



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

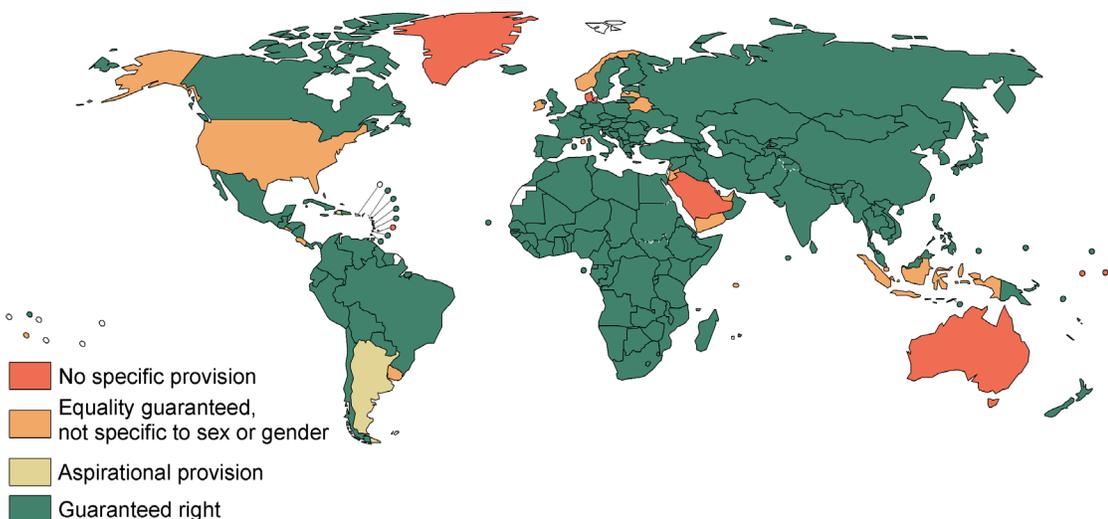
ABOUT ADVANCING EQUALITY

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.

- 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?



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

CONTACT US

WEBSITE
worldpolicycenter.org

EMAIL
world@ph.ucla.edu

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

