



### **Words and Deeds: Holding Governments Accountable in the Beijing + 10 Review Process**

Numerous laws that discriminate against women continue to exist around the world, expressing in concrete terms formal government policy towards women. Governments that allow discriminatory laws to remain in force in this way endorse and promote inequality and deny women recourse when they face discrimination that affects all aspects of their lives including security, bodily integrity, family life, community status, and political, economic and social prospects.

Twelve years ago at the United Nations Fourth World Conference on Women in Beijing, governments pledged in the Beijing Platform for Action to “revoke any remaining laws that discriminate on the basis of sex.” In 2000, the Special Session of the General Assembly convened to review the Platform for Action established a target date of 2005 for revocation of all discriminatory laws. It is now two years past the target date and many governments are still failing to implement their promises to ensure equality under the law for men and women. Thirty-two of the fifty-three countries highlighted in Equality Now’s reports since 1999 on discriminatory laws around the world have not amended or repealed the discriminatory laws highlighted. (See *Words and Deeds: Holding Governments Accountable in the Beijing + 10 Review Process* available online at [www.equalitynow.org](http://www.equalitynow.org).) There are many more that exist around the world.

A mechanism is urgently needed to carry forward the process of eliminating legalized discrimination against women. In March 2005, the United Nations Commission on the Status of Women (CSW) convened for a ten-year review of the commitments made in the Beijing Platform for Action, pledged to undertake further action to ensure the full and accelerated implementation of the Beijing Declaration and Platform for Action. A resolution was introduced by the Rwandan and Philippine Governments and co-sponsored by Angola, Argentina, Benin, Botswana, Brazil, Cameroon, Chad, Congo, Eritrea, Gabon, Iceland, Lesotho, Madagascar, Malawi, Niger, Nigeria, Republic of Korea, Senegal, South Africa, Togo, and Zambia calling for the consideration of the advisability of the appointment of a Special Rapporteur on laws that discriminate against women. Such a Special Rapporteur would allow the CSW to highlight ways in which Member States have used law reform effectively to counter discrimination against women and would be able to engage in a dialogue with States regarding laws that discriminate against women and support ongoing efforts to revoke these laws. S/he could also promote exchange of information among Member States on issues of common concern. The Special Rapporteur’s work could draw from and build on the work of the Committee on the Elimination of Discrimination Against Women (the CEDAW Committee) to strengthen mechanisms supporting women’s rights at the United Nations.

Following consultation with member states, the United Nations High Commissioner for Human Rights, and the CEDAW Committee on the advisability of appointing a Special Rapporteur, the UN Secretary-General issued his report to CSW concluding that “[a] dedicated mechanism that would tackle [discriminatory] laws as its primary and exclusive concern, rather than as incidental to a broader mandate, from a global perspective could provide the necessary momentum for change that has so far been absent.” However, a Special Rapporteur was not appointed at the 2006 session of the CSW. Instead, a resolution was passed, introduced by the Rwandan and Slovenian Governments and co-sponsored by the governments of Argentina, Burundi, Cameroon, Congo, Cote d’Ivoire, Ghana,

Guinea, Republic of Korea and Tanzania, calling for further consideration of the establishment of a Special Rapporteur bearing in mind existing United Nations mechanisms with a view to avoiding duplication.

In his second report, which expands on the view reflected in his 2006 report, the Secretary-General addresses the relationship between a new mechanism and the reform discussions within the United Nations. He suggests that “timely action in the Commission on the Status of Women on the creation of such a position and its mandate would also facilitate the ongoing review by the Human Rights Council of the special procedures...[and]...would allow the Council to take into consideration such a new mandate and its relationship with the Council and existing mechanisms.”

In his in-depth study on violence against women published in July 2006, the UN Secretary-General emphasized that “violence against women is both a cause and a consequence of discrimination against women and of their inequality and subordination...Securing gender equality... must not be treated as optional or marginal.” The report concluded that a “stronger, more consistent and visible leadership role by intergovernmental bodies and the entities of the United Nations system is necessary.” It calls explicitly for States to “remove all laws that discriminate against women; review and revise all State policies and practices to ensure that they do not discriminate against women; and ensure that provisions of multiple legal systems...comply with international human rights standards, including the principle of non-discrimination.” Governments must move from words to action. There have been significant legal reforms in some countries, but violence and discrimination against women continue. A Special Rapporteur could accelerate the pace of change and help make legal equality for women a reality.

### **Recommended Actions**

Please call on your government’s foreign ministry to support the creation by the CSW of a Special Rapporteur on laws that discriminate against women. Thank your government if it is a co-sponsor of the resolutions passed and ask that it maintain its leadership role in promoting this mechanism at the CSW and among other governments to accelerate reform of legal discrimination against women. Continue also to write to the governments of countries highlighted in *Words and Deeds: Holding Governments Accountable in the Beijing + 10 Review Process* (see [www.equalitynow.org](http://www.equalitynow.org)). Call on them to ensure that the laws cited, and any other discriminatory laws in force, are repealed or amended, noting the agreed target date of 2005. Ask your own justice ministry to undertake a comprehensive review to identify and address any laws with sex discriminatory language or impact. Share your concerns and this Update with the media and the general public to enlist their support in the campaign to eliminate laws that discriminate against women.

**Please keep Equality Now updated on your work and send copies of any replies you receive to:**

Equality Now, P.O. Box 20646, Columbus Circle Station, New York, NY 10023 USA or  
Equality Now Africa Regional Office, P.O. Box 2018 KNH 00202, Nairobi, KENYA or  
Equality Now, P.O. Box 48822, London WC2N 6ZW, UK

**Corrections and Contact Updates to Women's Action 16.5**  
**February 2007**

**Words and Deeds**  
**Holding Governments Accountable in the Beijing + 10 Review Process**

Page 3	Israel	The Prime Minister of Israel is now <b>Mr. Ehud Olmert</b> . See updated fax number below.
Page 3	Japan	The Prime Minister of Japan is now <b>Mr. Shinzo Abe</b> . The contact information is: Prime Minister's Office 1-6-1 Nagata-cho 1 Chome Chiyoda-ku Tokyo 100-0014, JAPAN Tel: +81-3-3581 2361 Fax: +81-3-3593 1784 To email Prime Minister Abe, go to: <a href="http://www.kantei.go.jp/foreign/forms/comment.html">http://www.kantei.go.jp/foreign/forms/comment.html</a>
Page 5	Poland	The Prime Minister of Poland is now <b>Mr. Jarosław Kaczyński</b> . See updated telephone number below.
Page 5	Romania	The President of Romania is now <b>Mr. Traian Basescu</b> . The contact information for President Basescu is: Palatul Cotroceni, Strada Geniului nr. 1-3 Sector 5 - Bucuresti 060116, ROMANIA Tel: +40-21-410 05 81 Fax: +40-21-319 31 31 Email: <a href="mailto:procetatean@presidency.ro">procetatean@presidency.ro</a>
Page 8	Tanzania	The President of Tanzania is now <b>Mr. Jakaya Kikwete</b> . See updated telephone number below.
Page 9	Bangladesh	The Head of State of Bangladesh is now <b>Dr. Fakhruddin Ahmed, Honorable Chief Advisor</b> . The updated mailing address is: Office of the Chief Advisor Government of the People's Republic of Bangladesh Tejgoan, Dhaka, BANGLADESH
Page 10	Kenya	The email for President Kibaki is <a href="mailto:president@statehousekenya.go.ke">president@statehousekenya.go.ke</a>
Page 10	Monaco	Article 1 has been modified by the addition of the following paragraphs: "4. Every person born of a Monegasque mother who acquired Monegasque nationality by naturalization, by reestablishment of nationality, or by application of the provisions of the second paragraph of article 6 or the fourth paragraph of article 7 of this law. 5. Every person born of a mother who acquired Monegasque nationality by declaration following a simple adoption. 6. Every person born in Monaco of unknown parents. The nationality of a child who has been the object of a legitimating adoption is determined according to the distinctions established in the previous paragraph." The Head of State of Monaco is now <b>Prince Albert II</b> . The email for Prince Albert II is <a href="mailto:centre-info@gouv.mc">centre-info@gouv.mc</a> . See updated fax number below.
Page 13	Pakistan	To email President Musharraf, go to <a href="http://www.presidentofpakistan.gov.pk/WTPresidentMessage.aspx">www.presidentofpakistan.gov.pk/WTPresidentMessage.aspx</a>
Page 13	Saudi Arabia	The King of Saudi Arabia is now <b>King Abdullah bin Abdul Aziz Al Saud</b> . The mailing address is: Royal Court Riyadh 11111, SAUDI ARABIA No email is available.
Page 14	Philippines	To email President Macapagal-Arroyo, go to <a href="http://www.op.gov.ph/contact.asp">www.op.gov.ph/contact.asp</a> . See updated

		fax number below.
Page 15	Chile	The President of Chile is now <b>Ms. Michelle Bachelet Jeri</b> . To email President Bachelet, go to <b><a href="http://www.presidencyofchile.cl/view/viewRegistraUsuario.asp">www.presidencyofchile.cl/view/viewRegistraUsuario.asp</a></b> See updated fax and telephone numbers below.
Page 17	Bolivia	The President of Bolivia is now <b>Mr. Evo Morales</b> . The email for President Morales is <b><a href="mailto:despacho@presidencia.gov.bo">despacho@presidencia.gov.bo</a></b> . See updated fax number below.
Page 17	Cameroon	The email for President Biya is <b><a href="mailto:celcom@prc.cm">celcom@prc.cm</a></b>
Page 18	Latvia	The Prime Minister of Latvia is now <b>Mr. Aigars Kalvītis</b> . The wording of Section 138(6) of the Labour Law has been amended, but remains discriminatory. It now reads: "It is prohibited to employ at night persons who are under 18 years of age, pregnant women and women for a period following childbirth of up to one year, but if a woman is breastfeeding then during the whole period of breastfeeding, if there is a doctor's opinion that the performance of the relevant work causes a threat to the safety and health of the woman or her child." See updated telephone and fax numbers below.
Page 19	Madagascar	The Prime Minister of Madagascar is now <b>Mr. Charles Rabemananjara</b> . See updated telephone and fax numbers below.
Page 19	United Kingdom	Section 85(4) has been amended but remains discriminatory. It now reads: "Nothing in this Act shall render unlawful an act done for the purpose of ensuring the combat effectiveness of the armed forces." To send an email to Prime Minister Blair, go to: <b><a href="http://www.pm.gov.uk/output/Page821.asp">http://www.pm.gov.uk/output/Page821.asp</a></b>
Page 24	Nigeria	The email for President Obasanjo is <b><a href="mailto:president.obasanjo@nigeria.gov.org">president.obasanjo@nigeria.gov.org</a></b>
Page 25	Haiti	The President of Haiti is now <b>Mr. Rene Preval</b> . See updated fax number below.
Page 27	Iran	The President of Iran is now <b>Mr. Mahmud Ahmadinejad</b> . The contact information is: Presidency Office Pasteur Avenue, Postal Box 1423-13185 Tehran 13168-43311, IRAN Tel: +98-21-64451 Fax: +98-21-6646 2774 Email: <a href="mailto:dr-ahmadinejad@president.ir">dr-ahmadinejad@president.ir</a>

Updated addresses and contact numbers are as follows:

Page 1	Algeria	Tel: +213-21-68 2292 Fax: +213-21-69 1595
Page 3	Israel	Fax: +972-2-651 3955
Page 4	Mali	Fax: +223-223-0026/ 223-1715
Page 5	Poland	Tel: +48-22-841 3832/694 6983
Page 5	Romania	Tel: +40-21-410 0581
Page 7	Sudan	President's Palace PO Box 281 Khartoum, SUDAN No fax number or email address is available.
Page 8	Tanzania	Tel: +255-22 211 6539
Page 8	Yemen	Tel: +967-1-208 934/402 2983 Fax: +967-1-274 147
Page 10	Kenya	Fax: +254-20-25 02 64
Page 10	Monaco	Fax: +377 92 16 02 22
Page 14	Philippines	Fax: +63-2-736 1010
Page 15	Chile	Tel: +56-2-690 4361 Fax: +56-2-690 4077
Page 15	Lesotho	Fax: +266-22 320 662
Page 17	Bolivia	Fax: +591-22-11 32 04
Page 19	Latvia	Tel: +371-708 2800 Fax: +371-728 0469
Page 19	Madagascar	Tel: +261-2-022 331 16/650 10 No fax number is available.
Page 22	Lebanon	Tel: +961-1-866 301 Fax: +961-5-920 472
Page 24	Nigeria	No fax number is available.
Page 25	Haiti	Fax: +509-224 4875/228 2319/228 2320



### Words and Deeds Holding Governments Accountable in the Beijing + 10 Review Process

The fundamental right to equality has been affirmed and reaffirmed repeatedly by governments in international treaties, declarations, and conferences, as well as in domestic constitutions. Nevertheless, discrimination against women in its most blatant forms continues in countries around the world. In September 1995, 6,000 delegates from 189 countries at the United Nations Fourth World Conference on Women in Beijing adopted a Declaration reaffirming their fundamental commitment to “the equal rights and inherent dignity of women and men.” They also adopted the Beijing Platform for Action in which they pledged to “ensure equality and non-discrimination under the law and in practice,” and more specifically in Paragraph 232(d) to “revoke any remaining laws that discriminate on the basis of sex and remove gender bias in the administration of justice.” In June 2000, a Special Session of the General Assembly reviewed implementation of the Platform for Action, and governments pledged in the Outcome Document they adopted to review domestic legislation “with a view to striving to remove discriminatory provisions as soon as possible, preferably by 2005...” The 2005 deadline is fast approaching, yet laws that explicitly discriminate against women remain in force in many countries.

In 1999, Equality Now published *Words and Deeds: Holding Governments Accountable in the Beijing +5 Review Process*, a report highlighting a representative sampling of discriminatory laws in forty-five countries around the world and calling on their governments to rescind these laws in accordance with the commitment made in the Beijing Platform for Action. There have been a number of significant legal reforms in some countries. Equality Now welcomes the reforms that have been made by the Governments of The Bahamas, Costa Rica, France, Jordan, Mexico, Papua New Guinea, Peru, Switzerland, Turkey, Venezuela and the Federal Republic of Yugoslavia – Republic of Serbia, to eliminate the discriminatory laws highlighted by Equality Now in its initial report. These reforms demonstrate a commitment to equality and respect for the undertakings made in Beijing and other international legal obligations. They set an example that should be followed by all governments. The Government of Nepal amended several property laws to remove discriminatory provisions, including a law that gave daughters the right to a share of family property only if they were 35 years old and unmarried. It failed, however, to repeal a provision that requires women to return any such property upon marriage.

A large majority of the discriminatory laws cited by Equality Now in its report five years ago are still in force. The updated report attached to this Women's Action Update includes these laws and other laws that explicitly perpetuate *de jure* discrimination with regard to personal status, economic status, marital status and violence against women. These are a few of the many existing laws that fundamentally contradict the words and spirit of the Platform for Action (as well as the Universal Declaration of Human Rights, the International Covenants on Civil and Political, and Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of Discrimination Against Women). In anticipation of the tenth anniversary of the adoption of the Beijing Platform for Action and the target date of 2005 for elimination of discriminatory laws, Equality Now calls on all governments to rescind these laws within the next year, to demonstrate their commitment to implement the Beijing Platform for Action.

Explicitly discriminatory laws that mention women by name are only a small part of the discrimination women face daily in every country in the world. In many and varied ways, women's right to equality is pervasively and invisibly denied and precluded, their social inequality officially ratified. Some constitutions specifically exempt from equality guarantees certain laws that particularly and profoundly affect women's lives, such as family law and property inheritance, in deference to discriminatory religious or customary laws. Laws adopted to promote equality in employment rarely guarantee equal pay for work of comparable value, and domestic work is almost never covered by labor laws, with the result that women in the most sex-segregated jobs continue to be underpaid and unprotected. Authorities in most countries are typically reluctant to respond vigorously to domestic violence with the result that women, the primary victims of intimate assault, have less personal security. Some countries make selling sex a crime while buying sex is not, thereby criminalizing those who are exploited, mainly women, while at the same time not holding those who exploit them, almost always men, accountable for this abuse. In countries where abortion is a crime, women are forced to carry pregnancy to term or are exclusively burdened with the danger of illegal abortions, which can be fatal. Whenever laws promote or perpetuate women's inequality, even when their language appears gender-neutral, they constitute discrimination in violation of international norms. To implement the Beijing Platform for Action, which calls for "non-discrimination under the law and in practice," governments must review all laws that have a discriminatory impact and remedy this discrimination.

Law is the most formal expression of government policy. A government that allows discriminatory laws to remain in force endorses and promotes inequality. Without equality under law, women have no recourse when they face discrimination that affects all aspects of their lives including security, bodily integrity, family life, community status, and political, economic and social prospects. The fact that there are any laws - in fact so many laws - that explicitly discriminate against women nearly 10 years after the adoption of the Beijing Platform for Action, 25 years after the adoption of CEDAW and 55 years after the adoption of the Universal Declaration of Human Rights affirming that "all human beings are born free and equal in dignity and rights," is unacceptable.

### **Recommended Actions**

Please write to the heads of state of the countries mentioned in this report and call on them to ensure that the laws mentioned, and any other discriminatory laws in force, are repealed or amended before the agreed target date of 2005. Urge them to undertake and complete these reforms as a demonstration of their genuine commitment to the words and spirit of the 1995 Beijing Platform for Action and the Outcome Document adopted in 2000. To address the harmful and disproportionate impact on women of laws that are gender neutral in language, call on your own government to undertake a comprehensive review, in conjunction with women's groups in the country, of existing laws to identify and address any sex discriminatory impact these laws might have, through legal reform or other measures needed to ensure non-discriminatory implementation of the law. This appeal should be addressed to your Minister of Justice, as well as your President or Prime Minister. Share this report and your concerns with the media and the general public, to enlist their support in this campaign to hold governments accountable to the promises they made in the Beijing Platform for Action. Please keep us updated on your campaign efforts and let us know about discriminatory laws in your country and efforts underway to change them.

Please keep Equality Now updated on your efforts and send information or copies of replies you receive to:

**Equality Now, P.O. Box 20646, Columbus Circle Station, New York, NY 10023 USA** or

**Equality Now Africa Regional Office, P.O. Box 2018 KNH, Nairobi, KENYA** or

**Equality Now, P.O. Box 48822, London WC2N 6ZW, UK**

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# MARITAL STATUS

## MARRIAGE, DIVORCE, POLYGAMY & WIFE OBEDIENCE

### ALGERIA

#### The Family Code of 1984:

Article 8. *It is permitted to contract marriage with **more than one wife** within the limits of the Shari'a, if there is a just ground and the condition of equality can be fulfilled – provided that the previous and future wives are duly informed...*

Article 11. *Marriage of a woman shall be contracted by **her marriage-guardian**, who may be her father or one of her near [male] relatives. The qadi is the marriage guardian of a person who has no father or near [male] relative.*

Article 30. *...It is prohibited to have as **co-wives** two sisters by blood - full, half or uterine - or fosterage, or a woman and her paternal or maternal aunt.*

Article 31. *A Muslim **woman** cannot marry a non-Muslim...*

Article 39. *The wife is required to: (i) **obey her husband** and recognize his position as the head of the family; (ii) **nurse her progeny** if she is capable and rear her progeny; (iii) **respect her husband's parents** and his close relatives.*

Article 48. ***Divorce** causes dissolution of marriage. It arises from the **will of the husband**, mutual consent of the spouses, or the demand of the wife as provided in articles 53 and 54.*

Article 53. *The wife can seek a judicial divorce on the following grounds: (i) non-payment of maintenance... (ii) infirmities hindering realization of the objects of marriage; (iii) refusal of the husband to cohabit with his wife for more than four months; (iv) conviction of the husband, punishable with loss of civil rights for a period exceeding one year, which is of such a nature as to dishonour the family and render impossible leading of common life and conjugal relations; (v) absence of the husband without valid excuse for more than a year without payment or maintenance; (vi) any matrimonial wrong legally recognized, especially violation of provisions of articles 8 and 37; and (vii) an immoral act which is severely reprehensible.*

**NOTE:** Article 29 of the Constitution of Algeria: *All citizens are **equal** before the law. No discrimination shall prevail because of birth, race, **sex**, opinion or any other personal or social condition or circumstance.*

#### CONTACT – ALGERIA

President Abdelaziz Bouteflika  
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## COLOMBIA

### The Civil Code:

Article 140. *Matrimony is null and void without effect in the following cases:*

...

2. *When it is contracted between a **male** under the age of **fourteen** and a **female** under the age of **twelve** or when either of these two are that age respectively.*

**NOTE:** Article 13 of the Constitution of Colombia: *All persons are born free and **equal** before the law, will receive the same protection and treatment from the authorities and will enjoy the same rights, liberties and opportunities without any discrimination on the basis of **sex**, race, national or familial origin, language, religion, political or philosophical opinion.*

### From Women's Action Update 16.8:

The Constitutional Court struck down the discriminatory provisions of Article 140(2) of the Civil Code, ruling that disparities in marriage age based on sex were unenforceable in light of Colombia's international commitments and the principle of equality enshrined in the Constitution. The marriage age, previously 12 for girls, is now 14 for both boys and girls. While Equality Now welcomes the removal of sex discrimination in this provision, it encourages the government of Colombia to institute further reform to raise the marriage age to 18, the age of majority under the Convention on the Rights of the Child, to which Colombia is a party.

#### CONTACT – COLOMBIA

President Alvaro Uribe Vélez  
Office of the President  
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COLOMBIA  
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Fax: +57-1-337 5890  
E-mail: go to [www.presidencia.gov.co](http://www.presidencia.gov.co)

## ISRAEL

### Rabbinical Courts Jurisdiction (Marriage and Divorce) Law (5713-1953):

1. *Matters of marriage and divorce of Jews in Israel, being nationals or residents of the State, shall be under the exclusive jurisdiction of rabbinical courts.*
2. *Marriages and divorces of Jews shall be performed in Israel in accordance with **Jewish religious law**.*

### “Plonit v. Ploni”, The High Rabbinic Court, 1995:

*“...even if it is true that she despises him there is no basis on which to **force him to divorce her** as it is written in the Shulchran Aruch [Medieval Compilation of Jewish law] section 37 page 2 ‘if the husband wants to divorce her,’ but there is not anything to obligate him and the authorities specified and it appears in the decrees of the rabbis that even **to obligate him to divorce**, without force, it **is not allowed** and this is from the language of the Shulchran Aruch which says ‘if he wants,’ that **the matter depends only on what he wants**, and we should therefore grant his appeal.”*

### “Plonit v. Ploni”, The Supreme Court of Israel, 1997:

*“...there is no basis for us to intervene, within the confines of this court’s supervisory role, into the decisions of the religious courts. That is to say, we do not sit as a level of appeal*

*for those courts...One must add that, according to Section 2 of the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law 5713-1953, the law that the rabbinical courts should apply with regard to matters of marriage and divorce is the law of the torah [religious law]. The petitioner's lawyer does not dispute that the rabbinical court did so [applied the religious law], and because the court did so, even if petitioner's lawyer believes this law is not appropriate, there is no basis for us to intervene."*

**NOTE:** The Declaration of the Establishment of the State of Israel (May 14, 1948): *The State of Israel...will ensure complete **equality** of social and political rights to all its inhabitants **irrespective of** religion, race, or **sex** ...*

#### CONTACT - ISRAEL

Prime Minister Ehud Olmert  
Kiryat Ben-Gurion  
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ISRAEL  
Phone: +972-2-670 5555  
Fax: +972-2-651 3955  
E-mail: pm\_eng@pmo.gov.il

## JAPAN

### The Civil Code of Japan:

Article 731. *Males under **eighteen** years of age and **females** under **sixteen** years of age are not eligible for marriage.*

Article 733. *(1) A woman may **not remarry** until after six months from the day the dissolution or annulment of her prior marriage have passed. (2) If she is pregnant from before the dissolution or annulment of her prior marriage, the provisions of the preceding subsection do not apply from the day she gives birth.*

**NOTE:** Article 14(1) of the Constitution of Japan: *All of the people are **equal** under the law and there shall be no discrimination in political, economic or social relations because of race, creed, **sex**, social status, or family origin.*

#### CONTACT - JAPAN

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Email: go to <http://www.kantei.go.jp/foreign/forms/comment.html>

## MALI

### The Code of Marriage and Guardianship, 1962:

Article 7. ***Men have the right** to create a monogamous arrangement or **opt for polygamy** (a maximum of four spouses), in which case each spouse constitutes a household under Article 35.*

Article 32. *The husband must give protection to the wife and the **wife obedience** to her spouse.*

**NOTE:** Article 2 of the Constitution of Mali: *All Malians are born and live free and **equal** in their rights and duties. Any discrimination based on social origin, color, language, race, **sex**, religion, or political opinion is prohibited.*

#### CONTACT - MALI

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## POLAND

### The Family and Guardianship Code:

Article 88.

Section 1. *A child who is presumed to be the **child** of her/his mother's husband, shall bear **his surname**, except when the spouses have declared that the child shall bear the mother's last name. The declaration in this situation must be made at the same time as the declarations of the surnames of the aforementioned spouses.*

Section 2. *Where the parties contracted **marriage after the birth** of the child, the above rule shall apply in like manner to the child's surname. If at the time of the parents' marriage the child was over 13 years of age, his consent to the change of his surname is required.*

Article 89.

Section 1. *Where **paternity** has been **established** by recognition of the child, the child shall bear the **surname of the father**, unless the latter declares, at the time of the recognition, that the child shall bear the mother's surname and the persons whose consent is required for the recognition of the child agree to the declaration of the father...*

Section 3. *If the paternity of the child has not been established, the child shall bear the mother's surname. Where both parents are unknown, the guardianship court shall give the child a surname.*

**NOTE:** Article 33(1) of the Constitution of Poland: ***Men and women** shall have **equal** rights in family, political, social and economic life in the Republic of Poland...*

#### CONTACT – POLAND

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## ROMANIA

### The Family Code of Romania:

Article 4. A **man** may marry only after he turns **eighteen** years old, and a **woman** only after she turns **sixteen** years old. However, for well-founded reasons, a **woman** may marry when she turns **fifteen** years old. The approval may be given by the Executive Committee of the City Hall of the City of Bucharest or of the county of residence of the woman, and only based on the approval issued by an official physician.

**NOTE:** Article 4(2) of the Constitution of Romania: *Romania is the common and indivisible homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property, or social origin.*

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## SOUTH KOREA

### The Civil Act:

Article 984. (Order of Succession to Family Headship)  
*With respect to succession to the family headship, it shall be given to a person in the following order (Amended by Act. No. 4199, Jan. 13, 1990):*

1. A **male** who is a lineal descendant of the person to be succeeded;
2. A female lineal descendant who is a member of the family of the person to be succeeded...

Article 778. (Definition of Head of Family)

*A person who has succeeded to the family lineage or has set up a branch family, or who has established a new family or has restored a family for any other reason, shall become the head of a family.*

Article 781. (Entry into Family Register and Surname and Origin of Surname of Child)

(1) *A child shall succeed his or her **father's surname** and origin of surname and shall have the name entered into his or her family's family register: Provided that when the father is a foreigner the child may succeed the mother's surname and origin of surname. (Amended by Act. No. 5431, Dec. 13, 1997)*

(2) *A child whose father is not known shall assume the mother's surname and origin of surname, and shall have the name entered in the mother's family register.*

**NOTE:** Article 11(1) of the Constitution of the Republic of Korea: *All citizens are **equal** before the law, and there may be no discrimination in political, economic, social, or cultural life on account of sex, religion, or social status.*

### **From Women's Action Update 16.8:**

The Constitutional Court ruled unconstitutional the provisions of Articles 778 and 781 that established male primacy with respect to succession to the family headship. The National Assembly passed legislation on 2 March 2005 amending the provisions of the Civil Code (Family Law) accordingly and also amended the provision that had mandated that children be given their father's surname. However, a child will still automatically take its father's name unless the couple stipulates otherwise during the registration of the marriage. A new registration system is intended to be put into effect, details of which are scheduled to be proposed to the National Assembly in June 2005, but which is unlikely to come into force until 2008. It will only be then that married women who so choose can be registered under their own name.

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## **SUDAN**

### **The Muslim Personal Law Act of Sudan, 1991:**

Section 25(c). *The validity of a marriage contract is conditioned on the existence of a guardian who would conclude the contract [for the woman].*

Section 33. *A guardian of a Muslim woman shall be male, sane, mature and Muslim.*

Section 34. (1) *The marriage of a pubescent woman shall be concluded by her guardian with her permission and consent to the husband and the dowry. Her word regarding her attainment of pubescence shall be conclusive unless it contradicts the obvious.*

(2) *A virgin pubescent woman's express or implied affirmation is necessary if her guardian concluded her marriage contract and informed her later.*

Section 40(3). *The guardian of a minor girl can conclude her marriage contract. The guardian has to prove that the marriage will benefit the minor girl, that the husband is suitable and the husband pays the dowry usually paid to women of her status.*

Section 51. *The wife's rights in relation to the husband shall be:*

- (a) *to be provided with living expenses;*
- (b) *to be allowed to visit her parents and those relatives whom she is prohibited by Shari'a law from marrying and to receive the aforesaid in her home;*
- (c) *the husband must not (i) interfere with her private property, and (ii) harm her financially or emotionally; and*
- (d) *to be treated equally and justly with her co-wife or co-wives.*

Section 52. *The husband's rights in relation to his wife shall be:*

- (a) *to be taken care of and amicably obeyed; and*
- (b) *to have the wife preserve herself and his property.*

Section 91. *Except in situations involving a violation of Shari'a law, a wife shall always obey her husband if he:*

- (a) has paid her dowry in full,
- (b) could be entrusted with her, and
- (c) provides her with a home that complies with the Shari'a requirement among good neighbors.

Section 92. *If the wife refuses to obey her husband, her right to be provided with a living ceases to be valid during such refusal.*

**NOTE:** Article 21 of the Constitution of Sudan: *All people are equal before the courts of law. Sudanese are equal in rights and duties as regards to functions of public life; and there shall be no discrimination only by reason of race, sex or religious creed.*

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## TANZANIA

### The Law of Marriage Act, 1971, as amended by Act 23/73, Act 15/80 and Act 9/96:

Section 10. Kinds of Marriage.

...

(2) *A marriage contracted in Tanganyika, whether contracted before or after the commencement of this Act shall —*

- (a) *if contracted in Islamic form or according to rites recognized by customary law in Tanganyika, be presumed, unless the contrary is proved, to be **polygamous or potentially polygamous**; and*
- (b) *in any other case, be presumed to be monogamous, unless the contrary is proved.*

Section 13. Minimum Age.

- (1) *No person shall marry who, being **male** has not attained the apparent age of **eighteen** years, or being **female**, has not attained the apparent age of **fifteen** years.*

Section 15. Subsisting Marriage.

- (1) *No man, while married by a monogamous marriage, shall contract another marriage.*
- (2) *No man, while married by a polygamous or potentially polygamous marriage, shall contract a marriage in any monogamous form with any person.*
- (3) *No woman who is married shall, while that marriage subsists, contract another marriage.*

**NOTE:** Article 13 (1) of the Constitution of Tanzania: *All persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law.*

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## YEMEN

### The Personal Status Act No. 20, 1992:

Article 40. *A husband has a right to his **wife's obedience** in matters affecting the family's interests, particularly with regard to the following:*

*(i) **She must move with him to the conjugal home**, unless she stipulated in the contract that he must allow her to remain in her home or her family's home, in which case she must permit him to live with her and enjoy access to her;*

*(ii) **She must permit him to have licit intercourse with her**, in private, when she is in a state of ritual purity;*

*(iii) She must **obey his orders** and perform her work in the conjugal home, like other women;*

*(iv) **She must not leave the conjugal home without his permission**, although the husband has no right to prevent his wife from going out for a legally valid or generally acceptable reason which is not prejudicial to honour or to her duties towards him. In particular, she may go out to attend to her property interests or discharge her employment-related duties. If the woman wishes to assist her aged parents when there is no one else to take care of either or both of them, this shall be deemed a legally valid reason.*

**NOTE:** Article 40 of the Constitution of Yemen: *Citizens are all **equal** in rights and duties.*

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## PERSONAL STATUS

### SUFFRAGE

#### KUWAIT

Voting Law No. 35, 1962 (In Relation to Voting for Members of Parliament) as amended by Law No. 66/67, Ordinance No. 130, 1986 and Law No. 32, 1995:

Article 1. *Every Kuwaiti man of 21 years of age has the right to vote, except for those who have not been Kuwaiti citizens for at least 20 years according to Article 6 of the Prince's Ordinance No. 15 for 1959 on Kuwaiti citizenship.*

#### From Women's Action Update 16.8:

On 16 May 2005, the Kuwaiti Parliament amended the election law to grant women the right to vote and stand for election.

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### CITIZENSHIP

#### BANGLADESH

#### Citizenship Order, 1972:

Article 2. *[E]very person shall be deemed to be a citizen of Bangladesh -*

*(i) Who or whose father or grandfather was born in the territories now comprised in Bangladesh...and continues to be so resident...*

**NOTE:** Article 28(1) of the Constitution of Bangladesh: *The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.*

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## KENYA

### The Constitution of Kenya:

Section 90. *A person born outside Kenya after 11th December, 1963 shall become a citizen of Kenya at the date of his birth if at that date his **father is a citizen of Kenya.***

Section 91. *A **woman who has been married to a citizen of Kenya** shall be entitled, upon making application in such a manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Kenya.*

**NOTE:** Kenya is currently reviewing its Constitution, although the process has been delayed. Urge the government to continue with the review process and repeal these articles.

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## MONACO

### Law No. 1155 on Nationality (December 18, 1992):

Article 1. *A Monegasque is:*

- 1. Every person born of a **Monegasque father.***
- 2. Every person born of a **mother who was born Monegasque and who still has Monegasque nationality on the date of that person's birth.***
- 3. Every person born of a **Monegasque mother and who has a Monegasque-born ancestor on the mother's side of the family.***

Article 3. *A foreign woman who is **the wife of a Monegasque man** can acquire Monegasque nationality by declaration, after a waiting period of five years from the date of marriage, on condition that the marriage to her Monegasque husband has not ended at the time of the request, except in the case of widowhood which has not been followed by remarriage.*

**NOTE:** Article 17 of the Constitution of Monaco: *The citizens of Monaco enjoy **equality** before the law. No preferential status or treatment is accorded to any of them.*

#### From Women's Action Update 16.8:

The government has revised Article 1 of Law No. 1155, so that it now provides equivalent rights to Monegasque mothers and fathers to pass their nationality to their children. The amendments were effected, however, by a structure that enumerates specific categories of mothers who could pass on nationality, while preserving to fathers a blanket right to do so. Consequently, while the change is welcome, the law remains facially discriminatory. According to government officials, this differentiation derives from the law regarding acquisition of Monegasque nationality by marriage, including Article 3 of Law No. 1155, which was also highlighted in Equality Now's full report as discriminatory. Article 3 permits non-Monegasque women to acquire Monegasque nationality in certain circumstances through marriage to Monegasque men, but Monegasque women do not have the equivalent right to pass on their nationality to their non-

Monegasque husbands. Please write to the government, welcoming the changes that have been made to Article 1 but calling for the amendment of Article 3 to provide for equal nationality rights for non-Monegasque men and women who marry Monegasque nationals and further revision to remove the discriminatory structure of Article 1.

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## UNITED STATES OF AMERICA

### The Immigration and Nationality Act:

Section 309. Children born out of wedlock.

*(a) The provisions of paragraphs (c), (d), (e), and (g) of section 301 [granting United States citizenship] shall apply as of the date of birth to a person born out of wedlock if -*

- (1) a blood relationship between the person and the **father** is established by clear and convincing evidence,*
- (2) the **father** had the nationality of the United States at the time of the person's birth,*
- (3) the **father** (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and*
- (4) while the person is under the age of 18 years -*
  - (A) the person is legitimated under the law of the person's residence or domicile,*
  - (B) the father acknowledges paternity of the person in writing under oath, or*
  - (C) the paternity of the person is established by adjudication of a competent court.*

*(c) Notwithstanding the provision of subsection (a) of this section, a person born, after December 23, 1952, outside the United States and out of wedlock shall be held to have acquired at birth the **nationality status of his mother**, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year.*

**NOTE:** The law cited above was challenged in a case brought by a woman born in the Philippines to a Filipino mother and an American father who had served in the United States military forces on duty in the Philippines. The law was upheld on procedural grounds by the United States Supreme Court in 1998 in *Miller v. Albright*, 523 U.S. 420. Justice Ruth Bader Ginsburg, one of two women on the nine-member court, wrote in her dissenting opinion:

*"The law at issue might have made custody or support the relevant criterion. Instead, it treats **mothers one way, fathers another**, shaping government policy to fit and reinforce the stereotype or historic pattern...."*

*Even if one accepts at face value the Government's current rationale, it is surely based on generalizations (stereotypes) about the way women (or men) are...One can demur to the Government's observation that more United States citizen mothers of children born abroad out of wedlock actually raise their children than do United States citizen fathers of such children. As Justice Breyer has elucidated, this observation does not justify **distinctions between male and female** United States citizens who take responsibility, or avoid responsibility, for raising their children."*

The law was again challenged in a case brought by a man born in Vietnam to a Vietnamese mother and an American father, who faced deportation from the United States. His father was a co-petitioner in the case. In June 2001, the U.S. Supreme Court rendered its decision in *Nguyen v. INS*, 533 U.S. 53 (2001), holding that this law does not violate the equal protection guarantee of the United States Constitution. The majority opinion, in a 5-4 decision, justified its holding on the basis of two governmental interests – “assuring a

biological parent-child relationship exists” and “the determination to ensure that the child and the citizen parent have some demonstrated opportunity or potential to develop not just a relationship that is recognized, as a formal matter, by the law, but one that consists of the real, everyday ties that provide a connection between child and citizen parent, and, in turn, the United States.” The majority opinion, authored by Justice Kennedy, did not address the fact that such a relationship was arbitrarily required by the law for U.S. citizen fathers but not U.S. citizen mothers. In the dissent, Justice O’Connor noted, “Indeed, the majority's discussion may itself simply reflect the stereotype of male irresponsibility that is no more a basis for the validity of the classification than are stereotypes about the 'traditional' behavior patterns of women.” This Supreme Court decision exhausts litigation as an avenue of recourse under the Constitution. Congressional legislative reform is now the only way to address this discriminatory law.

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## EVIDENCE

### PAKISTAN

#### The Qanun-e-Shahadat Order, 1984 (Law of Evidence):

Article 17. Competence and number of witnesses.

(1) *The competence of a person to testify, and the number of witnesses required in any case shall be determined in accordance with the injunctions of Islam as laid down in the Holy Quran and Sunnah.*

(2) *Unless otherwise provided in any law relating to the enforcement of Hudood or any other special law,*

*(a) in matters pertaining to financial or future obligations, if reduced to writing, the instrument shall be attested by **two men, or one man and two women**, so that one may remind the other, if necessary, and evidence shall be led accordingly; and*

*(b) in all other matters, the Court may accept, or act on, the testimony of one man or one woman or such other evidence as the circumstances of the case may warrant.*

### **The Offences of Zina (Enforcement of Hudood) Ordinance, 1979:**

Section 8. *Proof of zina-bil-jabr [rape] liable to hadd [maximum punishment prescribed by the Quran] shall be in one of the following forms, namely:-*

*(a) the accused makes before a Court of competent jurisdiction a confession of the commission of the offence; or*

*(b) at least **four Muslim adult male witnesses**, about whom the Court is satisfied, having regard to the requirements of tazkiyah al-shuhood [the mode of inquiry adopted by a Court to satisfy itself as to the credibility of a witness], that they are truthful persons and abstain from major sins (kabair), give evidence as eye-witnesses of the act of penetration necessary to the offence.*

*Provided that, if the accused is a non-Muslim, the eye-witnesses may be non-Muslims.*

**NOTE:** Article 25 of the Constitution of Pakistan: *(1) All citizens are **equal** before law and are entitled to equal protection of law. (2) There shall be no discrimination on the basis of **sex** alone.*

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## **TRAVEL**

### **SAUDI ARABIA**

#### **Fatwa on Women's Driving of Automobiles (Shaikh Abdel Aziz Bin Abdallah Bin Baz), 1990:**

*. . . the issue of **women's driving of automobiles**. It is known that this is a source of undeniable vices, inter alia, the legally prohibited "khillwa" [meeting in private between a man and a woman] and abandonment of "hijab" [women's veil]. This also entails women meeting with men without taking the necessary precautions. It could also lead to committing "haraam" [taboo] acts hence this was forbidden. Pure "Shari'a" also prohibits the means that lead to committing taboo acts and considers these acts "haraam" in themselves... Thus, the pure "Shari'a" **prohibited** all the ways leading to vice... Women's driving is one of the means leading to that and this is self-evident.*

**NOTE:** In Saudi Arabia, a *fatwa* has the force of law.

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## PROSTITUTION

### PHILIPPINES

#### The Revised Penal Code

Article 202. Vagrants and prostitutes; penalty. - *The following are vagrants:*

...

5. *Prostitutes.*

*For the purposes of this article, **women** who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct, are deemed to be prostitutes. Any person found guilty of any of the offenses covered by this article shall be punished by arresto menor [minor arrest] or a fine not exceeding 200 pesos, and in case of recidivism, by arresto mayor [major arrest] in its medium period to prision correccional [correctional prison] in its minimum period or a fine ranging from 200 to 2,000 pesos, or both, in the discretion of the court.*

**NOTE:** Constitution of the Philippines, Article II, Section 14: *The State recognizes the role of women in nation-building, and shall ensure the fundamental **equality** before the law of women and men.*

There are several bills pending in the Philippines Congress and Senate that would modify Article 202 of the Penal Code, redefining “prostitute” to include any person, not just women. If these bills pass, the law would still have a discriminatory impact on women as it would criminalize only prostitutes, the majority of whom are women, and not those who buy sex from prostitutes, who are virtually all men. House Bill 471, pending with the House of Representatives' Committee on Justice, would, as currently drafted, repeal Article 202, decriminalize prostitutes and penalize the consumer. Urge the government to adopt HB 471 or otherwise amend Article 202 of the Penal Code so that consumers of prostitution and not the prostitutes themselves are criminalized.

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## ECONOMIC STATUS

### INHERITANCE AND PROPERTY IN MARRIAGE

#### CHILE

##### The Civil Code:

Article 1749. *The marital partnership is to be headed by the husband, who shall administer the spouses' joint property as well as the property owned by his wife, subject to the obligations and limitations set forth in this Section and those agreed to at the time of marriage.*

**NOTE:** Article 19(2) of the Constitution of Chile: *Men and women are equal before the law.*

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#### LESOTHO

##### The Deeds Registry Act (No.12 of 1967):

*No immovable property shall be registered in the name of a woman married in community of property.*

**NOTE:** Article 4(1) of the Constitution of Lesotho: *Whereas every person in Lesotho is entitled, whatever his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status to fundamental human rights and freedoms, that is to say, to... freedom from discrimination...[and] the right to equality before the law and the equal protection of the law.*

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## NEPAL

### Muluki Ain, No. 16 of the Chapter on Partition:

*If she [an unmarried daughter] gets married or elopes with anyone after receiving such share [an equal share of inherited property], the property remaining after deducting from such share the marital expenses shall go to her successors in accordance with law.*

**NOTE:** Article 11 of the Constitution of Nepal: *No discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe or ideological conviction or any of these.*

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## EMPLOYMENT

## AUSTRALIA

### The Sex Discrimination Act of 1984:

Section 43. Combat duties, etc.

*(1) Nothing in Division 1 or 2 renders it unlawful for a person to **discriminate against a woman** on the ground of her sex in connection with employment, engagement or appointment in the Defence Force:*

- (a) in a position involving the performance of **combat duties**; or*
- (b) in prescribed circumstances in relation to combat duties.*

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## BOLIVIA

### The General Labor Law:

#### Chapter VI. The Work of Women and Minors

Article 60. *Women and children under the age of 18 shall **only work during the day**, except in the fields of nursing, domestic service and others which shall be determined.*

**NOTE:** Article 6 of the Constitution of Bolivia: *All human beings have legal status and judicial capacity in accordance with the laws. They enjoy the rights, liberties and guarantees recognized by this Constitution, **without distinction** of race, sex, language, religion, political or other opinion, national origin, or economic, social or other condition.*

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## CAMEROON

### The Civil Status Registration (Ordinance No. 81-02 of 29 June 1981):

Article 74.

(1) *A married woman may exercise a trade different from her husband.*

(2) ***The husband may object to the exercise of such a trade in the interest of the marriage or their children.***

(3) *The President of the Court with jurisdiction shall decide by order on such an objection by the husband within ten days of being seized of the matter. His decision shall be rendered free of charge and shall be taken only after the parties have been heard.*

**NOTE:** Preamble to the Constitution of Cameroon: *All persons shall have **equal rights** and obligations... The State shall provide all its citizens with the conditions necessary for their development... The State shall guarantee all citizens of either **sex** the rights and freedoms set forth in the Preamble of the Constitution.*

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## CHINA

### The Labour Act (1994):

#### Chapter VII. Special Protection for Female and Juvenile Workers

*Section 59. It is **prohibited to arrange female workers** to engage in work down the pit of mines, or work with grade IV physical labour intensity as stipulated by the State, or other work that female workers should avoid.*

**NOTE:** Article 48 of the Constitution of China: ***Women** in the People's Republic of China enjoy **equal** rights with **men** in all spheres of life, in political, economic, cultural, social and family life. The state protects the rights and interests of women, applies the principle of equal pay for equal work to men and women alike and trains and selects cadres from among women.*

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## LATVIA

### The Labour Law:

#### Section 53. Place of Discharge of Work

...

*(2) It is prohibited to send on official travel or a work trip persons under 18 years of age, as well as pregnant women and women for a period following childbirth up to one year, but if the woman is breastfeeding - during the whole period of breastfeeding, except in cases where the pregnant woman, a woman during the period following childbirth or while breastfeeding agrees to it in writing.*

#### Section 136. Overtime work

...

*(6) It is prohibited to employ in overtime work persons who are under 18 years of age, pregnant women and women for a period up to one year after giving birth, but if a woman is breastfeeding then during the whole period of breastfeeding.*

#### Section 138. Night Work

...

*(6) It is prohibited to employ at night persons who are under 18 years of age, pregnant women and women for a period following childbirth up to one year, but if a woman is breastfeeding then during the whole period of breastfeeding.*

**NOTE:** Article 91 of the Constitution of Latvia: *All **human beings** in Latvia shall be **equal** before the law and the courts. Human rights shall be realized without discrimination of any kind.*

Equality Now's 1999 report highlighted Sections 168, 169, 170 and 171.1 of Latvia's previous Labour Code. While that Labour Code is no longer in force, the discriminatory aspects of its provisions have been carried over into the new Labour Law cited above, which was adopted in June 2001 and entered into force in June 2002. In your letters to the government, express disappointment that in changing the Labour Code recently, the government did not take the opportunity to remove sex discriminatory provisions in fulfillment of its international obligation to do so.

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## MADAGASCAR

### The Labor Code (Law # 94-029 of Aug. 25, 1995):

Article 92... *It is **forbidden to employ women** in any night work notably in factories, plants, mines and quarries, construction, workshops of such a nature, public or private, secular or religious, even when these establishments have a professional teaching or charitable character.*

*However, night work of women can be authorized by the minister in charge of labor in certain establishments, **at the request of the employer** and after the inquiry by the work inspector responsible for conditions of employment.*

**NOTE:** Article 8 of the Constitution of Madagascar: *Citizens shall be **equal** under the law, enjoying the same fundamental liberties protected by law without discrimination based on **sex**, education, wealth, origin, race, religious belief or opinion.*

#### CONTACT – MADAGASCAR

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## UNITED KINGDOM

### Sex Discrimination Act of 1975

Section 85(4): *Nothing in this Act shall render unlawful an act done for the purpose of ensuring the combat effectiveness of the armed forces.*

## Revised Employment Policy for Women in the Army - Effect on the Royal Marines

Paragraph 2(b): *In a small corps, in times of crisis and manpower shortage, all Royal Marines must be capable at any time of serving at their rank and skill level in a commando unit...*

**Employment of women in the Royal Marines will not allow for interoperability.**

**NOTE:** Urge the government to revoke the discriminatory Royal Marines employment policy and to clarify Section 85(4) of the Sex Discrimination Act so that it cannot be used to justify sex discrimination, which does not promote combat effectiveness.

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## VIOLENCE

### PRE-MARITAL RAPE AND VIOLENCE

#### ETHIOPIA

#### The Penal Code of the Empire of Ethiopia, 1957:

Article 558. Abduction.

(1) *Whosoever carries off a woman by violence, or after having obtained her consent to abduction by intimidation or violence, trickery or deceit, is punishable with rigorous imprisonment not exceeding three years.*

(2) *When the woman carried off is responsible and freely contracts with her abductor a valid marriage, proceedings shall be instituted only where such marriage is subsequently annulled by law.*

Article 599. Non-Prosecution in the Event of Subsequent Marriage.

*When the victim of rape, indecent assault or seduction, or abuse of her state of distress or dependence upon another freely contracts a marriage with the offender and where such marriage is not declared null and void, no prosecution shall follow. Where proceedings have already taken place and have resulted in a conviction, the sentence shall terminate forthwith.*

**NOTE:** Article 25 of the Constitution of Ethiopia: *All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth or other status.*

### From Women's Action Update 16.8:

The Ethiopian Parliament adopted a new Penal Code in 2004 that removes the marital exemption from penalty for crimes of abduction and rape. The new Code came into effect on 9 May 2005.

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## GUATEMALA

### The Penal Code of Guatemala, Decree No. 17-73:

Article 200. Marriage of the Victim with the Offender.

*In the crimes included in the previous Chapters I (Rape), II (Statutory Rape), III (Indecent Assault) and IV (Kidnapping), the criminal responsibility of the accused or the penalty, as the case may be, will be void through the legitimate marriage of the victim with the offender, provided that the victim is more than 12 years old and, in every case, with prior approval of the public ministry.*

**NOTE:** Article 4 of the Constitution of Guatemala: *In Guatemala all human beings are free and equal in dignity and rights. Men and women, whatever their marital status, have equal opportunities and responsibilities. No one may be subjected to servitude or any other condition that undermines his/her dignity.*

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## LEBANON

### The Penal Code:

Article 522. *In the event a legal marriage is concluded between the person who committed any of the crimes mentioned in this chapter [including rape, kidnapping and statutory rape], and the victim, prosecution shall be stopped and in case a decision is rendered, the execution of such decision shall be suspended against the person who was subject to it.*

*Prosecution or the execution of the penalty shall be resumed before the lapse of three years in cases of misdemeanors and five years in cases of felonies, in the event such marriage*

*ends by the divorce of the woman without a legitimate reason or by a divorce which is decided by court in favor of the woman.*

**NOTE:** Article 7 of the Constitution of Lebanon: *All Lebanese are equal before the law. They equally enjoy civil and political rights and equally are bound by public obligations and duties without any distinction.*

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## URUGUAY

#### The Penal Code:

Article 116. Extinction of Crime By Marriage.

*Marriage between the offender and the offended extinguishes the crime or the punishment where appropriate, in the case of rape, violent indecent assault, statutory rape or abduction.*

**NOTE:** Article 8 of the Constitution of Uruguay: *All persons are equal before the law and no distinctions are recognized between individuals other than talent and personal capacity.*

#### CONTACT – URUGUAY

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## MARITAL RAPE

## INDIA

#### The Penal Code:

Section 375. *Exception [to the definition of rape in Section 375]: Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age is not rape.*

**NOTE:** Article 15 of the Constitution of India: *The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.*

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## MALAYSIA

### The Penal Code:

Section 375. *Exception [to the definition of rape in Section 375]: Sexual intercourse by a man with his **own wife** by a marriage which is valid under any written law for the time being in force, or is recognized in the Federation as valid, **is not rape.***

**NOTE:** Article 8 (1) of the Constitution of Malaysia: *All persons are equal before the law and entitled to the equal protection of the law.*

#### CONTACT – MALAYSIA

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## TONGA

### The Criminal Offences Act (Inserted by Act 9 of 1987):

118. (2) *Sexual intercourse by a man with his wife shall not be deemed rape unless consent to such sexual intercourse has been withdrawn through process of law.*

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## DOMESTIC VIOLENCE

### NIGERIA

#### The Penal Code of Northern Nigeria:

Section 55. Correction of Child, Pupil, Servant or Wife

*(1) Nothing is an offence which does not amount to the infliction of grievous hurt upon any persons which is done:*

*(a) by a parent or guardian for the purpose of correcting his child or ward, such child or ward being under sixteen years of age; or*

*(b) by a schoolmaster for the purpose of correcting a child under sixteen years of age entrusted to his charge; or*

*(c) by a master for the purpose of correcting his servant or apprentice, such servant or apprentice being under sixteen years of age; or*

*(d) by a husband for the purpose of correcting his wife, such husband and wife being subject to any native law or custom in which such correction is recognized as lawful.*

*No correction is justifiable which is unreasonable in kind or degree, regard being had to the age and physical and mental condition of the person on whom it is inflicted; and no correction is justifiable in the case of a person who, by reason of tender years or otherwise, is incapable of understanding the purpose for which it is inflicted.*

**NOTE:** Article 42(1) of the Constitution of Nigeria: *A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person: ... (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject...*

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# HONOR KILLINGS

## HAITI

### The Penal Code:

Article 269. *The murder committed by one spouse on another spouse is not excusable, if the life of the spouse who committed the murder was not being threatened at the actual moment that the murder took place. Nevertheless, in the case of adultery as provided for in Article 284, the murder by a husband of his wife and/or her partner, immediately upon discovering them in flagrante delicto in the conjugal abode, is to be pardoned.*

...

Article 284. *The adultery of a wife can only be denounced by her husband: even this entitlement will cease, if the case is as provided for in Article 287.*

...

Article 287. *A husband who has kept a mistress in the conjugal abode, and who has been convicted upon the complaint of his wife, will be sentenced to pay a fine of 100 - 400 gourdes.*

**NOTE:** Article 18 of the Constitution of Haiti: *Haitians shall be **equal** before the law, subject to the special advantages conferred on native-born Haitians who have never renounced their nationality.*

### CONTACT – HAITI

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## MOROCCO

### The Penal Code:

Article 418. ***Murder, injury and beating are excusable if they are committed by a husband on his wife as well as the accomplice at the moment in which he surprises them in the act of adultery.***

**NOTE:** Article 5 of the Constitution of Morocco: *All Moroccan citizens shall be **equal** before the law.*

### From Women’s Action Update 16.8:

Morocco has effected broad legal reform that includes the following amendment to the provision cited in Equality Now’s report, which had been limited to violence committed by a husband against his wife:

Section 418—A mitigating circumstance obtains in cases of murder, injury or beating committed by one spouse against the other spouse, when either party is caught in *flagrante delicto* committing an act of infidelity.

While Equality Now welcomes the revision of this law to eliminate explicit discrimination against women, Morocco, together with other governments, committed in the Beijing Platform to “ensure equality and non-discrimination under the law and *in practice*” (emphasis added). The new law, while gender neutral on its

face, may continue to be applied in a way that discriminates against women by mitigating punishment for offenders who are all, or almost all, men who have killed women in so-called “honor” killings. Please write to the government, congratulating it on the several reforms made that provide for sex equality. Urge the government to continue this reform through the repeal of Section 418, which maintains an exemption from punishment for murder that will in practice largely, if not exclusively, be applied to men who murder women.

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## SYRIA

### The Penal Code:

Article 548.

1. ***He who catches his wife or one of his ascendants, descendants or sister committing adultery (flagrante delicto) or illegitimate sexual acts with another and kills or injures one or both of them benefits from an exemption of penalty.***
2. *He who catches his wife or one of his ascendants, descendants or sister in a compromising situation with another benefits from a reduction of penalty.*

**NOTE:** Article 45 of the Constitution of Syria: *The state guarantees women all opportunities enabling them to fully and effectively participate in the political, social, cultural, and economic life. The state removes the restrictions that prevent women's development and participation in building the socialist Arab society.*

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## STATE SANCTIONS

## IRAN

### The Penal Code:

Article 74. ***Adultery, whether punishable by flogging or stoning, may be proven by the testimony of four just men or that of three just men and two just women.***

Article 75. *If adultery is punishable **only** by **flogging** it can be proven by the testimony of **two just men and four just women**.*

Article 76. *The **testimony of women alone** or in conjunction with the testimony of only one just man shall **not prove adultery** but it shall constitute false accusation which is a punishable act.*

...

Article 100. *The **flogging of an adulterer** shall be carried out while he is standing upright and his body bared except for his genitals. The lashes shall strike all parts of his body - **except his face, head and genitals** - with full force. The **adulteress** shall be **flogged** while she is seated and her clothing tightly bound to her body.*

...

Article 102. *The **stoning** of an adulterer or adulteress shall be carried out while each is placed in a hole and **covered with soil**, **he** up to his **waist** and **she** up to a line **above her breasts**. [Under Islamic law, a person is either stoned to death or manages to escape, in which case he or she will be allowed to go free.]*

...

Article 300. *The **blood money** for the first- or second-degree **murder** of a Muslim woman is **half** that of a murdered Muslim man.*

#### **Book 5 of the Law on Islamic Punishments, Offences Against Public Decency and Morals:**

Article 635. ***Women** who appear in public without **prescribed Islamic dress** (*hejab-e shar'i*), shall be sentenced to either imprisonment of between 10 days and 2 months, or a fine of between 50,000 and 500,000 rials.*

**NOTE:** Article 20 of the Constitution of Iran: *All citizens of the country, both **men and women, equally** enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria.*

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FOR THEIR ASSISTANCE IN THE RESEARCH OF THIS REPORT:**

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POLAND:	AMNESTY INTERNATIONAL POLAND
ROMANIA:	WOMEN'S ASSOCIATION OF ROMANIA
SOUTH KOREA:	KOREA WOMEN'S HOTLINE
TANZANIA:	TANZANIAN WOMEN LAWYERS ASSOCIATION LEGAL AND HUMAN RIGHTS CENTRE
BANGLADESH:	BANGLADESH NATIONAL WOMEN LAWYERS ASSOCIATION
PHILIPPINES:	COALITION AGAINST TRAFFICKING IN WOMEN – PHILIPPINES NATIONAL COMMISSION ON THE ROLE OF FILIPINO WOMEN
LESOTHO:	WOMEN AND LAW IN SOUTHERN AFRICA
NEPAL:	FORUM FOR WOMEN LAW AND DEVELOPMENT
BOLIVIA:	OFICINA JURÍDICA PARA LA MUJER
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ETHIOPIA:	ETHIOPIAN WOMEN LAWYERS ASSOCIATION
MALAYSIA:	WOMEN'S CENTRE FOR CHANGE
NIGERIA:	WOMEN'S RIGHTS ADVANCEMENT AND PROTECTION ALTERNATIVE (WRAPA)
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