is reflected in this map to show gender disparities in legislation.

Policy data updated as of June 2013

Conclusion

Globally, international human rights treaties establish norms and standards by which nations' progress can be measured. Nationally, treaties can support both policy makers and civil society organizations working to increase rights. The near-universal ratification of CEDAW signifies a

widespread recognition that gender disparities and discrimination violate girls' and women's human rights. To achieve meaningful change in the lives of individuals in ratifying countries, however, governments must ensure their national laws and constitutions comply with treaty provisions and are strongly enforced. In addition, aligning laws with CEDAW treaty provisions is essential for achieving the health, social, and economic benefits of gender equality. This study uses new quantitative, globally comparative data on constitutions, laws, and policies to examine whether ratifying nations have taken action to comply with CEDAW's provisions.

The findings are mixed. We find nearly universal compliance in terms of protecting women's equality in constitutions through at least one of a range of approaches, facilitating work by caregivers by guaranteeing paid leave for mothers after child birth, and supporting education for all by providing tuition-free primary education for girls and boys. We also find that constitutions that were adopted since CEDAW ratification more frequently include relevant protections for women in every sphere we examined: overall equality, political, education, health, work, and equality in marriage. To highlight one area of progress, 93% of constitutions that were adopted since CEDAW ratification contain guarantees of equality for women compared to 77% of constitutions that were adopted before CEDAW ratification.

However, in other areas, our analysis reveals substantial gaps and limitations in the translation of CEDAW into national laws and policies. Although constitutions adopted since CEDAW include a right to equality in marriage more often than older constitutions, the overall number of constitutions that guarantee this right remains low. Rights within marriage bridge the public and private divide, which could make this area a less obvious constitutional subject. However, it has

also long been a common function of government to mediate the terms of legal relationships between people, and within marriage, the guarantee of equal rights may have critical implications for issues like the ability to pass on citizenship to children. Moreover, given that women's equal rights in decision-making in the home can substantially shape whether she has equal rights in the public sphere, constitutional guarantees of equal rights within marriage have meaningful consequences. Current constitutions also rarely guarantee protection from workplace discrimination, a right to equal pay for equal work, or women's right to medical care and public health, although these rights may be established through policies or legislation. Moreover, a number of constitutions allow customary or religious law to supersede some or all constitutional provisions, which undermines the protective value of women's equal rights and limits the potential to leverage constitutions to advance gender equality.

Gaps also exist within education policy. Tuition remains common at the secondary level and few countries make secondary school compulsory through completion; each of these policies disproportionately inhibits girls' access to education.

Finally, many countries could do more to ensure men and women have equal chances at home and at work. Just over half (51%) of CEDAW States Parties provide paid leave for fathers after the birth of a child. Among those that do, leave is generally available for a far shorter period compared to leave for mothers. Moreover, few countries have enacted legislation to ensure that workers have leave to care for children beyond infancy or for adult family members. This shortcoming is particularly costly to the work and income of women, who still disproportionately carry caregiving responsibilities within families.

Addressing these gaps between CEDAW's provisions and national legal systems is central to the commitment States Parties made by ratifying the Convention. National laws, policies, and constitutions bring specificity to the broad rights outlined by CEDAW, and generally provide a stronger basis for citizens and civil society to initiate legal actions and hold their governments accountable for their commitments to uphold women's and girls' rights. Laws and policies also establish a foundation for judges, lawyers, and government officials to identify and investigate equal rights violations and implement protections. Similarly, while some countries treat international treaties as enforceable in national courts as soon as they enter into force, most do not and even in those which do, national laws and policies that specifically incorporate treaty obligations provide firmer judicial grounds for courts to enforce human rights standards, order remedies, and penalize transgressions.

Finally, discriminatory laws need to be repealed. Nearly a third explicitly allow girls to be married younger than boys. These laws put girls at a heightened risk of early marriage and its consequences for health and human capital. Moreover, while uncommon, restrictions on women's freedom of movement, inheritance, property, and nationality rights are clear violations of CEDAW commitments.

Over time, laws and policies can play an important role in disrupting stereotypes and changing discriminatory social norms. Despite notable progress (United Nations, 1945; UN General Assembly, 1948; UN General Assembly, 1966a; UN General Assembly, 1966b; United Nations, 1995), direct and indirect gender discrimination are still widespread. Too often, laws further

entrench stereotypes rather than counteract them. Enacting laws or constitutional provisions that ban gender discrimination in hiring, guarantee paid paternity leave, and protect girls' equal access to education, among others, can shift cultural expectations toward equality of opportunity. Still, neither ratifying CEDAW nor enacting domestic legislation will produce meaningful change if countries undermine these commitments through treaty reservations and inadequate enforcement. A reservation is a formal objection to a particular treaty provision by a State Party, which, if accepted, exempts that country from the relevant aspects of compliance. A concerning number of countries have entered reservations to the CEDAW Committee; indeed, among all international human rights treaties, CEDAW has the highest number of reservations entered by States Parties. Further, although reservations are only accepted if they are not incompatible with the object and purpose of the Convention (per Article 28), the CEDAW Committee has rarely determined that a reservation is "invalid" (nor has it released documentation of its reasoning). Less formally, ratifying countries may determine after the fact that they are unable or unwilling to uphold a particular provision, or may lack the political commitment or resources for full implementation. Lastly, CEDAW, like many international human rights treaties, includes reviews but no strong enforcement mechanism.

Increased transparency and accountability around countries' incorporation into national law and policy of CEDAW's principles can help mitigate these barriers to progress. Central to this effort is greater availability of globally comparative policy data, which can enable citizens to know how their own countries are fulfilling their commitments, as well as how their countries compare to other countries with similar resources and constraints. By providing a way for citizens to readily see both their own country's laws and those of similar countries, globally comparative

data can empower citizens to push for both stronger enforcement and better laws. In short, data helps to hold policymakers accountable for their commitments to improve gender equality. As a global community, we need data to know where the gaps are around the world in upholding international standards, where our attention and efforts can best be focused, and what challenges must be overcome to achieve progress on women's and girls' rights through CEDAW at national and global levels.

Finally, future efforts need to map implementation of national laws and policies. While laws guaranteeing equal rights and policies promoting gender equality are essential first steps, their impact depends on the extent and quality of their implementation.

This data can provide the foundation for an updateable, easily accessible monitoring mechanism to complement the progress reports CEDAW States Parties must submit to the U.N. every five years. This approach can help provide actionable, real-time information about countries' efforts to advance gender equality to citizens, civil society, and government leaders alike.

While the world has seen advances toward gender equality in the past few decades, significant challenges remain. Fulfilling CEDAW's promise requires active engagement by citizens, civil society, and government leaders worldwide to ensure that legal gaps are filled and laws are enforced. Globally shared, transparent, readily visible, comparative monitoring can be a critical tool in supporting the efforts of civil society and policy makers to accelerate progress.

Table 1: CEDAW articles and corresponding measures
CEDAW Article

CEDAW Article	Measures examined	Source
<p><i>1.1: Fundamental Equality</i> <u>Article 1</u> defines discrimination as “any distinction, exclusion or restriction made ... on the basis of sex.”</p> <p><u>Article 2</u> calls on States Parties to “embody the principle of the equality of men and women in their national constitutions or other appropriate legislation.”</p>	<p>Does constitution take any approach to gender equality?</p>	<p>WORLD Constitutions database (2014)</p>
<p><i>1.2: Political and Public Life</i> <u>Article 7</u> calls on States Parties to “take all appropriate measures to eliminate discrimination against women in political and public life, ... ensure to women, on equal terms with men, the right to ... vote, ... to participate in the formulation of government policy, ... [and to] hold public office and perform all public functions at all levels of government</p>	<p>Does constitution guarantee women’s right of political association? Does constitution protect women’s right to vote? Does constitution protect women’s right to hold legislative office?</p>	<p>WORLD Constitutions database (2014)</p>
<p><i>1.3: Nationality</i> <u>Article 9</u> calls on States Parties to “Grant women equal rights with men with respect to the nationality of their children.”</p>	<p>Are women able to pass citizenship on to their children and spouse?</p>	<p>Women, Business and the Law Data (2009-2013)</p>
<p><i>1.4: Education</i> <u>Article 10</u> calls on States Parties to “take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.”</p>	<p>Does constitution protect girls’ right to equality in education? Is primary education tuition-free and compulsory? Is beginning secondary education tuition-free and compulsory? Is completing secondary education tuition-free and compulsory?</p>	<p>WORLD Constitutions database (2014) WORLD Education database (2014)</p>

1.5. Employment

Article 11 calls on States Parties to “take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, including ... the right to the same employment opportunities ... the right to free choice of profession and employment ... and the right to equal remuneration...” and; “States Parties shall take appropriate measures ... to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances ... To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life.”

Article 12 calls on States Parties to “ensure to women appropriate services in connection with pregnancy, confinement, and the post-natal period...”

1.6 Health

Article 12 calls on States Parties to “take all appropriate measures to eliminate discrimination against women in the field of healthcare in order to ensure, on a basis of equality of men and women, access to health care services.”

Does constitution guarantee protection from discrimination at work for women?

Are there legal restrictions on the types of work women can do?

Does constitution guarantee women the right to equal pay for equal work?

Are there legal protections against gender discrimination in hiring and pay?

Is paid leave available for mothers of infants?

Is paid leave available for mothers of infants?
What is the maximum wage replacement rate of paid leave for mothers of infants?

Is paid leave available for fathers of infants?
What is the maximum wage replacement rate of paid leave for fathers of infants?

Is paid leave structured to incentivize working fathers to share infant caregiving responsibilities?
Are mothers of infants guaranteed breastfeeding breaks at work?

Are working mothers guaranteed paid options to facilitate exclusive breastfeeding for at least 6 months?

Are working women and men guaranteed leave to care for their family’s health needs?

Does constitution guarantee medical care treatment to women and girls?

Does constitution guarantee protection of public health to women and girls?

Does constitution take any approach to health for women?

WORLD Constitutions database (2014)

Women, Business and the Law Data (2009-2013)

WORLD Constitutions database (2014)

Women, Business and the Law Data (2009-2013)

WORLD Adult Labor database (2014)

WORLD Constitutions database (2014)

1.7 Economic and Social Life

Article 13 calls on States Parties to “take all appropriate measures to eliminate discrimination against women in other areas of economic and social life ... in particular, the right to bank loans, mortgages and other forms of financial credit.”

Do women face legal barriers specific to starting a business?

Women, Business and the Law Data (2009-2013)

Article 16 calls on states to guarantee “The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property.”

Is there gender equality in inheritance rights for daughters and sons and for surviving spouses?

Women, Business and the Law Data (2009-2013)

1.8 Movement

Article 15 calls on States Parties to “accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.”

Are there legal restrictions in women’s freedom of movement?

Women, Business and the Law Data (2009-2013)

1.9 Marriage and Family

Article 16 of CEDAW calls for states to ensure that men and women have “the same right to enter marriage... [and] [t]he same rights and responsibilities during marriage and at its dissolution.”

Does constitution protect women’s right to equality in marriage in all aspects including entering, exiting, and within marriage?

WORLD Constitutions database (2014)

What is the minimum age of marriage for girls?

What is the minimum age of marriage for girls with parental consent?

What is the minimum age of marriage for girls including under customary or religious law?

WORLD Child Marriage database (2013)

Is there a gender disparity in the minimum legal age of marriage?

Is there a gender disparity in the minimum legal age of marriage with parental consent?

Notes: In the source column, “WORLD” indicates WORLD Policy Analysis Center

Table 2: Protection of gender equality at work in constitutions adopted before and after CEDAW ratification

	Protection from discrimination at work		Right to equal pay for equal work	
	Pre-CEDAW	Post-CEDAW	Pre-CEDAW	Post-CEDAW
Constitution does not include any relevant provisions	84 (88%)	53 (58%)	77 (81%)	50 (55%)
Constitution guarantees right generally, but not specifically to women	2 (2%)	0 (0%)	3 (3%)	7 (8%)
Constitution aspires to grant right to women	3 (3%)	7 (8%)	5 (5%)	5 (5%)
Constitution guarantees right generally and broadly protects women from discrimination	1 (1%)	6 (7%)	-	-
Constitution guarantees right to women	5 (5%)	25 (27%)	10 (11%)	29 (32%)

Table 3: Protection of gender equality in health in constitutions adopted before and after CEDAW ratification

	Right to medical care		Right to public health		Any approach to health	
	Pre-CEDAW	Post-CEDAW	Pre-CEDAW	Post-CEDAW	Pre-CEDAW	Post-CEDAW
Constitution does not include any relevant provisions	67 (71%)	31 (34%)	86 (91%)	71 (78%)	57 (60%)	13 (14%)
Constitution guarantees right generally, but not specifically to women	8 (8%)	9 (10%)	2 (2%)	4 (4%)	8 (8%)	10 (11%)
Constitution aspires to grant right to women	1 (1%)	13 (14%)	0 (0%)	1 (1%)	2 (2%)	15 (16%)
Constitution guarantees right generally and broadly protects women from discrimination	9 (9%)	17 (19%)	5 (5%)	5 (5%)	14 (15%)	21 (23%)
Constitution guarantees right to women	10 (11%)	21 (23%)	2 (2%)	10 (11%)	14 (15%)	32 (35%)

Table 4: Protection of gender equality in marriage in constitutions adopted before and after CEDAW ratification

	All years	Pre-CEDAW	Post-CEDAW
Constitution allows customary or religious law to override some or all constitutional provisions or explicitly allows for limitations on equality in marriage	15 (8%)	8 (8%)	7 (8%)
Constitution does not include any relevant provisions	107 (58%)	65 (68%)	42 (46%)
Constitution aspires to protect at least one aspect of equality in marriage for women	2 (1%)	1 (1%)	1 (1%)
Constitution protects women’s equality in entering marriage, but not in exiting or within marriage	7 (4%)	2 (2%)	5 (5%)
Constitution protects women’s equality within marriage, or in entering and exiting marriage	45 (24%)	17 (18%)	28 (31%)
Constitution guarantees women’s equality in entering, exiting and within marriage	10 (6%)	2 (2%)	8 (9%)

Notes

1. A flat rate means all covered individuals receive the same amount while taking paid leave, regardless of previous salary. China uses an adjusted flat rate; the flat rate is set to the average wage of the company at which the employee works.

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