



Constitutional Equal Rights Across Gender and Sex



WORLD Policy Analysis Center

NUMBERS TO NOTE

85%

of constitutions explicitly guarantee equal rights or non-discrimination on the basis of sex and/or gender

100%

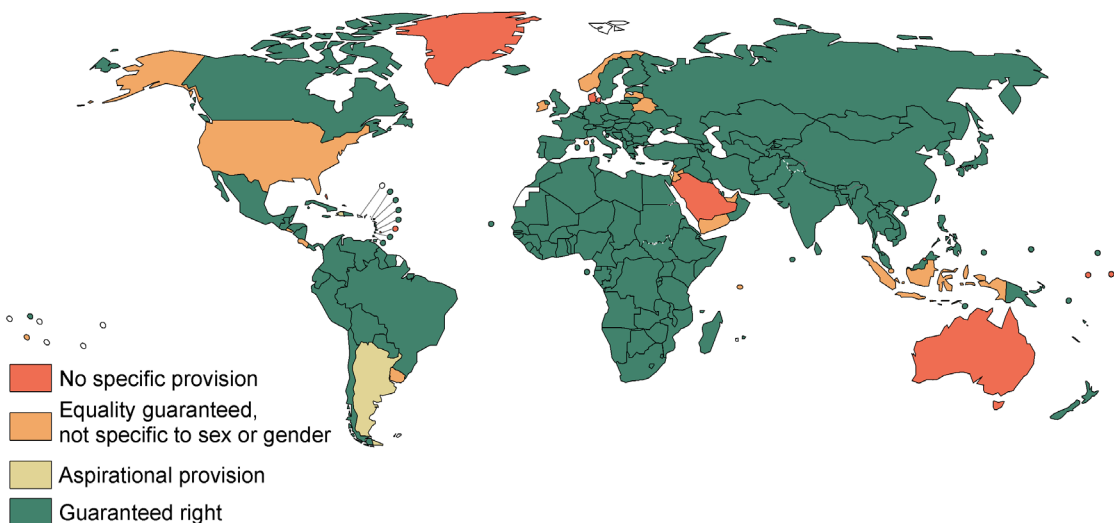
of current constitutions adopted since 2000 include a gender equality guarantee

7%

of constitutions guarantee gender equality but allow customary or religious law to supersede the constitution

- Around the world, gender inequalities persist in the economy, education, political representation, and other areas of public and private life:
 - Globally, women earn 24% less than men; 104 countries prohibit women's employment in specific jobs
 - Across low-income countries, just 66 girls finish secondary school for every 100 boys
 - Gender-based violence affects women in every country, while one-third of the world's countries have no laws against sexual harassment in the workplace
- Explicit protections of gender equality in the constitution have made a difference:
 - In **Nepal**, the constitution's gender equality provision provided the basis for a new law prohibiting marital rape
 - In **Zimbabwe** and **Tanzania**, courts found that establishing lower ages of marriage for girls than for boys is unconstitutional
- In **Kuwait**, the Administrative Court invalidated a ban on female applicants to the Justice Ministry, based on gender equality in the constitution
- General protections of equal rights can also have impact, but their coverage is less predictable:
 - In the **U.S.**, it wasn't until the 1970s that the Equal Protection Clause of the 14th Amendment—ratified in 1868—was applied to cases of discrimination against women
 - Even within the past decade, a U.S. Supreme Court justice argued that the constitution does not prohibit gender discrimination
- As of 2017, 85% of constitutions globally explicitly guarantee equal rights or prohibit discrimination on the basis of sex and/or gender
- Guaranteeing equal rights on the basis of both sex *and* gender can provide stronger protection against discrimination rooted in

Does the constitution explicitly guarantee equality or non-discrimination across sex and/or gender?



ABOUT ADVANCING EQUALITY

To learn more, please see **Chapter 3** of the open-access book [Advancing Equality: How Constitutional Rights Can Make a Difference Worldwide](#) (Jody Heymann, Aleta Sprague, and Amy Raub; University of California Press, 2020).

Analyzing the constitutions of all 193 United Nations countries, *Advancing Equality* traces 50 years of change in constitution drafting and examines how stronger protections against discrimination, alongside core social and economic rights, can transform lives.

gender stereotypes about behavior, speech, or appearance

- Protections of equal rights in the family are far less common, despite the significant consequences for women’s public lives: 6% of constitutions comprehensively protect equality at each stage of marriage—entering, exiting, and within marriage—and less than a quarter guarantee equal rights within marriage or while both entering and exiting marriage
- In **Uganda**, the Supreme Court invoked the constitution’s guarantee of equal rights in marriage to strike down a customary law requirement that women pay back their “bride price” (similar to a dowry) upon divorce
- Just 5% of constitutions address indirect discrimination, which is important for identifying and reforming laws and practices that don’t explicitly target women, but disproportionately restrict their rights or opportunities
- For example, in 2017, the European Court of Justice struck down a height requirement for the police force in **Greece**
- Similarly, few prohibit discrimination on the

basis of pregnancy (6%) or marital status (8%), which are common grounds of discrimination that some courts have not been willing to address based on gender equality protections alone

- Further, 7% of countries guarantee gender equality but allow customary or religious law to supersede the constitution, which may jeopardize equal rights
- In **Zimbabwe**, women’s groups actively participated in drafting a new constitution in 2013, and succeeded in securing a new provision establishing that equal rights take precedence over conflicting customs
- Protections are more common in more recently adopted constitutions: whereas 54% of current constitutions adopted before 1970 include a gender equality guarantee, 100% of those adopted since 2000 do so
- Yet even some of the oldest constitutions have been amended to guarantee women’s equal rights:
 - In 2006, **Luxembourg** amended its 1868 constitution to affirm that “women and men are equal in rights and duties”



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ABOUT WORLD

The **WORLD Policy Analysis Center (WORLD)** aims to improve the quantity and quality of globally comparative data on policies affecting health, development, well-being, and equity.

With these data, **WORLD** informs policy debates; facilitates comparative studies of policy progress, feasibility, and effectiveness; and advances efforts to hold decision-makers accountable.

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PHOTO CREDIT

“A young girl pictured on [International Women’s Day in Helmand, Afghanistan](#)” by [Mette Bastholm/Helmand PRT/Danish Ministry of Foreign Affairs/DFID](#), used under CC BY-SA 2.0; cropped from original.

Explicit constitutional guarantee of equality or non-discrimination across sex and/or gender by year of constitutional adoption

