REDRESSING THE BALANCE:

USING HUMAN RIGHTS LAW TO IMPROVE HEALTH FOR WOMEN EVERYWHERE

UNSW Australian Human Rights Institute

The George Institute for Global Health

ACKNOWLEDGEMENTS

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CONTENTS

LIST OF FIGURES

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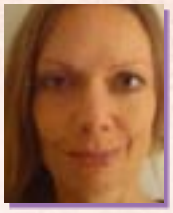

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FOREWORD

As we enter 2023, major wars, high inflation and climate events are creating hardship all around a world in which the death toll from the global pandemic is approaching seven million people, and women's health and reproductive rights are once again under siege.

Amidst the current crises, *Redressing the Balance: Using human rights law to improve health for women everywhere* usefully takes a longer term view, by investigating how the key international convention on women's rights, adopted by 189 national governments, has been translated into national laws.

There is welcome news in the report, most notably in the significant reforms addressing violence against women that have been enacted in countries across all income groups. However much remains to be done – including implementing recommendations related to sexual harassment, expanding the legal grounds for abortion and prohibiting female genital mutilation, as well as improving access to health for women experiencing poverty, and those identifying as LGBTQIA+, and for people who have been forcibly displaced. The report presents key lessons about what has worked to bring about reforms, and provides a critical resource for those demanding gender equality.

I hope that the report's findings and concrete recommendations targeted at governments, the UN and civil society are seriously considered by stakeholders and used to inform the agenda for action in the period ahead.

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EXECUTIVE SUMMARY

This report examines the guidance (and government responses to that guidance) provided by the United Nations' most comprehensive women's rights treaty, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Drawing on data from 117 countries, the majority middle income, it assesses how well each country has implemented laws to address key issues such as sexual health and domestic violence in alignment with their international legal obligations under CEDAW.

The law can be a powerful tool for challenging the status quo. It can signal to society a respect for women's equality. Laws can also allow decisions to be made with an economy of effort where they produce consistent outcomes and apply equally to entire populations. Yet, in so many cases around the world, deep-rooted inequalities in power and privilege between men and women remain longstanding features of the complex web of laws and their variable implementation that shape women's health.

For 40 years, the CEDAW Committee has played a significant role in setting global standards that guide governments on how to embed a culture of gender equality within laws by reviewing, designing, implementing, monitoring and evaluating both newly introduced and existing laws. Every four years, each country that has ratified CEDAW prepares a progress report for the consideration of the Committee. Civil society organisations (CSOs) provide 'shadow' reports, which offer an essential context that is often missing from government reports and provide insights into how these laws, programs and policies are 'living' in society.

Despite four decades of this critical work, and the role performed by the CEDAW Committee in encouraging health-related law reform for women in situations of vulnerability, it has not been systematically evaluated. In this report, we focus specifically on women experiencing or at risk of gender-based violence (GBV) and gender-based poverty, women with a refugee or asylum-seeker status and those that have migrated, and women identifying as lesbian, gay, bisexual, transgender, queer, intersex, or asexual and other sexually or gender diverse individuals (LGBTQIA+). The analysis in this report of women in situations of vulnerability is significant as it reveals the ways different aspects of women's lives can expose them to intersecting forms of discrimination and marginalisation, and ultimately, a disproportionate burden of poor health and social outcomes.

This report also touches on the limitations of the Committee review process in the context of the Sustainable Development Goals (SDGs) and other United Nations (UN) treaties and international frameworks. It concludes that a siloed approach to the monitoring and evaluation of laws impacting women's health means that governments are responding to each mechanism separately rather than taking a joined-up approach. This may be contributing to some women being left behind.

This report aims to address the lack of data on the implementation of laws relating to women in situations of vulnerability by answering these key questions:

- How does the CEDAW Committee influence the introduction and reform of laws for women experiencing intersectional discrimination?
- What kinds of laws have been introduced in response to the Committee's recommendations?
- In which areas of vulnerability do governments resist implementing laws, regardless of the Committee's recommendations, and how do CSOs view action and inaction in these areas?

In addition, we hear from leading international women's rights experts regarding CEDAW's responsiveness to the needs of women in the four situations of vulnerability.

Our findings show that between 1997 and 2020, the majority of the CEDAW Committee's law-related recommendations attempted to address GBV, with few relating to gender-based poverty, refugees, asylum seekers and migrants, and women identifying as LGBTQIA+. The Committee's recommendations offer governments that have ratified the Convention high-level guidance on when to repeal or amend laws perceived to be harmful or ineffective, and on the need for comprehensive legal definitions. The Committee also outlines where new laws should be introduced and suggests where the reach of existing laws should be extended and where laws should be transformed from being gender-neutral to gender-specific.

While law is no silver bullet, it provides a system that guides how societies operate and what individuals, corporations and communities consider acceptable. In this way, laws can be used by governments to follow through on their obligations and duties under international law to respect, protect and fulfil human rights. Countries that reform and fully implement gender equality laws using an intersectional lens have every opportunity to produce better health, nutrition and educational outcomes for women and their families and to create inclusive societies, economic prosperity, universal access to essential public services and decent work for women. We join the thousands of other organisations working towards this same aim and hope these findings contribute to urgent legal reform.

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WHAT THIS REPORT ADDS

Using data from the CEDAW Implementation Map on Women's Health regarding the four situations of women's vulnerability, this report identifies and analyses:

Strategies the CEDAW Committee uses to prompt governments to review, implement and evaluate health-promoting laws

Legal models implemented by governments in response to CEDAW recommendations between 1997 and 2020

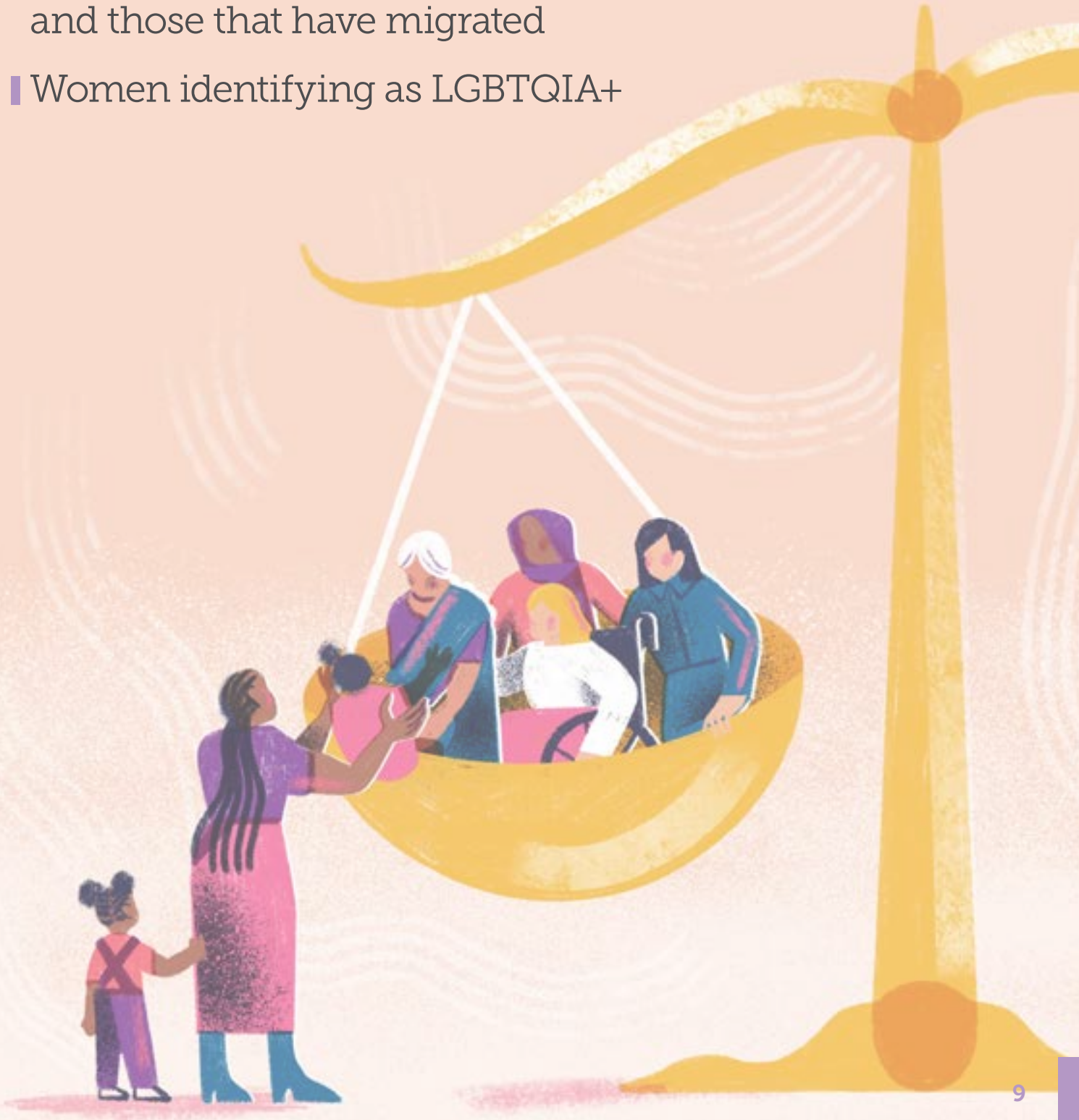
The extent of implementation and non-implementation of legal models by country, region, category of law, income group and humanitarian crisis status

Concerns raised by CSOs regarding the reforms introduced by governments between 1997 and 2020

Key issues facing women in vulnerable situations, which are explored in expert commentaries by international women's rights experts and CSOs

The four situations of vulnerability this report focuses on are:

- Women experiencing or at risk of gender-based violence (GBV)
- Women experiencing gender-based poverty
- Women with a refugee or asylum-seeker status and those that have migrated
- Women identifying as LGBTQIA+



KEY FINDINGS

Laws implemented in response to CEDAW reviews

- Based on our sample of 117 countries, during their last CEDAW reviews between 1997 and 2020, governments implemented or amended 423 laws in response to law-related CEDAW Committee recommendations; this reflects 46% of the total of 919 law-related recommendations the Committee made during those reviews.
- Eighty-five of the 423 laws related specifically to GBV (gender-based poverty); refugee, asylum seeker or migrant status; and/or identifying as LGBTQIA+.
- These 85 laws in 49 countries (see map and methods for complete list of countries) included those that aimed to improve access to health for women experiencing poverty, strengthen access to healthcare for those identifying as LGBTQIA+, streamline sponsorship and visa approvals for refugees to make healthcare more accessible, and strengthen legal protections and remedies to protect women against GBV.
- Most (76%) of the Committee's law-related recommendations sought to address GBV. The second-highest category was gender-based poverty.
- These 85 laws in 49 countries (see map and methods for complete list of countries) included those that aimed to improve access to health for women experiencing poverty, strengthen access to healthcare for those identifying as LGBTQIA+, streamline sponsorship and visa approvals for refugees to make healthcare more accessible, and strengthen legal protections and remedies to protect women against GBV.
- Overwhelmingly, CEDAW law-related recommendations that governments failed or chose not to implement were anti-GBV laws, including those aimed at:

Preventing and punishing all forms of sexual harassment

Extending the legal grounds for abortion to rape and incest

Prohibiting domestic violence (including marital rape)

Prohibiting female genital mutilation, establishing penalties for perpetrators and offering support for victims.

- Some laws that governments failed or chose not to implement during their CEDAW review were subsequently implemented. This likely reflects the important role of women's rights advocates and the role that the CEDAW Committee played in supporting change over time.

Findings by humanitarian crisis status and income group

- Countries across all income groups implemented similar proportions of the CEDAW Committee's law-related recommendations, suggesting high-income status does not necessarily lead to a greater capacity or motivation to implement health-promoting laws:
- Countries experiencing a humanitarian crisis implemented 34% of CEDAW law-related recommendations, compared to 53% in non-crisis countries.

47% (n=9)
low-income countries

48% (n=53)
lower-middle and upper-middle countries

53% (n=23)
high-income countries

The civil society perspective

Shadow reports by CSOs suggest that four common barriers prevent the effective implementation of CEDAW law-related recommendations across each of the four situations of vulnerability:

1) a lack of reliable health and social data,
2) systems issues (including barriers to health access and poorly designed policies, procedures and infrastructure) within legal institutions (the judiciary, legislative bodies and human rights machinery),
3) persistent government inaction and
4) underfunding and resourcing of related health and social services.

CSOs drew attention to health-harming laws in many areas, including inheritance laws, customary law, laws regulating (or failing to regulate) low-income domestic work and laws relating to women living rurally. These laws intersected and compounded the discrimination experienced by women.

RECOMMENDATIONS

STRENGTHENING THE CEDAW REVIEW PROCESS

Government

- Closely align state reports with the CEDAW Committee's recommendations
- Ensure reporting is transparent about which recommendations and which components of them have been implemented, as well as the barriers and enablers to implementation
- Use available data to support claims of implementation and comment on the quality, comprehensiveness and gaps in the reach of these data
- Report on how women's intersectional identities have been taken into account, considering their access to justice, prevailing social and cultural drivers, and how these may mediate the effects of laws' design
- Report on the institutions charged with implementing laws and how roles and responsibilities have been allocated
- Ensure transparency around the operational costs for adequately resourcing the rollout of legislation, how the budget was devised and a justification for why the budget is adequate
- Report on key indicators of each law's successful implementation, evidence of community consultation on these indicators, and plans to evaluate the impact of laws on health and social outcomes
- Following reviews, where needed, utilise the expertise of CSOs, national human rights institutes and other arms within the UN system to devise implementation strategies; for example, the UN Women country offices and Universal Periodic Review (UPR) process, which offer financial support to assist in the implementation of recommendations and expert in-country or remote training
- CSOs should be actively engaged throughout the reporting process in advance of reviews to meet the aims above
- Ensure CSOs face no barriers in reporting on intersectional needs—this includes protections against violence or threats of arrest for speaking out—ensuring government funding is not conditional on silence on specific issues and properly resourcing critical CSOs serving women in situations of vulnerability to ensure a balance of issues is represented at CEDAW reviews

UN Infrastructure

- Encourage governments to align their reports with Committee recommendations; this means that governments commit to reporting back on every recommendation, and in a timely manner
- Require governments to clearly state where law-related recommendations have not been implemented and why
- Where governments claim to have implemented specific laws, require information on the governance and financing arrangements that will ensure their success
- Routinely interrogate the 'facts' presented by governments in state reports; this can include asking specific questions about women's negative experiences with the law and the extent to which meaningful and extensive consultation occurred from the conceptualisation, design, implementation and evaluation of laws

- Throughout the review process, explicitly question governments about how women's intersectional identities have been considered and how hard-to-reach populations will benefit from law reforms
- In developing recommendations, the CEDAW Committee should clarify for each recommendation what 'counts' as implementation
- To contribute to building a mutually reinforcing accountability ecosystem whereby treaty bodies, including the CEDAW Committee, encourage compliance with other frameworks, the Committee should leverage the interconnectedness of instruments and show leadership on these issues of intersectionality—for example, by incorporating and referencing other conventions and global frameworks in its recommendations, which could include the Sustainable Development Goals and its indicators on poverty alleviation and GBV; the International Labour Organization's 11 fundamental Conventions, which provide guidance on fundamental principles and rights at work and hold relevance for sexual harassment at work and the specific vulnerabilities of migrant and domestic workers; and other UN Conventions, including but not limited to the Convention on the Elimination of Racial Discrimination and the Convention on the Rights of the Child

Civil Society Organizations (CSOs)

- Assist the Committee in holding governments to account by prioritising in CSO reports pertinent issues that fill gaps in the Committee's knowledge; this includes clearly articulating specific strengths and deficiencies in the design and implementation of laws and how laws 'live' in context
- Include in CSO reports potential solutions to deficits in the legal design or implementation that are acceptable to the women CSOs serve and represent
- Researchers should develop effective partnerships with local and international CSOs to strengthen accountability
- Researchers can work with CSOs by using local, data-driven insights to assist the Committee in understanding where and why laws work in particular contexts and where identical laws implemented in different contexts can produce different outcomes, and to directly inform the list of issues the Committee provides to governments; this may involve conducting evaluations of laws, sharing successful examples of legal design, and modelling the potential health and social outcomes of current or proposed legal models
- Researchers should support CSOs in ensuring CSO reports are contextualised, balanced and reinforced by rigorously generated data analyses; for example, legal and women's health experts specialising in humanitarian crisis settings should provide CSOs with information, data and recommendations regarding the unique challenges faced by women in situations of vulnerability in these contexts
- Where capacity exists, CSOs could coordinate their engagement across the UN machinery to ensure all treaty bodies and UN agencies are informed of country-specific strengths and weaknesses in laws relating to women's health

STRENGTHENING THE DESIGN, IMPLEMENTATION & EVALUATION OF CEDAW-ALIGNED LAWS

Governments should

Strengthening the design of CEDAW-aligned laws relating to health

- Review and analyse existing laws to identify where laws do not align with human rights best practice and make changes to the design of laws to ensure they are health-promoting
- Consider the weaknesses of laws, including how they are likely to be contravened, foreseeable risks, legal loopholes and unintended consequences
- Draft strong and appropriate penalties for non-compliance that do not further disadvantage women or increase their vulnerability to poverty
- Consider women's obstacles to enjoying the protections guaranteed by laws due to stigma, discrimination, cost and other barriers
- Assess the gender-responsiveness of current health-related laws for women using existing tools (e.g., the Gender Legislative Index, UN Women's Handbook for Parliamentarians and Handbook on Gender-Responsive Law Making)
- Consider how laws in different sectors (e.g., inheritance laws, customary law and anti-poverty laws) may interact and work together to shape women's health or result in unintended consequences

Incorporating CEDAW into governance arrangements supporting health-related laws

- Adhere to guidance documents and handbooks dedicated to governance across the UN machinery to ensure appropriate and best-practice governance arrangements are supporting health-related laws
- Ensure CEDAW's principles are reflected in economic and fiscal priorities, incentives and non-legal agreements that governments are using to implement and operationalise laws
- Ensure CEDAW is reflected in the way implementation is resourced and supported (including through judicial, administrative, budgetary, economic and other measures)
- Use the implementation research by CSOs and academia on the reach, effectiveness and acceptability of health-related laws to inform reform efforts
- Evaluate the effectiveness and acceptability of health-related laws resulting from gender mainstreaming programs, from the perspectives of women
- Use the CEDAW review process to disseminate design features and implementation strategies that have improved women's health and health access, as well as strategies that have failed

Maintaining & reforming CEDAW-aligned laws relating to health

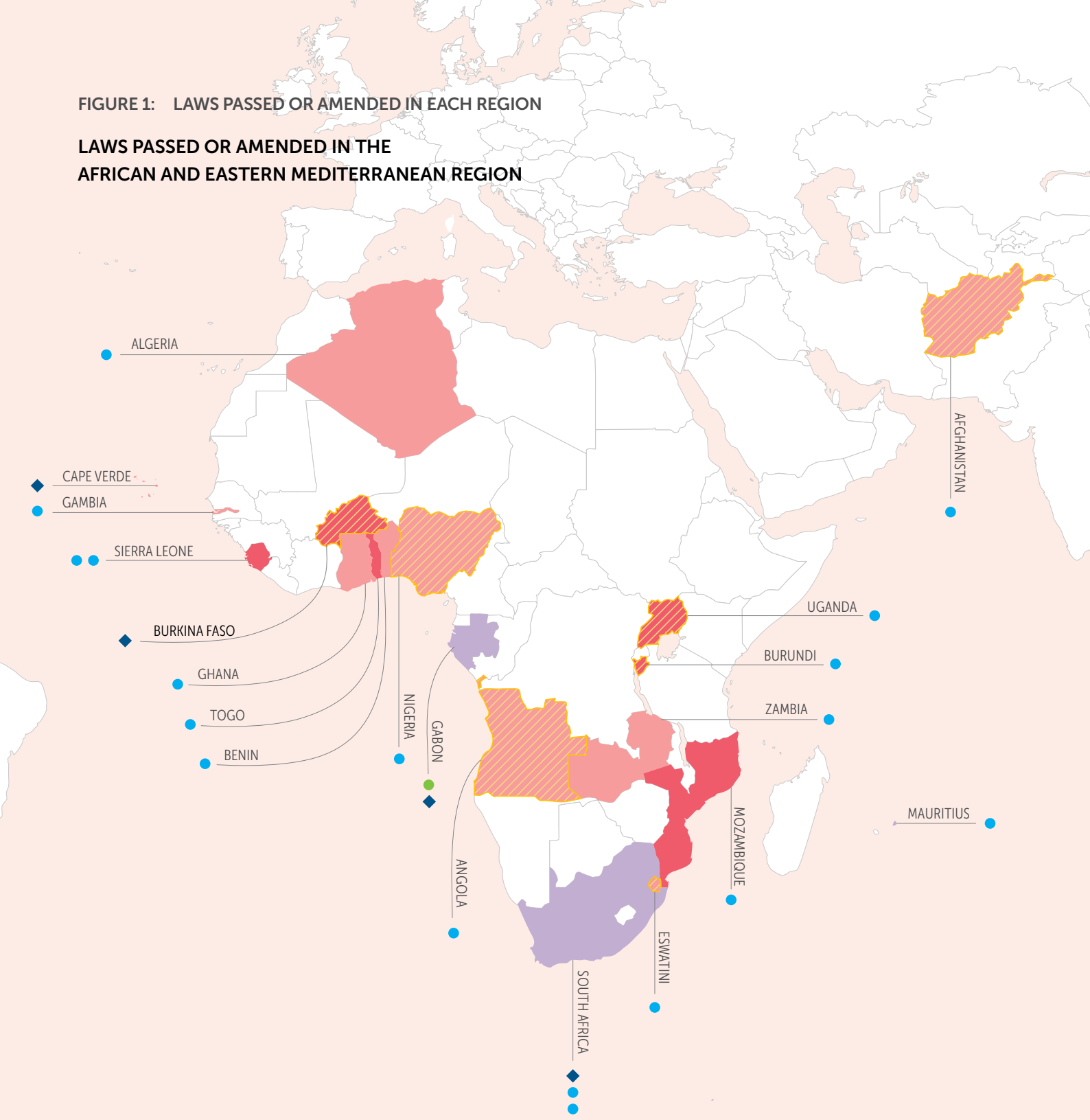
- Prioritise funding through national research councils for the evaluation of women's health laws using robust methods to identify laws as important health interventions
- Work with CSOs and research organisations to evaluate the acceptability, sustainability and effectiveness of laws in improving health and social outcomes, then use these data to reform the design of laws and/or implementation strategies

Making sure CEDAW-aligned laws relating to health work in practice

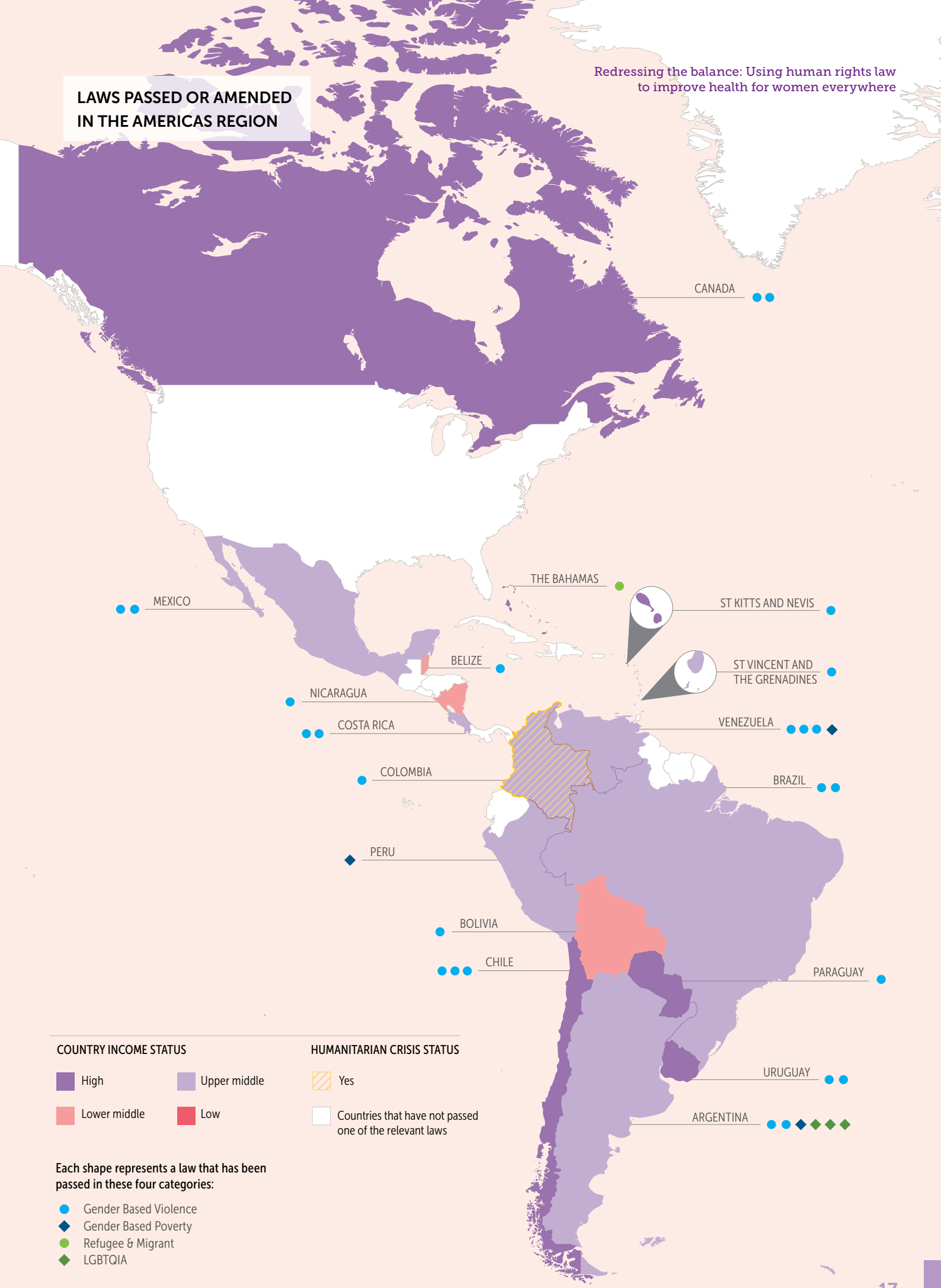
- Engage with CSOs regarding the comprehensiveness of laws and women's lived experiences of the legal systems
- Introduce legislation criminalising gender-based violence in concert with education programs, including its cultural and structural drivers to lay the groundwork for effective laws; such programs should be delivered in ways that reach all ages, genders and levels of literacy
- Motivate compliance and cooperation within government to build support and respect for laws; this includes establishing shared expectations so that government actors act in ways that are conducive to the law's goal
- Invest in social programs alongside laws to support their effectiveness

FIGURE 1: LAWS PASSED OR AMENDED IN EACH REGION

LAWS PASSED OR AMENDED IN THE AFRICAN AND EASTERN MEDITERRANEAN REGION



LAWS PASSED OR AMENDED IN THE AMERICAS REGION



COUNTRY INCOME STATUS

- High
- Upper middle
- Lower middle
- Low

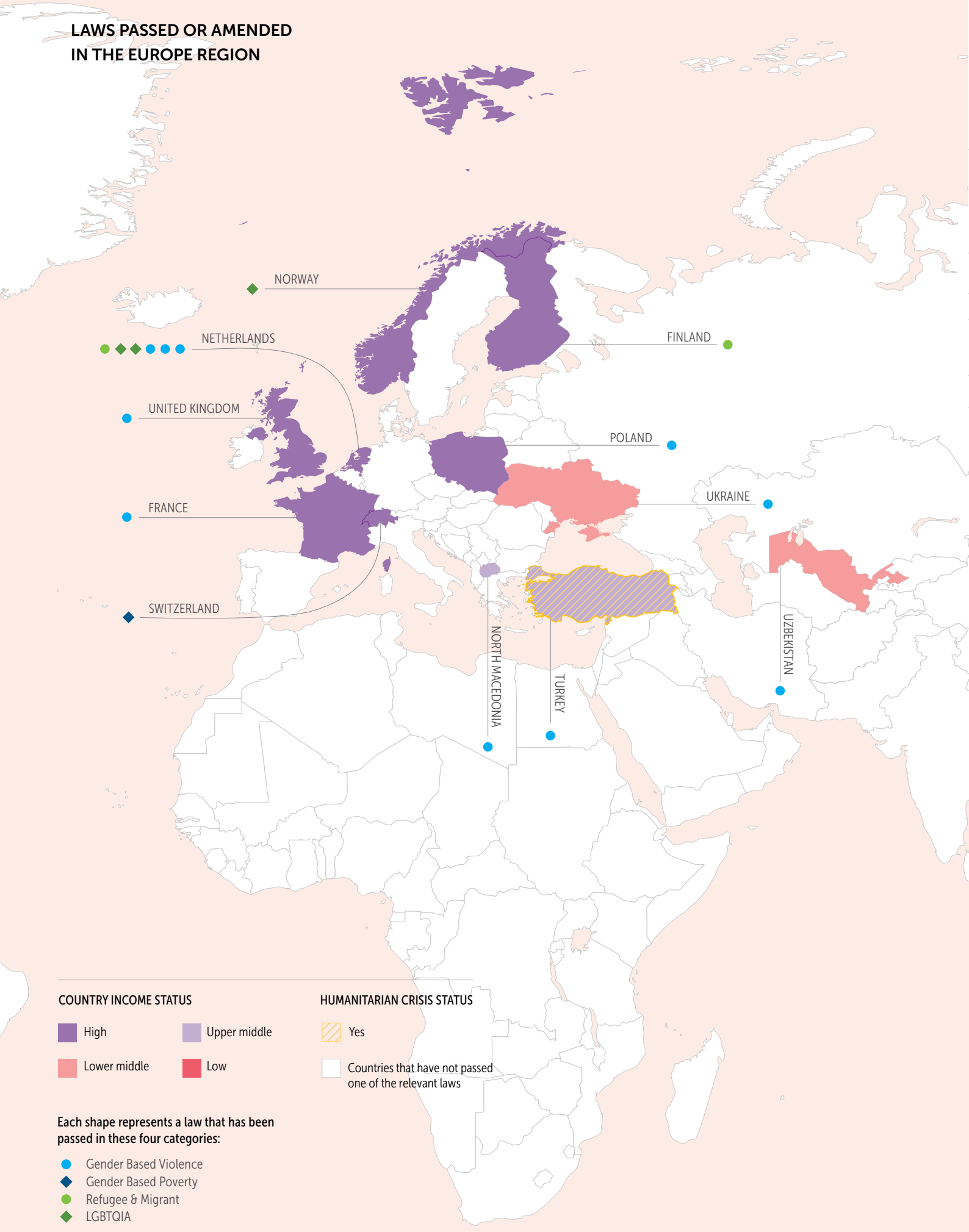
HUMANITARIAN CRISIS STATUS

- Yes
- Countries that have not passed one of the relevant laws

Each shape represents a law that has been passed in these four categories:

- Gender Based Violence
- Gender Based Poverty
- Refugee & Migrant
- LGBTQIA

LAWS PASSED OR AMENDED IN THE EUROPE REGION



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- High
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- Yes
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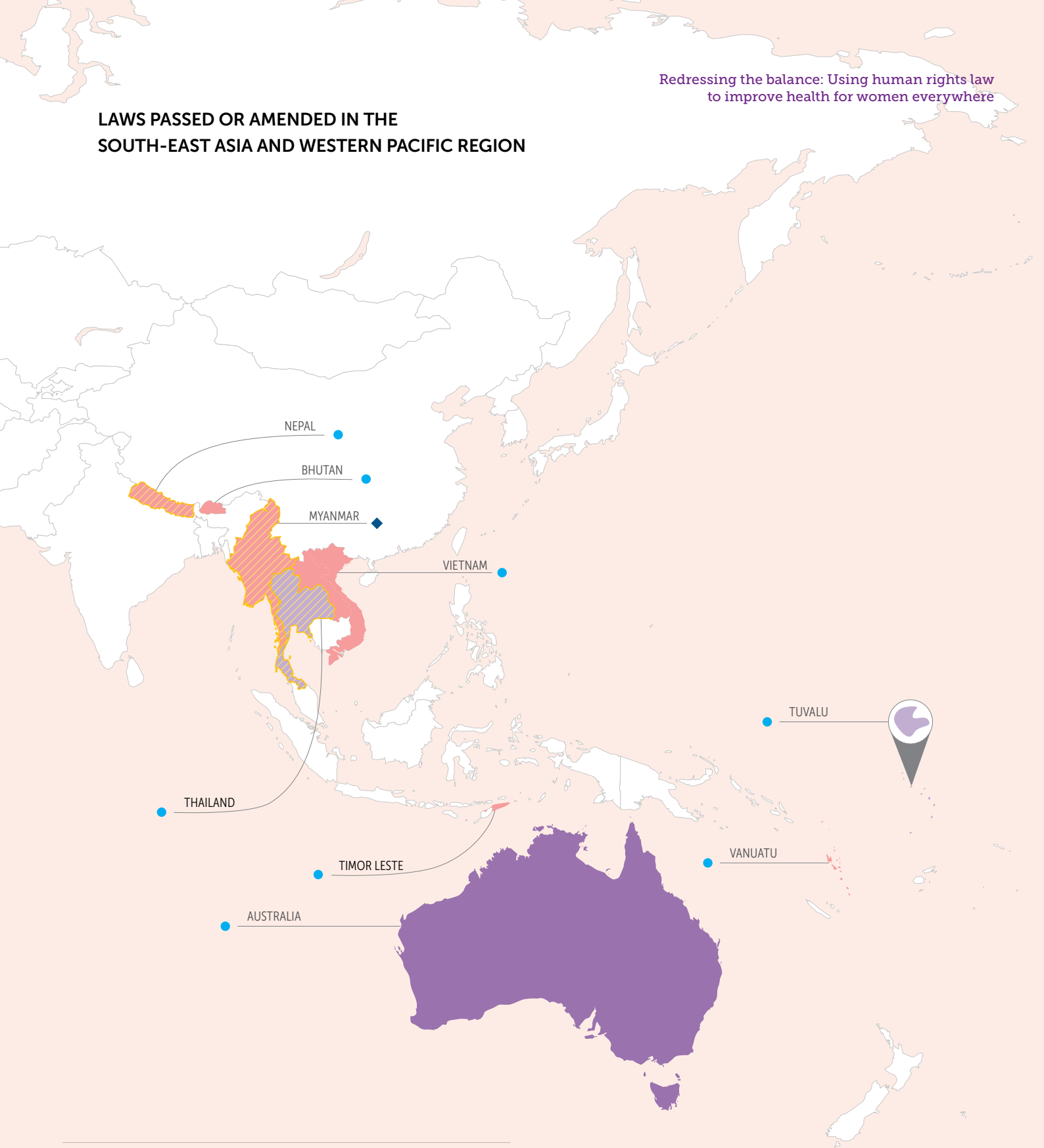
Each shape represents a law that has been passed in these four categories:

- Gender Based Violence
- Gender Based Poverty
- Refugee & Migrant
- LGBTQIA

LAWS PASSED OR AMENDED IN THE SOUTH-EAST ASIA AND WESTERN PACIFIC REGION



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- Refugee & Migrant
- LGBTQIA

BACKGROUND

Gender inequality damages the physical and mental health of millions of girls and women globally. It is now widely recognised that the causes of women's ill health often lie in social determinants and unequal power relations, as well as the institutional arrangements that maintain this status quo.[1,2] Despite this recognition, progress towards gender equality has lagged over the last decade, particularly when it comes to health inequalities. At the halfway point of the 2030 Sustainable Development Agenda, no country has achieved the promise of gender equality it envisioned.[3] Rather, women's health and reproductive rights are once again under siege; the global pandemic has eroded hard-fought gains in gender equality, and the space for women's rights groups to hold the line is closing in many contexts. We badly need public health tools that are powerful enough to change the current trajectory by encouraging governments to act.

Enter the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW is the most comprehensive treaty addressing all areas in which women are denied equality with men; it obliges governments to enact or modify their legislation and constitutions in accordance with the Convention. Almost all UN Member States (193 countries) have ratified CEDAW. At the time of writing, Palau and the United States of America had signed but not ratified CEDAW, while the Holy See, Iran, Niue, Somalia, Sudan and Tonga had not signed or ratified CEDAW.

The findings of our last report revealed that between 1997 and 2020, across the Asia Pacific region, recommendations by the CEDAW Committee requiring governments to implement legislation or policy change made up the highest proportion of recommendations out of all categories (including strategy development, data collection grassroots initiatives, awareness campaigns, women's leadership and participation, multilateral assistance, health-systems strengthening, multisectoral collaboration, governance and coordination, resource investment and allocation, access to justice, capacity building and reservation removal).

However, they also made up the highest proportion of recommendations that governments did not acknowledge or failed to implement.[4] Governments' lack of progress on gender equality to date suggests that improvements can be made to the CEDAW review process so that it more effectively supports governments to strengthen the design and implementation of legal frameworks aimed at advancing health for all women.

Since the 1980s, scholars and women's movements have consistently challenged static conceptions of women and the idea that their experiences of discrimination are homogeneous.[5,6] Over the decades since, this work has had a sweeping influence on the application of CEDAW. Intersectionality (the ways in which different aspects of a person's identity and status can expose them to overlapping forms of discrimination and marginalisation) as a framework for analysing women's identities and axes of oppression is now a celebrated gold standard in human rights discourse.[7,8] Despite this, there has been no systematic attempt to understand and document how the CEDAW Committee incorporates its guidance on intersectionality into recommendations to governments and, in turn, how governments translate these recommendations into CEDAW-aligned laws.[4]

To address that gap, this report examines data from the CEDAW Implementation Map on Women's Health, which measures how UN CEDAW Committee recommendations on health have been enacted by governments. It collates all health-related recommendations and determines the nature, scope and extent of their implementation, as reported by participating governments.

THIS REPORT:

1) examines laws that have been developed and implemented in response to CEDAW Committee recommendations, and which relate to four situations that lead women to experience increased vulnerability: GBV; gender-based poverty; refugee, asylum seeker or migrant status; and identification as LGBTQIA+.
2) incorporates the 'real world' perspective of CSOs working for women's empowerment and gender equality as to how these laws have impacted women's health-related human rights.
3) offers reflections and recommendations from international women's health and human rights scholars on how the CEDAW review process can prompt governments to take effective legal action towards better health for women experiencing marginalisation.

WOMEN BEING LEFT BEHIND: THE BURDEN OF ILL HEALTH FACING WOMEN IN SITUATIONS OF VULNERABILITY

Women experiencing or at risk of GBV or gender-based poverty; who are of refugee, asylum seeker or migrant status; or who identify as LGBTQIA+ do not represent homogenous groups. There is no common inherent attribute or experience shared by all women in these groups; many women fall into multiple situations of vulnerability. Nevertheless, women experiencing these situations often face disproportionately poor health outcomes and barriers to health access[9,10] —inequities that are exacerbated due to the deliberate exclusion of these women from laws, gaps in the reach of laws and laws that explicitly discriminate against them. For example, laws that do not address gender-based poverty or that discriminate against women identifying as LGBTQIA+ can translate to a lack of availability or accessibility of healthcare services, which can, in turn, delay the decision to seek help or receive appropriate treatment.

The causes of women's poverty and its impact on health and social outcomes are complex and interconnected. Factors driving poor health as a consequence of gender-based poverty, particularly in the context of the COVID-19 pandemic, include:

A slowing economy

Job losses

A lack of social protection

Unequal access to economic assets

Barriers to education and paid work

Unequal access to good nutrition

Legal and customary frameworks that limit women's economic rights

Confinement measures – linked to the disproportionate burden of childcare and unpaid domestic work

A disproportionate amount of unpaid care work, which acts as a barrier to high-quality education and well-paid work

Legal and customary frameworks that limit women's economic rights (for example, in 19 economies women face unequal ownership rights, and in 43 economies, their access to assets through inheritance is limited in comparison with men's)

Patriarchal, cultural and social norms that reinforce discriminatory practices across the life course

All these factors impact women's ability to access quality health care facilities; to seek, receive and impart health information; to decide freely on whether to have children, and if so, when and how many; and access to the information, education and resources needed to exercise these rights.

WOMEN EXPERIENCING GENDER-BASED POVERTY

It is estimated that 121 women per 100 men will be living in extreme poverty by 2030.[11]
In most regions of the world, women represent a majority of the people experiencing poverty, and as a consequence of the COVID-19 pandemic, the gender gap will widen. The highest increases in extreme poverty will occur in Central and Southern Asia and sub-Saharan Africa. An estimated 87% of people experiencing extreme poverty worldwide will live in these two regions by 2030.[11] Following the steady decline in poverty rates prior to the pandemic, this is devastating news.

WOMEN IDENTIFYING AS LGBTQIA+

Women identifying as LGBTQIA+ face discrimination and stigma globally, including institutional violence within healthcare systems that has lifelong consequences for their physical and psychological health. While governments are obliged under international human rights law to promote and protect the human rights of all persons without discrimination, many laws are used to punish LGBTQIA+ people on the basis of their gender identity and expression. In fact, in 70 countries, discriminatory laws criminalise private, consensual same-sex relationships.

Factors impacting the health of LGBTQIA+ women include:

- pervasive stigma and discrimination based on sexual orientation and gender identity
- threats of violence
- vulnerability to human trafficking
- barriers to education and employment
- social exclusion
- the risk of arrest
- torture
- the death penalty (in at least five countries).

WOMEN WITH REFUGEE, ASYLUM OR MIGRANT STATUS

Today, there are one billion migrants globally—about one in eight of the global population. This includes 281 million international migrants and 82.4 million forcibly displaced migrants.[12]

Women in these situations of vulnerability face a number of risks to their health. A survey in 15 countries found that 73% of refugee and displaced women reported increased domestic violence during the COVID-19 pandemic, and 51% reported increased sexual violence. Low-skilled migrant workers face poorer health outcomes than their host communities.

A recent meta-analysis of more than 17 million participants from 16 countries across five World Health Organization (WHO) regions found that, compared with non-migrant workers, migrant workers were less likely to use health services and more likely to have an occupational injury. Refugee and migrant health has also suffered due to the negative economic impact of lockdowns and travel restrictions.[13]

Barriers to good health outcomes for women with refugee, asylum or migrant status include:

- vulnerability to violence
- xenophobia within host communities
- discrimination
- poor living and housing conditions
- poor working conditions
- inadequate access to health services
- a disproportionate burden of mental health conditions
- increased risk of infection
- linguistic, cultural and legal barriers
- lack of access to good-quality educational services.

WOMEN EXPERIENCING OR AT RISK OF GENDER-BASED VIOLENCE

Despite progress from governments in domestic violence lawmaking in the past five years, combined with targeted awareness and education campaigns, rates of violence against women remain shockingly high. A 2021 study capturing the responses of two million women from 161 countries found that 27% of ever-partnered women aged 15–49 years have experienced physical or sexual intimate partner violence (IPV) in their lifetime. This violence starts early, with 24% of women aged 15–19 years and 26% of women aged 19–24 years having already experienced this violence at least once since the age of 15. IPV against women was already highly prevalent across the globe before the COVID-19 pandemic. Women who were forcibly displaced are more likely to experience IPV.

In Colombia and Liberia, women faced 40% and 55% greater odds, respectively, of experiencing past-year IPV compared to non-displaced women.[14]

For women at risk of violence, the disproportionate burden of ill health is characterised by:

- being twice as likely to be diagnosed with cervical cancer
- experiencing depression and anxiety
- suicidal ideation
- self-inflicted injuries
- alcohol-use disorders
- negative consequences for their sexual and reproductive health, including forced and unwanted pregnancies, unsafe abortions, traumatic fistula and sexually transmitted infections, including HIV
- poor access to life-saving, quality services that provide health and psychosocial support and financial and livelihood opportunities
- a lack of access to justice
- a lack of access to safe housing for themselves and their children.

HOW AND WHY LAW WORKS TO IMPROVE THE HEALTH OF WOMEN IN SITUATIONS OF VULNERABILITY

Domestic laws can be highly effective and cost-effective tools to improve the health and wellbeing of populations, including women.[15] Laws can represent high-impact and high-yield investments that create health-enabling environments for women. Laws can work by outlining how rules and resources are configured. They can allow recurring decisions to be made with an economy of effort, producing consistent outcomes and, in theory, applying equally to entire populations. In addition, the law can help to legitimise, normalise and spread social norms that may not be widespread or widely accepted when legislated.

Health-related laws can motivate compliance and mobilise public support for a variety of reasons, including:

- They set out cultural beliefs and practices that shape how we see the world and that influence our behaviour.
- They instil a fear of social, criminal or economic sanctions.
- Populations see the lawmakers' authority to set rules as legitimate.
- The public has respect for the rule of law, and individuals perceive the law to be procedurally fair.
- Shame and guilt are associated with contravening laws.

Importantly, these factors depend on how the law 'lives' and functions in a society—who makes it, who uses it and how it is relevant to people's daily lives. In some instances, social norms or alternative regulatory orders may hold greater meaning and respect among communities than imposed law. Where there are two or more competing regulatory systems, this can have major implications for the way regulatory power is exercised.

Different types of laws can support health in different ways:

- Infrastructural laws establish the powers, duties and features of health agencies. Such agencies can range from highly specialised women's health agencies tasked with addressing specific women's health concerns (e.g., sexual and reproductive health or gestational diabetes clinics) to state health departments and local governments responsible for providing a broad range of services to local communities.[15] Scholars have noted that global health decision-making has often been rooted in the historical construction of gender that sees women as 'reproducers'. [16] Similarly, men are often at the forefront when it comes to the allocation of financial and other resources, and women are at the forefront when it comes to the responsibilities that are entailed at home, at work and in society. Well-designed infrastructural law can place women, as experts in their own experience, in positions of power when it comes to resource allocation.
- Interventional laws involve those implemented with the explicit purpose of improving women's health—for example, domestic violence acts, which are introduced to prevent violence and provide remedies for survivors. These are regulatory strategies where law is the intervention, unlike infrastructural laws, which set out legal frameworks that empower agencies to act.

- Incidental laws are enacted for purposes other than promoting public health but may lead to health consequences for populations. For example, a host country's refugee law may restrict access to public services. These laws can impact the way women experience their own health and the way they access health services, even if they do not explicitly set out to improve women's health. A key challenge here is that these laws are implemented by agencies that lack a clear public health mandate, and which may therefore have limited capacity to act if the laws lead to poor health outcomes for women. In infrastructural, interventional and incidental ways, gender and the law interact and intersect to 'amplify or reduce health inequities'.[16]

Despite the powerful role law plays in improving women's health, laws can be inequitable and ineffective if they are poorly designed or implemented. Governments may introduce poorly designed laws because they lack clarity on how to translate their commitments under international human rights law into national laws, and on the kinds of legal design that constitute best practice. As an example, CEDAW does not comprehensively address all forms of marginalisation. While Article 14 of the Convention is dedicated to rural women, no explicit mention is made of GBV, and gender-based poverty within CEDAW. While subsequent guidance documents and General Recommendations have sought to clarify governments' responsibilities in these areas, we do not understand well enough how this patchwork of guidance has assisted the Committee and governments in the design and implementation of health-promoting laws.

An additional barrier may be that regulatory institutions do not have the capacity to design or support the implementation of specific laws. Policymakers may also lack evidence about how and for whom legal interventions work, and what their unintended consequences are. At the same time, technically sound laws may not be adopted or implemented due to a lack of political will. This may be because they do not align with social, ideological, economic, and/or fiscal incentives influencing policymakers within a particular context.

This perceived lack of alignment can manifest as reservations to CEDAW. When governments submit reservations, it means that while they consent to being legally bound by most of the provisions, they do not agree to be being bound by some of those provisions. More than 100 reservations to CEDAW have been made by countries that have ratified it, compared to only four reservations to the Convention on the Elimination of All Forms of Racial Discrimination. So, it is clear that in the eyes of policymakers around the world CEDAW's provisions challenge ideas, attitudes and values regarding discrimination against women.

Design of GBV laws

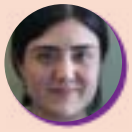
CSOs highlighted the need to consult widely and consider unintended consequences in the design of GBV laws.

"Now FGM is very much underground, people are crossing borders, people are hiding. So when children are subjected to FGM they are experiencing all kinds of health harms, but families don't access health services. The law may be unintentionally contributing to the deaths of children".

FGM and cultural practices

CSOs described that some police officials, employees of international non-government organisations and local doctors they had engaged with refused to prosecute cases due to their belief that FGM was an acceptable cultural practice.

"We contacted the police and the police officer told us, 'I'm a [tribe member] before a police officer so I refuse to prosecute those who subject girls to FGM.' He would always consider culture before the law."



EXPERT COMMENTARY:
Mónica Arango Olaya, DPhil Candidate, Oxford University. Former Deputy Justice, Colombian Constitutional Court

Implementing CEDAW through constitutional interpretation

The protection of women's rights can be strengthened by the dialogue between international human rights law and domestic law, argues Mónica Arango Olaya.

In early 2022, the Constitutional Court in Colombia decriminalised abortion during the first 24 weeks of pregnancy. In a context in which reproductive rights are contested, reversed, denied and upheld, with a significant impact on women's health and lives, the decision brought Colombia closer to compliance with its international obligations under CEDAW.*

The CEDAW Committee's standards and other 'soft law' (non-binding resolutions, recommendations and codes of conduct set out by the UN) were central to the Court's decision. This rested on its interpretation of the rights to equality and autonomy for women, and the right to health without discrimination, which includes the right to reproductive autonomy. Significantly, one of the arguments of the petition upheld by the decision was the disproportionate impact of the law on migrant women, situating intersectional considerations at the centre of the debate.

The use of CEDAW standards and recommendations to uphold women's equality in this ruling sheds light on the relationship between international human rights law and constitutional interpretation, a key aspect of the implementation of CEDAW. As the Court had already adjudicated on the matter in a previous decision, only exceptional circumstances could allow a new constitutional review—in this case, a change in the material understanding of the Constitution related to the rights and obligations set out by CEDAW. This concept considered social and legal transformations—which generally provide more robust protection to historically oppressed groups—relevant criteria for the interpretation of the scope of rights.

Another factor was a change in the legal context. The Court considered that CEDAW's concluding observations to Colombia in 2019, along with a general recommendation the Committee had made in 2017 and other soft law,# contributed to changing both the understanding of Colombia's Constitution and the legal context. For the Court, the main changes that these international documents asserted was the recognition of reproductive autonomy within the right to health, and the recommendation to decriminalise abortion.

Soft law was also central in determining the scope of reproductive health rights in Colombia. Despite the Court's recognition of the different legal value of these documents as sources of law, it used them to interpret the scope of the right to reproductive autonomy without discrimination. Its ruling held that the CEDAW Committee establishes access to reproductive healthcare as a basic right, and that the state's obligations include eliminating barriers to such access. It also underscored CEDAW's view of the criminalisation of abortion as a form of GBV and its general and specific recommendations to decriminalise abortion in all circumstances.

The centrality of soft law for constitutional review in this example highlights the relevance of CEDAW's standards in advancing the recognition of women's rights within an international–national dialogue. It also shows how the implementation of international law obligations falls not only within the policy or legislative realm but has a close relationship with the judiciary.

While this relationship could be seen as unilateral, constitutional interpretation is also actively building and modifying understandings of international human rights law. The Colombian Constitutional Court's interpretative role goes beyond CEDAW to consider obligations under other human rights instruments in tandem with constitutional duties. These and other national analyses can, in turn, feed the evolving standards of CEDAW, enriching its understanding of rights, solidifying their inter-related nature and addressing issues of fragmentation that may stem from the focus of human rights conventions on different populations.

* There is an ongoing debate about the legitimacy of shifts in the recognition of rights through courts, referred to as the 'judicialization of politics', which will not be addressed here. See, for example, (24)

\# Additionally, it considered 'soft law' from other UN Treaty Monitoring Bodies and Special Procedures.

The CEDAW mechanism is one of the key treaty monitoring systems through which the UN promotes and protects human rights. CEDAW defines discrimination against women as 'any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field'. Thus, CEDAW provides the basis for realising equality between women and men by ensuring equal access to and equal opportunities for women.

CEDAW, WOMEN'S HEALTH AND INTERSECTIONALITY

Scholars have argued that barriers to gender equality are primarily political, and that 'this gives the UN a distinct role in advocating for political commitment, ensuring accountability to international instruments, and enabling gender transformative implementation with the right tools, resources, and evidence'.[29]
The Committee supports the implementation of CEDAW at the national level through global standard-setting. This includes ensuring a common understanding of human rights; providing a legal and normative framework, vocabulary and guidance for public health actions to promote and protect the health and wellbeing of women; and encouraging governments to comply fully with their obligations. In the context of women's health, this enables social and legal mobilisation by women's rights and health advocates and decision-makers with the power to introduce national policies and legal judgements. These progressive legal norms can change social norms, impacting how women experience their health. They can ensure laws are used to challenge deep-rooted inequalities in power and privilege between women and men. The CEDAW review system, due to its focus on discrimination against women, forces governments to play an active role in monitoring and implementing laws that are responsive to women's needs and to see law as a gendered rather than gender-neutral institution.

General recommendations: The CEDAW Committee's interpretation of human rights treaty provisions, thematic issues or its methods of work. These are authoritative statements that can be used to clarify governments' international human rights obligations.

Reporting guidelines: Advice from the UN to governments on the form and content of their reports to make sure their reports to Committees are comprehensive and presented in a uniform manner.

Concluding observations: A public and official document containing recommendations by the CEDAW Committee, produced at the end of every country review.

The CEDAW review system can be seen as a policy arena, whereby a variety of techniques are used in a bargaining process to translate human rights standards into government action. Some of the techniques or mechanisms of social influence include coercion (e.g., the CEDAW Committee highlighting the costs of violations or non-conformity with human rights norms to a government's international reputation as a women's-rights-respecting nation). Another involves persuasion (e.g., encouraging 'social learning' and the uptake of evidence on women's health, which may lead governments to re-examine current practices and positions). A third is acculturation, whereby states are pressured to assimilate common human rights norms and adopt beliefs and behavioural patterns of the surrounding culture.[30]

International human rights treaty bodies, including CEDAW, have played a progressive role in protecting and advancing the health of women's intersectional identities. This has occurred over time, and several landmark moments were critical in making this happen. For example, a treaty bodies meeting[#] in 1998 acknowledged the need to investigate intersectional inequalities and called for more evidence on the impact of gender on the conceptualisation and implementation of human rights treaties.

General recommendations, reporting guidelines and concluding observations (see box) have all been used to require governments to tackle intersectional discrimination through legislation and policy. CEDAW, for example, achieves this by acknowledging that discrimination occurs in every facet of life (e.g., education, employment, at home and in relationships) and that women's health is central to exercising other human rights. Governments are expected to legally recognise intersecting forms of discrimination and their compounded negative impact on women and prohibit them. They are also expected to actively pursue programs designed to eliminate such discrimination. However, there are specific challenges that may have impacted government action to protect the health of specific groups, including women in the four situations of vulnerability we focus on here.

Abortion and stigma

CSOs highlighted that even when best practice abortion laws were implemented, women often faced obstacles due to stigma, discrimination, cost, and other barriers.

"Looking at my neighbour, Argentina who has just legalised abortion, even with a very comprehensive law that is commended internationally, women still face obstacles in accessing abortion right now."

The Tenth Meeting of the Chairpersons of the Human Rights Treaty Bodies on Integrating the Gender Perspective into the Work of the UN Human Rights Treaty Bodies.

EXPERT COMMENTARY:
Associate Prof Ramona Vijeyarasa, Legal academic and women's rights activist, University of Technology Sydney

Using CEDAW as a roadmap to enact gender-responsive legislation

CEDAW guidance offers a valuable pathway for robust laws and policies to advance women's health, writes Ramona Vijeyarasa.

Faced with current threats to fundamental human rights around the world, some observers are understandably concerned that international human rights treaties may not be up to the job. However, a reflection on the guidance issued by the CEDAW Committee over four decades suggests that, in fact, the Convention offers a promising pathway for transformative, gender-responsive laws and policies in the field of women's health.

An analysis of both the Convention and the 39 general recommendations issued by the CEDAW Committee between 1986 and 2021, conducted using the Gender Legislative Index,# reveals substantive criteria that can be used by legislators to guide both the enactment of future laws and the revision of existing ones.[31]

The Gender Legislative Index is a tool that uses seven criteria to rank and score legislation against global standards for women's rights, offering clear guidance for lawmakers and policymakers to advance women's health (see box, right).

With respect to services, the Committee has called for universal access for all women to a full range of high-quality and affordable healthcare, including sexual and reproductive health services.(32) States need to provide such free or affordable, accessible rights-based services in combination with information about those rights and services. The Committee has also sought to protect the rights of women to autonomy, privacy, confidentiality, informed consent and choice in healthcare settings.[32]

The promotion of equality is manifest in numerous recommendations, such as the Committee's call for governments to allocate adequate budgetary, human and administrative resources to ensure that women's health receives a share of the overall health budget comparable to men.[32] Guidance has also called for attention to situations where a particular vulnerability may arise and sensitivity to the needs of women who may face re-traumatisation, re-stigmatisation, and particular forms of discrimination and marginalisation. GBV [33–36] and women vulnerable to or living with HIV are obvious examples.[37]

Finally, the Committee has highlighted the collection of gender-disaggregated data in many instances as essential to the design of legislative, policy and budgetary responses, including, for example, with respect to the incidence of violence[32](REF) and female circumcision.[38] Governments and policymakers around the world seeking to improve women's health and protect their rights through legislation are evidently well guided on how to meet the commitments they have made in ratifying CEDAW.

The Gender Legislative Index—Criteria
Does the law guarantee access to non-discriminatory and accessible, affordable, acceptable services?
Does the law guarantee access to information and education or require the provision of information and education on the issue?
Does the law guarantee non-coerced and informed decision-making and, where relevant, protect women's confidentiality?
Does the law promote equal relations between men and women?
Does the law protect women from situations of vulnerability linked to their gender?
Does the law guarantee accessible and effective remedies (i.e., access to justice)?
Does the law promote the comprehensive monitoring of the situation of women? This includes promoting gender-disaggregated data collection on the nature of the problem.

The Gender Legislative Index is a tool for ranking and scoring legislation against global standards for women's rights. Read more here

WOMEN EXPERIENCING GENDER-BASED POVERTY

CEDAW offers guidance on gender-based poverty, but some scholars have argued that the Convention has 'a gender-based poverty gap' that can present challenges for the Committee and women's rights advocates using CEDAW as a tool. This is because:

- Gender-based poverty was not explicitly included in CEDAW (though the Convention was implicitly designed to address some of the harms of gender-based poverty and recognises it as an obstacle to human rights).[39]
- During the drafting process, poverty was conceived as a development issue, rather than as an issue of equality, non-discrimination or human rights.[39]
- Poverty is referenced in CEDAW's preamble as 'a concern that women in poverty have the least access to food, health, education and employment opportunities.'[40]
- For women in rural areas experiencing poverty, Article 14 (rural women) ensures the right to benefit directly from social security programmes and creates a right to enjoy adequate living conditions, particularly in relation to housing sanitation, electricity and water supply, transport and communications. However, these rights are only granted to rural women.[40]
- Article 11 on employment guarantees women the right to social security and paid leave, but it is unclear on whether the article applies to informal employment.

WOMEN IDENTIFYING AS LGBTQIA+

The CEDAW and other treaty body guidance with respect to women identifying as LGBTQIA+ is constantly evolving:

- As early as 1993, one treaty body welcomed positive legislation for same-sex couples in Norway.[41] In subsequent decades, treaty bodies have called upon governments to stop violence and discrimination against LGBTQIA+ people.
- However, committees have drawn criticism from LGBTQIA+ advocates for primarily delivering recommendations to governments from a cis-heteronormative perspective on gender and sexuality. 'Men are the only other gender [identity] recognised in CEDAW, and they primarily serve as the comparator against which women's (in)equality is to be measured'.[42]
- Treaty bodies have also been criticised for failing to use their position to advocate for LGBTQIA+ rights more assertively. For example, the object and purpose of the Convention reveal that article 5a (which requires the modification of 'cultural patterns of conduct') could be instrumental in addressing some aspects of LGBTQIA+ rights, but a 2010 article found that the Committee had not used the possibility offered under 5a to interpret the Convention in such a way.
- Scholars have also highlighted the inconsistent use of 'sex' and 'gender' within treaty bodies (for example, in CEDAW data collection reporting guidelines) and between treaty bodies, with some treaties subsuming gender into sex and others distinguishing between the two. This has tangible and continuing consequences for how governments treat their legal commitments where countries are bound by multiple treaties with competing definitions of gender (see box opposite).[43]
- Although the UN has acknowledged LGBTQIA+ rights in non-binding resolutions and joint statements more recently, no international human rights treaty specifically prohibits discrimination on the basis of sexual orientation, gender identity and expression or sex characteristics.
- Scholars argue that because CEDAW sets out the rights of all women, such rights extend to the LGBTQIA+ community. Yet, it remains unclear how governments perceive their obligations in this area and how this has translated into laws protecting the health of LGBTQIA+ women.

EXPERT COMMENTARY:
Dr Meghan Campbell, Reader in International Human Rights Law at the University of Birmingham and Deputy-Director of the Oxford Human Rights Hub

Adopting an equality-based approach to poverty to promote women's health

An evolutionary interpretation of CEDAW that connects poverty with gender and rights can address a gap in the treaty, suggests Dr Meghan Campbell.

The lives of countless women and girls are marked by economic hardship. Around the world, various facets of being a woman can both cause and perpetuate poverty: our role in reproduction; our primary responsibility for caregiving; our limited access to sexual and reproductive health services, educational opportunities, property and forms of credit; deeply entrenched sociocultural attitudes to our roles and value; segregation into low-paid and precarious work; and the exclusion of women from public life.

Traditional definitions of poverty have centred around economic deprivation, but it may also involve, among other things, exclusion from social life, political marginalisation, bodily and psychological insecurity, stigma, fatigue and voicelessness. For women, these hallmarks of poverty are bound up in gender power relations. Women's poverty does not consist merely of a lack of access to economic resources but is inherently connected to sociocultural gender norms, structures and power relations that devalue and exclude women.

Although the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) creates no specific obligation on governments to redress women's poverty, this gap can be overcome through an evolutionary interpretation of the treaty. States are required to eliminate discrimination and secure women's equality in broad areas of life, including health, education, employment and political life. Equality and non-discrimination are at the core of a state's obligations, which are not static but evolve over time. As new understandings emerge of how gendered stereotypes, relations and structures are connected to the realisation of women's rights, the concepts of equality and non-discrimination can be responsively employed.

Poverty repeatedly acts as an obstacle to women's enjoyment of rights set out under CEDAW. For example, women in poverty struggle to access affordable contraception (equality in health—Article 12), while a lack of public transport in rural areas may mean women and girls cannot afford to access healthcare services (equality of rural women—Article 14). The concepts of equality and non-discrimination in CEDAW can, and must, recognise the connection between gender, economic deprivation and the non-enjoyment of human rights.

The CEDAW Committee consistently brings to states' attention how poverty undermines women's equality in the field of healthcare. For example, it has observed that poverty forced women in South Africa to choose between remaining in abusive relationships or enduring the economic consequences of leaving. The Committee urged the state to ensure survivors of domestic violence have access to affordable housing, free education, loans, credit, and other basic services and financial support.

Women's poverty intersects with other identities and cross-cutting experiences, and the CEDAW Committee has demonstrated a sophisticated awareness of this. When stereotypes centring on ethnic origin, poverty and adolescent sexuality intersected in North Macedonia, for instance, preventing pregnant Roma girls from accessing prenatal care, the Committee urged the state to eliminate fees for public health services.

Going forward, the Committee can adopt a wider intersectional lens and examine the links between poverty, health and other identity characteristics, including sexual orientation, gender identity, migration status and age. It can also begin to look at wider structures that underpin poor health outcomes for women in poverty, such as energy and transport policies.

An equality-based approach to women's poverty gives the CEDAW Committee the necessary tools to account for the multifaceted ways poverty perpetuates gendered power structures, entrenches prejudice against women, and cements women's disadvantage and exclusion. It is imperative that CEDAW and other branches of international human rights law take seriously violations of women in poverty's rights.

Promisingly, in 2020, the CEDAW Committee found for the first time that the Sri Lankan government had breached its obligation to prevent discrimination against women in the case of a lesbian couple subjected to a homophobic hate crime. In that case human rights activist and Executive Director of Equal Ground, Rosanna Falmer-Caldera argued that the Sri Lankan Penal Code, which was amended in 1995 to criminalise same-sex sexual conduct, violated her human rights as protected by CEDAW.[44]

WOMEN WITH REFUGEE OR ASYLUM STATUS, STATELESS AND MIGRANT WOMEN

CEDAW acknowledges the gender-related dimensions of this group in a number of general recommendations. For example, General Recommendation 32 focuses on women with a refugee or asylum status and stateless women. General Recommendation 26 (on women migrant workers) acknowledges that migration may present new opportunities for women and may be a means for their economic empowerment through wider participation but recognises that it may also place their human rights and security at risk.

This guidance encourages governments to acknowledge the rights violations women experience throughout the displacement cycle, asylum-seeking, integration, return and re-settlement, for example, particularly as violence against women is one of the major forms of persecution experienced by these women.

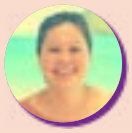
Governments are expected to protect women from exposure to real, personal and foreseeable risks of discrimination, including GBV, irrespective of whether such consequences would take place outside the territorial boundaries of the country. They are also, for example, expected to fully integrate a gender-sensitive approach in asylum claims and consider adding sex and/or gender to the list of grounds for refugee status in their national asylum legislation, as well as for reasons of being lesbian, bisexual or transgender.

The Committee's guidance also recognises a range of experiences common to these women. For example, women can have their access to health services restricted in relation to pregnancy, face restricted access to employment and have little access to relevant information about their rights and entitlements, which can impact their access to health. CEDAW's guidance highlights that discrimination is especially acute in relation to pregnancy. Migrant workers may face mandatory pregnancy tests followed by deportation or, if the test is positive, coercive abortion; lack of access to safe reproductive health and abortion services following sexual assault; absent or inadequate maternity leave and benefits; or the absence of obstetric care, resulting in serious health risks.

Resourcing GBV laws

CSOs flagged that underfunding GBV laws can work against women and the systems designed to protect them.

"Underfunding is a major issue. Domestic violence victims go to the police station to make a complaint. The police at the station don't have the budget to provide them shelter, so at the end of the day they send them back to violent situations."




EXPERT COMMENTARY:
Audrey Lee, Senior Programme Manager, and Dr Nadia Mohd Rasidi, Communications Officer, at International Women's Rights Action Watch (IWRAW) Asia Pacific.

Looking beyond 'sex-based discrimination' to address gendered harms

The CEDAW Committee's terminology is key to protecting the rights of women in law, write Audrey Lee, Senior Programme Manager, and Dr Nadia Mohd Rasidi, Communications Officer, at International Women's Rights Action Watch (IWRAW) Asia Pacific.

Since its adoption in 1979, CEDAW has played an important role in advancing women's rights in international law. States that have ratified the Convention use analyses and recommendations from the CEDAW Committee to structure and develop their responses to gender issues. The Committee is expected to identify and call out instances where laws are harmful or ineffective, spotlighting on the global stage unacceptable actions by states that threaten the human rights of women.

For this reason, it is critical to pay close attention to the Committee's evolving use of rights-based terminology and to be cognisant of when this starts to diverge from its objective of increasing equity. Recently, for example, the Committee criticised what it termed the 'gradual dilution of the concept of "sex" ' in Portugal's anti-discrimination efforts and called for the state to '[avoid] the broad use of the concept of "gender" when addressing women's rights'.[45]

This apparent resistance to the use of the word 'gender' in place of 'sex' suggests that the former somehow limits states' capacity to meaningfully confront the inequities women face. It assumes that women are a cohesive, biological class without ethnicity, religion, economic status or other characteristics. Yet, one of the CEDAW Committee's own general recommendations states that ' "gender" refers to socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences'.[46]

Viewed through an intersectional lens, the Committee's framework recognises that the experience of discrimination in relation to an identity, or a cross-cutting characteristic that interacts with gender, merits protection under CEDAW. This highlights the necessity of using both gender- and sex-based discrimination as a basis for engaging with CEDAW obligations. CEDAW's own recommendations acknowledge that flexible definitions are needed in dealings with states, given the myriad approaches governments take towards women's rights issues.

Though challenging, this flexibility must be expanded going forward, not curtailed.
The violence enacted and enabled by systemically embedded hierarchies of power and privilege is not neatly delineated by biological difference. People are neither protected from nor subjected to discrimination based solely on their physical attributes but are treated according to the meaning produced by those attributes as they reflect or contrast with sex-based stereotypes. Adhering to the strict dichotomy of biological sex in international law serves to entrench exclusionary approaches to justice and is a barrier to understanding that sex-based assumptions foster gendered harms that cut across binaries.

CEDAW's transformative potential for the lives of women around the world will be compromised unless the Committee resists using biological sex as a basis for assessing measures of justice. State action on 'gender-based' discrimination is foundational to CEDAW. Many states already recognise this responsibility through their CEDAW reports, and a failure to affirm this obligation would be a backward step. Ultimately, addressing gendered harms that include but are not limited to 'sex-based discrimination' is critical to strengthening protections of women's rights in international law.

WOMEN EXPERIENCING OR AT RISK OF GENDER-BASED VIOLENCE

Both the Convention and the Committee provide a wealth of guidance to governments seeking to introduce health-promoting laws.

- While drafters of the Convention did not explicitly tackle violence against women, this oversight was rectified by the introduction of three general recommendations (12, 19 and 35) that explicitly address violence against women.[47]
- General Recommendation 12 requires governments to report on legislation to protect women against violence, the existence of support services and statistical data.
- General Recommendation 19 requires governments to take all appropriate measures to end violence against women, irrespective of where it occurs or who the perpetrators may be.
- General Recommendation 35, as an update to General Recommendation 19, requires governments to take specific measures to address GBV against women, including repealing laws that perpetuate existing inequalities.
- Although general recommendations are not legally binding, GBV is effectively understood as a violation of the right to non-discrimination, which ensures that no one is denied their rights because of factors such as race, colour, sex, language, religion, political or other opinion, national or social origin, property or birth.

Ultimately, CEDAW remains a product of its time and the prevailing ideas, assumptions and attitudes of the drafters. This has led to a patchwork of guidance on governments' obligations in relation to advancing and protecting the health of women in these four situations of vulnerability. The key problem now facing the Committee, and international women's rights advocates, is translating this guidance to ensure treaty participation at the global level has a clear impact on health and human rights protections within each country.

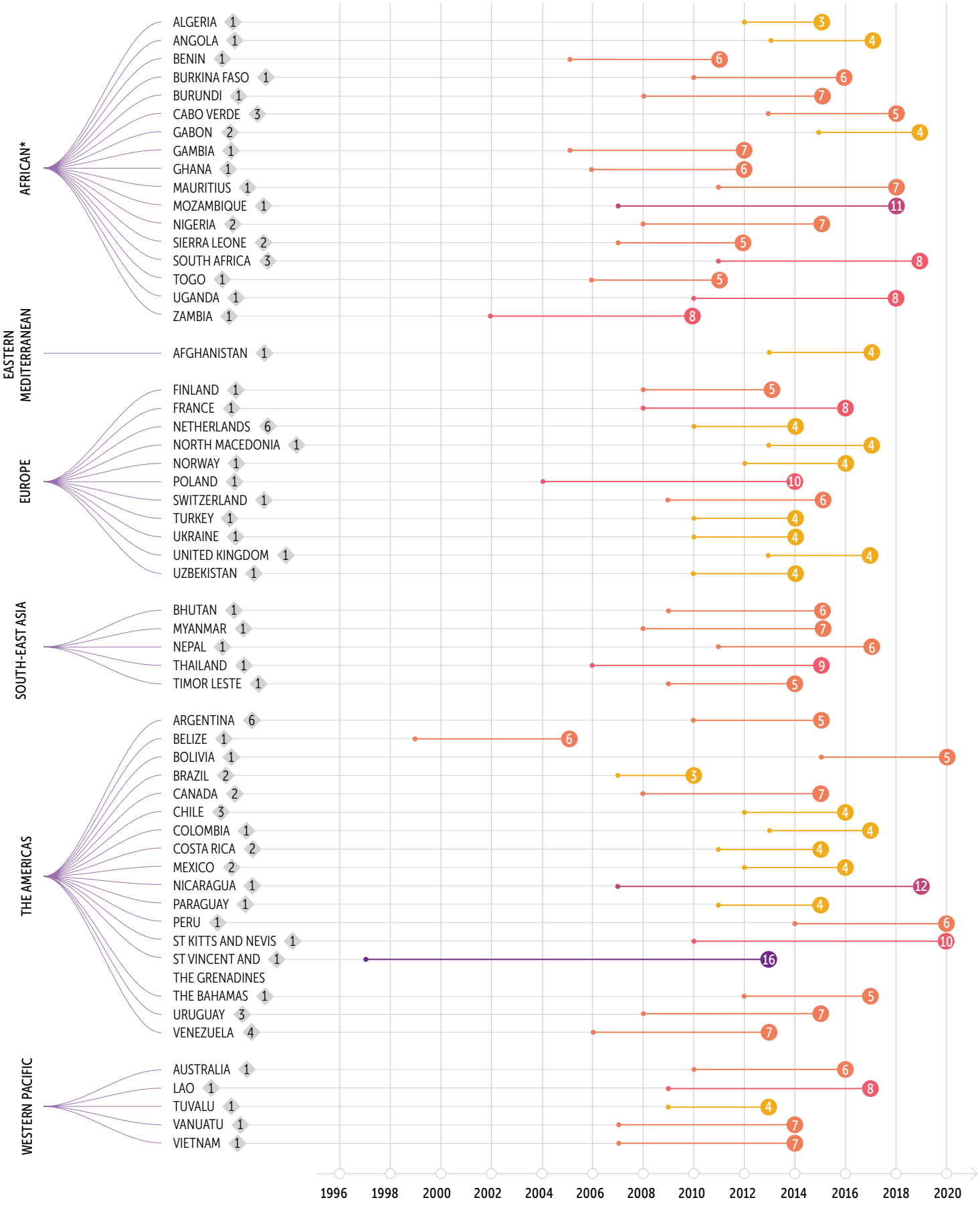
What we do not yet know is the extent to which CEDAW's conceptual advancements in protecting the health of women with intersectional identities have led to well-designed, impactful laws. What types of recommendations and government actions have they resulted in? What kinds of strengths and deficiencies exist in CEDAW-aligned laws attempting to address the needs of women in situations of vulnerability?

These questions are difficult for the Committee to answer, given its limited oversight over the quality of laws implemented following CEDAW reviews. The Committee relies heavily on governments' self-reported actions and on CSOs' monitoring. A number of scholars have described the need to monitor the authenticity of efforts to implement human rights norms and principles, the efficacy of mainstreaming actions, and the impact of law and policy.

This is critical because women can experience the law and legal systems in different ways depending on their intersectional identities, their access to justice, and prevailing social and cultural drivers, which, in addition to the governance issues discussed above, can mediate the effects of even well-designed laws. The extent to which the implementation of laws is resourced and supported (including through judicial, administrative, budgetary, economic and other measures) also varies considerably, and recommendations rarely include budgetary allocation targets to resource laws. Further, recommendations often fail to highlight links to other frameworks governments are working to comply with, leading to duplicated efforts and constantly reinventing the wheel.

At a systems level, without analysing the outcomes of CEDAW reviews, there is a risk that laws can also entrench the way things get done, with poorly designed laws being presented as CEDAW-aligned but, in reality, institutionalising disadvantage. Government reports, depending on their comprehensiveness, who was involved in writing them and the extent to which meaningful consultation occurred, may inadvertently obscure women's negative experiences with the law. A further challenge our research has revealed is that there are often persistent delays (of up to 11 years; see Figure 2) between countries receiving CEDAW recommendations and governments reporting back on their progress. Further, the Committee lacks the resourcing to evaluate their body of work, history, and the quality and utility of its recommendations to countries. There can be a loss of institutional memory, given the regular renewal of Committee membership.[4]

FIGURE 2: TIME BETWEEN RECEIVING CEDAW COMMITTEE RECOMMENDATIONS AND REPORTING ON PROGRESS



* Note: data are unavailable for the year of Eswatini's review prior to the 2013 state report

Time between receiving CEDAW Committee recommendations and reporting on progress

3 years >15 years

N Number of recommendations by country

GLOBAL PICTURE

HOW DOES THE CEDAW COMMITTEE USE ITS RECOMMENDATIONS TO ENCOURAGE GOVERNMENTS TO DESIGN, IMPLEMENT AND ENFORCE HEALTH-PROMOTING LAWS?

The CEDAW Committee has pushed for change requiring governments to:

1. REVIEW

- Ensure existing legislation offers comprehensive protection for women.
- Conduct a review of existing laws and identify those that are not in compliance with CEDAW.
- Revise or repeal harmful laws.
- Introduce new legislation to fill in regulatory gaps that are leading to poor health outcomes.

2. IMPLEMENTATION, MONITORING & ENFORCEMENT

ADOPTION

- Accelerate the adoption of legislation.
- Set a clear timeline for law reform.

AWARENESS

- Make laws widely known by public officials, health workers and society at large.

INFRASTRUCTURE

- Requiring the allocation of sufficient human, financial and technical resources for the implementation and monitoring of laws.
- Establishing adequate legal mechanisms to ensure the proper implementation and enforcement.

GOVERNANCE

- Establish gender focal points within ministries and agencies to effectively coordinate and promote gender-responsive laws across all levels of government.
- Enhance the power of decision makers to coordinate and ensure the success of laws.

ENFORCEMENT

- Ensure effective sanctions on those contravening the law.
- Activate dormant laws that exist to protect women but are not being enforced.

3. EVALUATION

- Systematically monitor and evaluate the impact and reach of laws.
- Recognise and address the health consequences of harmful laws.

The Committee has played an important role in facilitating clear timelines and accelerating the adoption of health-promoting legislation; making laws widely known by public officials, health workers and society; establishing necessary infrastructure for the effective governance and operationalisation of laws; and encouraging governments to systematically monitor the positive and harmful health consequences of laws.

Examples of what the CEDAW Committee has required governments to do in each of these three areas include:

REVIEW

Repealing harmful laws in the Netherlands

In the Netherlands, the Transgender Act, between the years 1985 and 2014, required transgender and intersex people to undergo surgery and sterilisation if they wanted to change their registered sex. As such, they were forced to choose between undergoing invasive surgery and never having children or being denied legal recognition of their sex.

The CEDAW Committee, during its 2010 review of the Netherlands, required the government to repeal the law. The government reported to the Committee in 2014 that it had repealed the law, and years later, in 2021, it offered a public apology to the transgender and intersex community.

IMPLEMENTATION, MONITORING AND ENFORCEMENT

Accelerating the adoption of legislation in Uganda

Following Uganda's 2010 CEDAW review, the Committee asked the Ugandan Government to accelerate the adoption of the Sexual Offences Bill in Uganda. At its next review in 2018, the government signalled that progress was being made and a Sexual Offences Bill was in draft form. However, Uganda's 2019 Sexual Offences Bill, in its design, conflated sexual acts with violence. For example, it included protections for sexual assault survivors' rights during criminal proceedings and would criminalise sexual harassment by people in positions of authority. However, it also sought to criminalise consensual same-sex acts, so LGBTQIA+ survivors of sexual violence would be unlikely to seek and access justice. In any case, the Bill was rejected in 2021 because the country's Penal Code already covered offences. The CEDAW Committee now has the opportunity to push for a revised bill that takes a genuinely rights-respecting approach to addressing sexual violence.[48]

Setting a clear timeline for law reform in Vanuatu

Following its 2007 CEDAW review, the Committee asked the Vanuatu Government to set a clear timeline for the passage of the Family Protection Bill in Vanuatu. Vanuatu became the first Pacific Island country to put in place legislation targeting domestic violence in 2008. The law creates a criminal offence for committing an act of domestic violence and provides civil protection orders. It uses a broad definition of family (including de facto relationships), which means that those that are not formally or customarily married are protected by the legislation. However, same-sex relationships are not recognised. In addition, the Act ensures the payment of a bride price is not considered when deciding whether to issue a family protection order and cannot be used as a defence against the breach of an order. The Act faced significant resistance within and outside government, and this contributed to the 11-year delay from drafting to being passed by the Parliament. While it represents a positive step forward, practical challenges remain due to its under-resourcing.[49]

Restructuring and streamlining the roles and responsibilities of decision makers in Colombia

Following its 2013 CEDAW review, the Committee asked the Colombian Government to prioritise restructuring the family commissioners under the Ministry of Justice, streamlining their mandates and allocating sufficient human, technical and financial resources to strengthen them in their work in Colombia. In 2014, a National Development Plan was introduced, requiring national and subnational institutions dealing with justice matters to work together to create a plan to serve as a 10-year roadmap for promoting coordination, efficiency and modernisation in the

administration of justice. The plan has been seen as innovative as it incorporates a systemic approach including all actors of the justice system in its planning process—judicial and administrative, national and subnational—and coordinating common goals—for example, through integrated judicial services, which are now delivered to rural communities through mobile strategies. These aims have now been incorporated into the NDP's 2018–2022 Plan.[50]

EVALUATION

Systematically monitoring and evaluating the impact and reach of laws in Brazil

Following its 2007 review of Brazil, the CEDAW Committee recommended the systematic monitoring and evaluation of the impact of the Maria da Penha Law targeting domestic violence in Brazil through the collection of data, disaggregated by type of violence and by the relationship of the perpetrator to the victim. Biopharmaceutist Maria da Penha Fernandes was asleep when her husband shot her, leaving her paraplegic for life. Her case languished in court for two decades, while her husband remained free. Facing international criticism for its lack of effective action in prosecuting and convicting perpetrators of domestic violence, the law was passed. The Act establishes special courts, stricter sentences for offenders, and police stations and shelters for women. Following Brazil's 2010 CEDAW review, the National Council of Justice collected data demonstrating that over 300,000 prosecutions and 100,000 final judgements had occurred since the law was passed. However, its application is centralised to the big cities, and many women in rural or remote areas of Brazil do not benefit from its enactment.[51]

Recognising and addressing the health consequences of harmful laws in Argentina

Following its 2010 review of Argentina, the CEDAW Committee asked the government to review existing legislation that criminalises abortion, as well as its serious consequences for the health and lives of women in Argentina. In its 2015 report, the government justified its current approach—abortion is illegal, except in cases where it is performed to avoid endangering the mother's life or health and if this danger cannot be prevented by other means, and in cases where the pregnancy results from the rape or indecent assault of a woman with a mental disability, in which case the consent of her legal representative must be obtained for the termination. Five years later, in 2020, following decades of campaigning by women's rights advocates, Argentina became the first Latin American country to legalise abortion.

WHAT TYPES OF LEGAL INTERVENTIONS HAVE RESULTED FROM THE CEDAW REVIEW PROCESS?

FIGURE 3: BREAKDOWN OF THE 85 LAWS ADDRESSING THE FOUR SITUATIONS OF VULNERABILITY

IMPLEMENTED LAWS

The CEDAW process has contributed to the development and implementation of a diverse set of laws relating to the four situations of vulnerability discussed in this report. Of a total of 496 laws implemented in each country's last round of review (as at 2020), 85 sought to address the four situations of vulnerability: 65 gender-based violence, 9 gender-based poverty, 7 LGBTQIA+ communities, and 4 refugee, asylum seeker and migrant women.

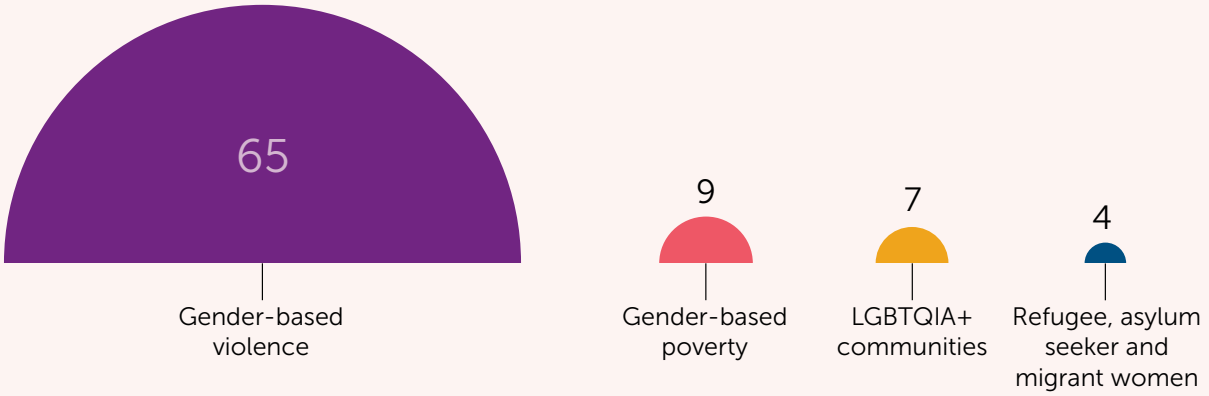


FIGURE 4: CATEGORIES OF LAW WITHIN EACH SITUATION OF VULNERABILITY

GENDER-BASED POVERTY

This group of laws include those that:

- Provide social assistance
- Establish national or subnational anti-poverty institutions/agencies
- Improve access to health for those experiencing poverty
- Ensure access to education for those experiencing poverty

LGBTQIA+

This group of laws include those that:

- Strengthen access to healthcare for LGBTQIA+ people
- Allow trans women to change their gender marker on identity papers
- Prevent discrimination on the basis of sexual orientation, gender identity and gender expression
- Establish equal rights for same-sex couples

REFUGEE, ASYLUM SEEKER AND MIGRANT WOMEN

This group of laws include those that ensure:

- Sponsorship and visa approvals are streamlined
- That refugees enjoy the same domestic rights as nationals

GENDER-BASED VIOLENCE

This group of laws include those that:

- Establish new or reform existing legal institutions
- Strengthen legal protections and remedies
- Raise awareness
- Increase access to healthcare and social support
- Establish new governance structures to combat GBV

WOMEN EXPERIENCING GENDER-BASED POVERTY

This group of laws include those that:

- **Provide social assistance (n=5)**

  EXAMPLE: The continued implementation of the Social Security Act, established to provide social grants-in-aid through direct and unconditional cash transfers, which has resulted in reduced poverty levels for women in situations of vulnerability in South Africa. In line with the CEDAW Committee's recommendation, the Act has undergone several amendments, which provide additional payments for child-headed households, social relief of distress in the event of a disaster and an independent tribunal to consider appeals of decisions made by the agency administering payments.

- **Establish national or subnational anti-poverty institutions/agencies (n=2)**

  EXAMPLE: The establishment of the Ministry of Family and Social Inclusion, a government department responsible for poverty alleviation, gender equality and advancing the health of other communities in situations of vulnerability in Cabo Verde.

- **Improve access to health for those experiencing poverty (n=1) Ensure access to education for those experiencing poverty (n=1)**

  EXAMPLE: Amendments to the General Law of Education, a law providing for inclusive, state-funded education for all, with an emphasis on those experiencing poverty in Peru. The law now promotes values and attitudes that reject all types of violence and discrimination and promotes equality between men and women.

WOMEN IDENTIFYING AS LGBTQIA+

This group of laws include those that:

- **Strengthen access to healthcare for LGBTQIA+ people (n=1)**

  EXAMPLE: Following Argentina's 2010 CEDAW review, it introduced the Gender Identity Law in 2012. The law recognises a person's self-perceived gender identity without requiring a psychiatric diagnosis or surgery. It also requires public and private medical practitioners to provide free hormone therapy or gender reassignment surgery for those that seek it. Since then, Argentina has gone further. In a first for Latin America, from 2021, Argentina's National Identity Document and passports allow for a third gender category, 'X', which allows people to choose their designation.[52]

- **Allow trans women to change their gender marker on identity papers (n=2)**

  EXAMPLE: In 2014, ahead of their CEDAW review, the Netherlands put in place a legal procedure for individuals to rectify identity documents in line with their gender identity in the Netherlands (n=1). In 2020, the Dutch Government made moves to make identity cards gender-free to avoid potential harms (e.g., harassment, discrimination and violence), raising questions about the role of gender markers on identity documents.

- **Establish equal rights for same-sex couples, including the prevention of discrimination on the basis of sexual orientation, gender identity and gender expression (n=4)**

  EXAMPLE: Establishing equal marriage rights for same-sex couples, which allows for equal pension rights, in Argentina. The country became the first in Latin America to declare that gay and lesbian couples were entitled to all the legal rights, responsibilities and protections as married heterosexual couples. While not explicitly health-specific, these incidental laws impact the enjoyment of health-related rights (e.g., being able to access a partner's health records, if necessary, or accompany a partner to medical appointments).

REFUGEE, ASYLUM SEEKER AND MIGRANT WOMEN

This group of laws include those that ensure:

- **Sponsorship and visa approvals are streamlined (n=1)**
- **that refugees enjoy the same domestic rights as nationals (n=3)**
- **migrants are included in all aspects of society**
- **children of migrants have access to citizenship.**

EXAMPLE: Continuing to implement an Act conferring to refugees in Gabon the same rights as nationals. Refugees enjoy the same benefits as expatriates and may obtain a permit from the Ministry of Labour to work in the civil service. Refugee children enjoy the same rights to education as Gabonese children, and school is compulsory for children aged 3–16 years.

EXAMPLE: Constitutional amendments ensuring citizenship by naturalisation from both mother and father in the Bahamas.

WOMEN EXPERIENCING OR AT RISK OF GENDER-BASED VIOLENCE

This group of laws include those that:

- **Establish new or reform existing legal institutions (e.g., creating a specialised domestic violence court and mandating training on GBV for prosecutors) (n=4)**

EXAMPLE: Continuing to implement a law (Act No. 1600/00 on domestic violence) requiring that all prosecutors and relevant civil society servants at all levels of government, including Peace Judges, health professionals, police officers, students of the Police Education Institute and the Secretariat for Women receive ongoing training on investigating offences involving family violence and GBV in Paraguay.

- **Strengthen legal protections and remedies (e.g. criminalising DV) (n=49)**

EXAMPLE: Amendments to the Domestic Violence Act that increase the time after an incident of violence within which a notice can be served from seven to 14 days and increases the penalty for perpetrators in Mauritius.

- **Raise awareness (e.g. a national day to end GBV) (n=1)**
- **Increase access to healthcare and social support (e.g. by establishing a national victim support system, or establishing a GBV fund) (n=6)**

EXAMPLE: An Act mandating that municipalities establish domestic violence centres in the Netherlands.

EXAMPLE: An Act providing multiple avenues of redress for victims of violence and harassment in Uzbekistan, including a 24-hour toll-free hotline operated by the Women's Committee to access advice or assistance where their rights have been violated; application to authorised bodies, organisations or courts with a statement that harassment and violence has been committed; application to internal affairs for a protection order; or an application to the court with a request for compensation.

EXAMPLE: Establishing the General Victims Act, which establishes a national victim support system and a federal executive commission for victim support, with a special emphasis on eliminating violence against women, enforced disappearances, homicide and femicide in Mexico.

- **Establish new governance structures to combat GBV (e.g. anti-GBV Committee or a Federal Executive Commission on GBV) (n=5)**
- **Define responsibilities of key agencies, and how they should coordinate and cooperate to prevent DV Institute a national plan**

IMPLEMENTATION BY HUMANITARIAN CRISIS STATUS AND INCOME GROUP

Countries experiencing a humanitarian crisis (Myanmar, Burkina Faso, Angola, Burundi, Eswatini, Turkey, Uganda, Colombia, Nigeria, Afghanistan, Nepal and Thailand) implemented 34% (n=13) of CEDAW recommendations to humanitarian crisis countries proposing legal reforms. This represented 15% of all laws across each of the four situations of vulnerability (see Figure 5).

Fifty-three per cent of the Committee's proposals (n=72) to non-crisis countries were implemented. The vast majority were GBV laws (n=11) followed by gender-based poverty laws (n=2). Evidence on the effectiveness of these laws in achieving health and social outcomes is very limited. However, if the implementation of laws is to be seen as a sign of progressive action on gender equality, these findings likely show that humanitarian crisis countries are at a disadvantage. This suggests that the international community has an opportunity to support women's empowerment during and after crises.

By income group, low-income countries received 19 recommendations and implemented 47% (n=9) of these. All countries except Afghanistan were from the African WHO region (Burkina Faso, Burundi, Gambia, Sierra Leone, Togo, Uganda and Mozambique). In this respect, the African region is a high-innovation region of the world in relation to GBV, as all laws except a gender-based poverty law in Burkina Faso were GBV laws.

Lower and upper-middle countries implemented 48% (n=53) of the Committee's recommendations. Within this group, the vast majority were in the Americas (n=23), the African region (n=17), South-East Asia (n=5), Europe (n=4) and the Western Pacific region (n=4).

High-income countries implemented 52% (n=23): (n=12) in Europe, (n=10) in the Americas, and (n=1) in the Western Pacific (Australia).

WOMEN EXPERIENCING GENDER-BASED POVERTY

None of the recommendations that were not implemented related to gender-based poverty. This likely reflects the fact that there were few instances in this period in which CEDAW recommendations were aimed at addressing gender-based poverty (as defined in 'Methods'), rather than governments being more willing to implement legislation in this category.

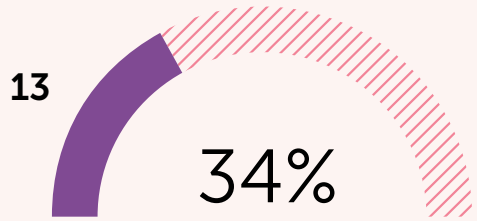
WOMEN IDENTIFYING AS LGBTQIA+

Two of the Committee's recommendations that were not implemented or were unacknowledged related to LGBTQIA+ communities. In Sri Lanka, the government reported that it did not see the criminalisation of sexual relationships between two consenting adults as being out of alignment with the Convention. As such, the country refused to act on CEDAW's calls for decriminalisation. In the Republic of Korea, the Committee's calls for the adoption of a comprehensive Anti-Discrimination Act that includes a prohibition on discrimination on the grounds of sexual orientation was unacknowledged.

REFUGEE, ASYLUM SEEKER AND MIGRANT WOMEN

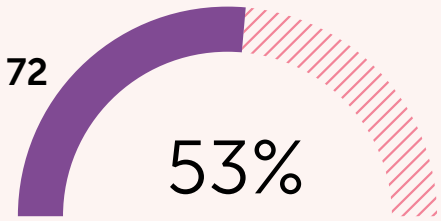
Five recommendations that were not implemented or were unacknowledged sought to protect the health-related rights of refugee, asylum seeker and migrant women. In Kenya, the government was asked to ensure that refugee and internally displaced women were protected from violence and that mechanisms were available for redress for victims. This proposal was unacknowledged in Kenya's government report. In three cases, governments were asked to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which sets minimum standards for migrant workers and members of their families, with a focus on eliminating the exploitation of workers in the migration process. Sierra Leone and

FIGURE 5: IMPLEMENTATION BY HUMANITARIAN CRISIS STATUS AND INCOME GROUP



HUMANITARIAN CRISIS COUNTRIES

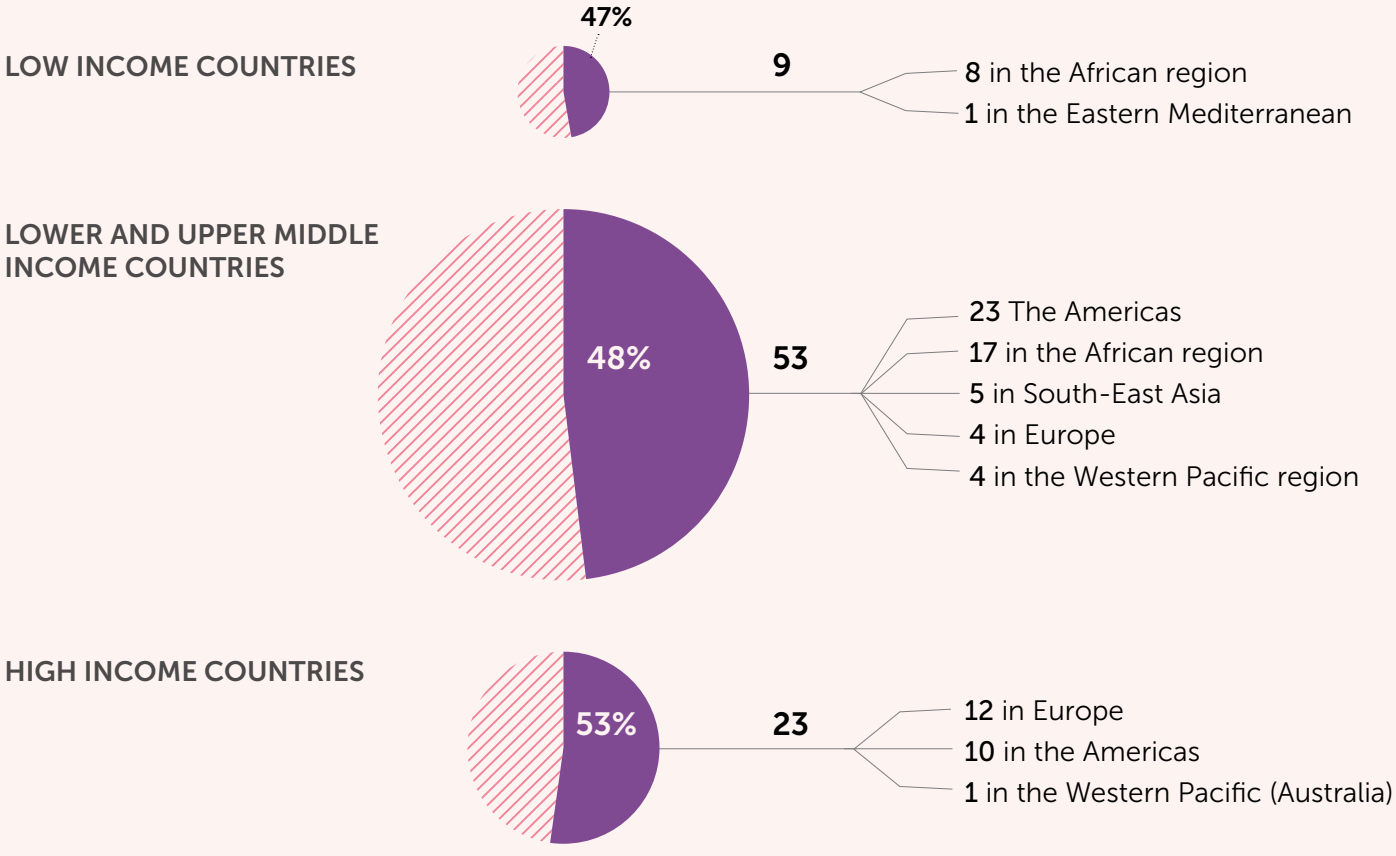
Of the law-related recommendations made by the CEDAW Committee, 496 were either not implemented or were unacknowledged. Of the 496, 90 are related to the four situations of vulnerability discussed in this report.



NON-CRISIS COUNTRIES

Of all laws that were not implemented or were unacknowledged, none related to gender-based poverty; two related to LGBTQIA+ communities; five related to refugee, asylum seeker and migrant women; and 82 related to GBV.

FIGURE 6: CEDAW RECOMMENDATIONS IMPLEMENTED BY INCOME GROUP



Venezuela did not acknowledge this proposal, while the Netherlands informed the Committee it had no plans to reconsider its position on that Convention because, in its view, the Convention did not distinguish adequately between legal and illegal aliens, particularly with regard to social security.

In another case, the United Kingdom was asked to ensure access to justice and healthcare for all women with insecure immigration status, including asylum seekers, until their return to their countries of origin. It did not provide adequate information to determine implementation status.

WOMEN EXPERIENCING OR AT RISK OF GENDER-BASED VIOLENCE

The vast majority (n=82) of laws or legal reforms proposed by the CEDAW Committee that were not implemented or were unacknowledged were anti-GBV laws.

Law-related recommendations not implemented

Twenty-two CEDAW recommendations for laws in this area were not implemented.

Nine recommendations urged governments to introduce comprehensive prohibitions on domestic violence (explicitly including marital rape) and adequate sanctions (Democratic Republic of Congo, Haiti, Malaysia, Mauritius, Sierra Leone, Sri Lanka, Tuvalu, Uruguay and Norway).

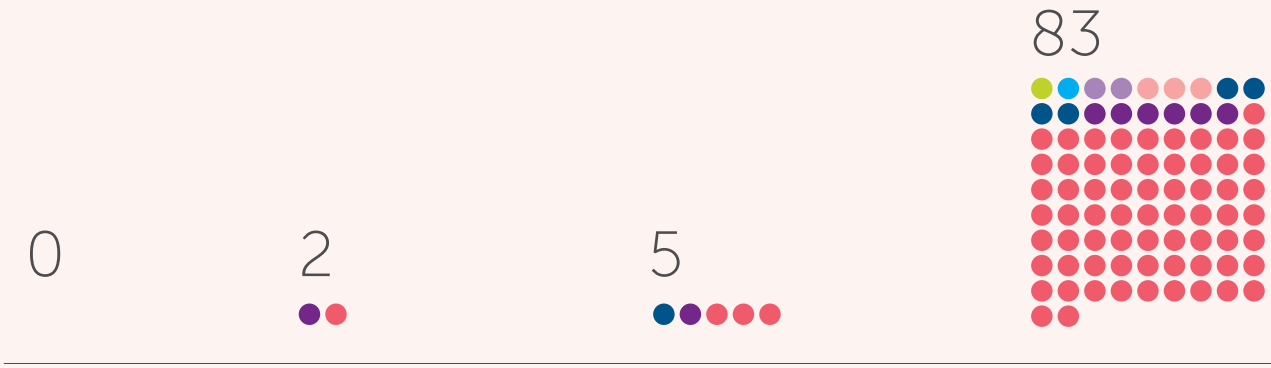
In some situations, governments had not implemented the Committee's recommendations at the time of their review, but they had outlined steps towards their implementation. For example, in Mauritius, the government explained that the Select Committee of the National Assembly was currently considering the inclusion of marital rape in its Criminal Code, and marital rape was already included in its Sexual Offences Bill (Mauritius). In Haiti, a framework Act including marital rape was awaiting inclusion in the next legislative agenda (Haiti). In Sierra Leone, the government had finalised the Sexual Offences Bill and sought Cabinet approval for submission to Parliament. This bill would increase the maximum penalty for rape, and criminalise the offence being settled by family members or village heads without police involvement. However, the Bill had not been enacted or implemented at the time of the country's reporting to CEDAW (Sierra Leone*). In Uruguay, a proposal for including marital rape in its legislation had been presented to the House of Representatives (Uruguay).

In other instances, governments simply justified their position. The Government of the Democratic Republic of Congo stated that the country did not have specific legislation criminalising domestic violence and believed that the current (gender-neutral) criminal code sufficed (Democratic Republic of Congo). Similarly, in Malaysia, marital rape was not explicitly referenced in existing legislation (Malaysia).

In Sri Lanka, the government stated that the act of sexual intercourse without the consent of the wife was not by itself a crime under the existing law (Sri Lanka) unless the parties were judicially separated. In Tuvalu, government representatives stated that 'A lot of people still consider the idea that the husband has the authority over his wife's body' (Tuvalu).

Five recommendations that were neither implemented or acknowledged (Afghanistan, Costa Rica, Democratic Republic of Congo, Honduras and the United Kingdom) related to abortion. Here, the Committee urged the governments to expand the grounds on which abortion was permitted, particularly in cases of rape and incest. The governments of Afghanistan and Honduras stated their belief that abortion should remain criminalised without exception (in Honduras) or for any other reason than to save the life of the mother (in Afghanistan). In the Democratic Republic of Congo, the government said it believed abortion should remain criminalised given the sanctity of human life from the moment of conception (Democratic Republic of Congo). In Ireland, the government's non-implementation was due to political developments. A working group paper was provided

FIGURE 7: LAW-RELATED RECOMMENDATIONS NOT IMPLEMENTED



GENDER BASED POVERTY

LGBTQIA+

- (n=1) establish equal rights for same-sex couples
- (n=1) prevent discrimination on the basis of sexual orientation, gender identity and gender expression.

REFUGEE/ASYLUM SEEKER/MIGRANT

- (n=1) Establish mechanisms to protect refugee and internally displaced women from violence, and ensure access to justice for victims
- (n=3) Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- (n=1) Ensure access to justice and health care for those with insecure immigration status

GENDER-BASED VIOLENCE

- (n=66) Strengthen legal protections and remedies for GBV
- (n=1) Increase access to healthcare, social and legal support
- (n=3) Ratifying international human rights law
- (n=6) Establish new or reform existing legal institutions
- (n=4) Raise awareness
- (n=2) Increase access to healthcare, social and legal support
- (n=1) Strengthen data collection

to ministers the previous year and proposals were due to be presented to the Northern Ireland Executive Committee for a decision, but due to political events, the Executive ceased to function and had not been re-established (Ireland).

Four of the 22 recommendations related to the introduction of laws to combat violence against women and provide detailed information on the impact of them (Timor-Leste, Vanuatu, Cook Islands). The Cook Islands said that potential changes (including a comprehensive legal definition for domestic violence) to the outdated Crimes Act had been identified but not implemented and that a dedicated task force would be introduced (Cook Islands). When asked by the Committee for violence against women to be dealt with through the formal penal system, the government said that traditional justice was still preferred (Timor-Leste). In Vanuatu, the government justified its current approach—violence against women as a specific offence was not provided for under the Penal Code (Vanuatu).

Two of the 22 recommendations (Rwanda, Ukraine) proposed legislation prohibiting sexual harassment in the workplace, including sanctions, civil remedies and compensation for victims. Rwanda currently had only limited provisions for sexual harassment in its GBV legislation only including situations where an employer perpetrates the harassment over a subordinate through orders, intimidation or terror. In Rwanda, the government claimed that existing laws protected women workers against sexual harassment (Rwanda). Ukraine acknowledged the issue but listed the factors working against women in the workforce: women working in small and medium businesses often did not have an employment record, contracts or labour agreements, social payments or leave (Ukraine).

One recommendation urged the Gabon Government to ensure access to justice via courts and tribunals, effective prosecution and adequate sanctions. Gabon responded that only limited legal aid existed and that it was not specific to women (Gabon).

One asked the Tuvalu Government to repeal a section of their Penal Code specifically prosecuting girls and women 15 years and over if they were found to have consented to incest. The government responded that no changes would be made to the Penal Code to 'remove discriminatory provisions'.

A SNAPSHOT OF GBV LAWS THAT WERE UNACKNOWLEDGED

STRENGTHENING LEGAL PROTECTIONS AND REMEDIES FOR GBV

- Adopt legislation to prevent and punish all forms of sexual harassment
- Enact national legislation to prohibit female genital mutilation, including penalties for perpetrators, remedies and support for victims, with a view to eliminating this harmful practice
- Extend the ground for legalization of abortion including in cases of rape and incest
- Criminalisation of all forms of domestic violence, sexual violence, including marital rape, define rape based on a lack of consent rather than penetration or use of force

RATIFYING INTERNATIONAL HUMAN RIGHTS LAW

- Expedite the ratification of the Convention on Preventing and Combating Violence against Women and Domestic Violence
- Set a time frame for ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence (2011)

STRENGTHEN DATA COLLECTION

- Strengthen data collection on domestic and sexual violence and disaggregate statistics on violence

ESTABLISH NEW OR REFORM EXISTING LEGAL INSTITUTIONS

- Proposed specialised courts for violence against women, adequately fund and resource them
- Train judiciary and police on legal provisions dealing with violence against women,
- Establish mechanisms to monitor the implementation of anti-GBV laws to ensure women have access to a life free of violence

RAISE AWARENESS

- Combat prevailing gender-based stereotypes and their impact on violence against women
- Ban the sale of video games or cartoons involving rape and sexual violence
- Ensure the implementation domestic violence legislation, and related supports for those at risk is widely known to public officials and society

INCREASE ACCESS TO HEALTHCARE, SOCIAL AND LEGAL SUPPORT

- Strengthen capacity of shelters and crisis centres
- Introduce legislation to improve women's access to health-care services

LAW-RELATED RECOMMENDATIONS THAT WERE UNACKNOWLEDGED

STRENGTHENING LEGAL PROTECTIONS AND REMEDIES FOR GBV

The following CEDAW recommendations relating to legal interventions addressing the needs of women in the four situations of vulnerability were unacknowledged:

- **Corporal punishment** (Botswana, Eswatini and Guyana)
- Prosecute **traditional healers** prescribing sexual intercourse with girls as a panacea for HIV infection (Malawi*)
- Adopt legislation to prevent and punish all forms of **sexual harassment** (Chile, China*, Eswatini*, Nepal#, Nicaragua^, Nigeria, Senegal*, the Bahamas& and Trinidad and Tobago)
- Enact national legislation to prohibit **female genital mutilation**, and/or reform law to include adequate penalties for perpetrators, and remedies and support for victims, with a view to eliminating this harmful practice (Angola*, Indonesia, Nigeria*, Sierra Leone and Ethiopia)
- Prosecute and punish **sexual violence committed by the State** or resulting from actions or omissions by State agents (Argentina, Chile and India)
- Protect against **sexual violence in the education system** and ensure perpetrators are adequately punished (Bolivia, Eswatini and Mauritania)
- **Extend the ground for legalisation of abortion, including in cases of rape and incest** (Chile*, Peru, Senegal and the Bahamas)
- Enact comprehensive legislation on all forms of **violence against women**, provide information on these laws, and ensure that victims have access to immediate means of redress and protection and that perpetrators are prosecuted and punished (Myanmar and Nigeria)
- Criminalise all forms of **domestic violence** and **sexual violence, including marital rape**, define rape based on a lack of consent rather than penetration or use of force (Eritrea, India*, Kenya, Lesotho*, Madagascar, Nepal*, Republic of Korea, Democratic Republic of Korea, Nigeria* and Seychelles*, Tuvalu and Zambia)
- Ensure domestic violence legislation has a **disability perspective** through monitoring mechanisms that detect, prevent and combat violence within and outside the home of persons with disabilities, especially for women and children with disabilities. Ensure all persons with disabilities receiving inpatient care in hospitals are guaranteed legal representation (Luxembourg)
- Ensure the effective implementation of anti-GBV legislation to prevent violence, and prosecute perpetrators of violence against **Indigenous women** and ensure access to justice, including redress (Mexico)
- Address shortcomings in the Criminal Law (Amendment) Act of 2004 and repeal all provisions under which perpetrators of **so-called honour crimes** are allowed to negotiate a pardon (Pakistan~), ensure that they are explicitly included within the scope of Article 82 of the Penal Code and classified as aggravated homicide, and ensure that such crimes are treated as seriously as other violent crimes with regard to investigation and prosecution (Turkey).

Although Nepal did not acknowledge this recommendation in its 2017 report, the country had in fact introduced the Sexual Harassment at Workplace (Prevention) Act in 2014.

^ In 2014, Law 779 was introduced to meet this aim. However it has been criticised for providing mediation between victim and perpetrator.

& While the Committee's recommendation was not acknowledged in the country's 2017 periodic report, The Bahamas had introduced the Sexual Offences and Domestic Violence Act in 2010 which explicitly criminalises workplace sexual harassment (s26). The Committee likely delivered this recommendation because it did not deem its sanctions, civil remedies and compensation to be adequate.

~ Although Nepal did not acknowledge this recommendation in its 2017 report, the country had in fact introduced the Sexual Harassment at Workplace (Prevention) Act in 2014.

RATIFYING INTERNATIONAL HUMAN RIGHTS LAW

- **Expedite the ratification** of the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) (Luxembourg)
- **Set a timeframe for ratifying** the Council of Europe Convention on preventing and combating violence against women and domestic violence (2011) (Montenegro).

ESTABLISH NEW OR REFORM EXISTING LEGAL INSTITUTIONS

- Propose **specialised courts** for violence against women, adequately fund and resource them (Bolivia*)
- Eliminate the **requirement of the victim's complaint in order to prosecute crimes** of sexual violence (Japan)
- **Train judiciary and police** on legal provisions dealing with violence against women (Lesotho)
- Establish **mechanisms to monitor the implementation of anti-GBV laws** to ensure women have access to a life free of violence (Mexico)
- Accelerate the reform of its **judicial system to prevent delays in the disposal of cases** of violence against women (Seychelles)
- Do not use the joint plan for parenthood as a **legal precondition for starting divorce proceedings**, and under no circumstances impose this on victims of domestic violence (the Netherlands).

RAISE AWARENESS

- Combat prevailing **gender-based stereotypes** and their impact on violence against women (Jamaica)
- **Ban the sale of video games** or cartoons involving rape and sexual violence (Japan)
- Ensure the implementation of domestic violence legislation and related supports for those at risk **is widely known to public officials and society** (Mongolia* and Turkmenistan#).

INCREASE ACCESS TO HEALTHCARE, SOCIAL AND LEGAL SUPPORT

- **Strengthen capacity of shelters and crisis centres** (Lesotho)
- Introduce legislation to improve **women's access to healthcare services** (Mexico).
- **Strengthen data collection on domestic and sexual violence** (Lesotho) and disaggregate statistics on violence (Luxembourg).

* These countries have since implemented or amended legislation. These developments are detailed in Annex 1.
\# Article 134 of the Penal Code prohibits rape, including marital rape. However, there is no specific legislation addressing domestic violence.

THE CIVIL SOCIETY PERSPECTIVE: HOW ARE WOMEN EXPERIENCING THESE LEGAL INTERVENTIONS?

In the 56 countries that had implemented laws relating to GBV, gender-based poverty, LGBTQIA+ identification and women with refugee or migrant status, CSOs provided a wealth of information about the specific risks faced by women in these situations of vulnerability and the extent of government action and inaction to protect their health.

CSOs reported four common barriers to the effective implementation of recommended legal interventions across each of the four situations of vulnerability:

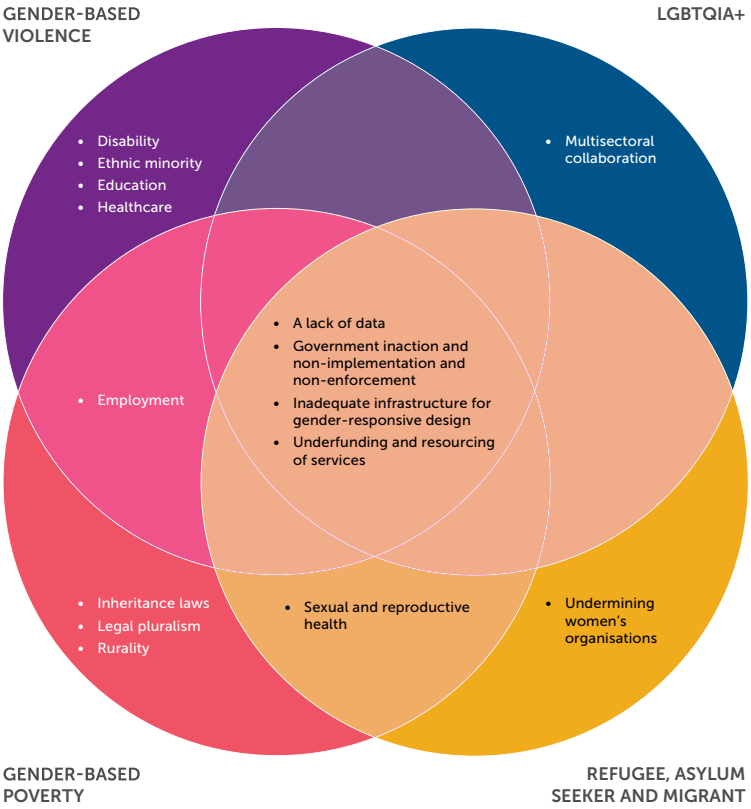
1) a lack of reliable data to make it possible to measure the impact and reach of laws

2) systems issues within legal and regulatory institutions

3) persistent government inaction

4) underfunding and resourcing of related health and social services.

FIGURE 8: THE CIVIL SOCIETY PERSPECTIVE



WOMEN EXPERIENCING OR AT RISK OF GENDER-BASED VIOLENCE

A lack of data

On the topic of GBV, CSOs reported that due to a lack of access to GBV-related data, they were unable to assess whether laws were working to protect women.

In Burkina Faso, Burundi, North Macedonia, Venezuela and Zambia, CSOs highlighted the lack of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions, particularly those attributed to government agents. This made it difficult to measure the access and reach of legal protections. CSOs in Burundi also felt that the existing, fragmented government data lacked credibility. In North Macedonia, despite the established legal obligation to do so under the Law on Prevention, Combating and Protection Against Domestic Violence, the government had not improved the existing system of data collection to provide detailed statistics on domestic violence and to ensure the availability of data to the public. The government did not provide statistics of victims and forms of GBV. The lack of data contributed significantly to the invisibility of GBV survivors, particularly those living rurally.

Systems issues within legal institutions

The systems issues highlighted by CSOs included barriers to access and poorly designed policies, procedures and infrastructure. In Burundi, access to justice for GBV survivors was impeded by the absence of fundamental procedural guarantees during the judicial process. This included access to a lawyer and legal aid at different stages of the judicial process. Sex workers faced violence and feared filing complaints due to government inaction on violence against them and impunity for perpetrators.

In Venezuela, anti-violence protocols for victims were not put into practice in emergency departments within hospitals and healthcare centres. Consequently, staff did not know how to receive survivors' complaints. Only a small percentage of cases of violence against women were reported in the Public Ministry and reached the tribunals—and of them, only a minority achieved legal sanction. Victims were requested to present mandatory psychological, psychiatric and social reports on their personal status to continue the legal process and, in some cases, to adopt the measures of protection and security, but access to these services for evaluations was very scarce.

Government inaction and non implementation and non-enforcement

Government inaction and non-implementation also impacted the reach and effectiveness of GBV protections. For example, in Canada, the federal government launched a 2016 National Inquiry into Missing and Murdered Indigenous Women and Girls. Testimony gathered highlighted the scale and scope of violence against First Nations, Inuit and Metis women, girls and two-spirited persons, and the lack of preventative initiatives and redress. The report was accepted, but no detailed response had been provided at the time of the CEDAW review in 2016.

In Canada, the National Plan of Action About Violence Against Women suffered significant implementation gaps. The budget allocated to centres addressing perpetrators and the follow-up of cases to identify participants that had relapsed in the practice of violence remained inadequate. Further, CSOs had no information about the effectiveness of the intervention programs these centres used.

In Venezuela, draft reforms of the Penal Code to better protect survivors of GBV had not been debated in 15 years, and CSOs' reform projects had been largely ignored.

In Sierra Leone, the situation for women's land rights had not significantly improved since the last review due to a lack of effective implementation of protective legislation. They described widespread ignorance about the civil legislation relating to inheritance and indicated that it was rarely effectively enforced. Similarly, in North

Macedonia, there was insufficient enforcement of the Law on Prevention, Combating and Protection Against Domestic Violence.

Underfunding and resourcing of services

The underfunding of resources was another major challenge highlighted by CSOs.

In North Macedonia, the implementation of the Law on Equal Opportunities under the Strategy for Gender Equality was severely underfunded, and this impacted the lack of cross-institutional cooperation. Resourcing for domestic violence shelters was also insufficient. During 2015, only 4.51% of the total number of female victims who reported violence were accommodated in the centres. They are also not geographically dispersed throughout the country. In North Macedonia, three organisations provided free, national SOS helplines for survivors or those at risk of GBV, but none of them provided services in all languages spoken in the communities.

In Sierra Leone, although the government had set up Family Support Units (FSUs) at 41 police stations across the country to address high levels of sexual violence, the FSUs lacked the financial and technical support they needed to operate efficiently.

In Venezuela, there were specific concerns relating to the Organic Law on Women's Right to a Life Free of Violence (LOMVLV). The Sub-Committee on Women in the National Assembly had been disbanded. Further, there were serious shortcomings in the allocated budgets and in tracking and monitoring complaints; CSOs reported that their funding had been 'kidnapped'. Further, while the law specified the creation of at least one women's refuge for each state, there were too few functioning, and access to free legal aid for poor women was grossly insufficient.

In the Netherlands, the government defunded the subsidisation of interpretation services (for those in the healthcare system that do not speak Dutch). As such, sexual and domestic violence survivors were negatively impacted. Health professionals were forced to rely on informal interpreters such as multilingual colleagues or family members of patients. This could be harmful where alleged perpetrators were family members of patients, or where patients did not feel comfortable disclosing their experiences in their presence.

Inadequate infrastructure for gender-responsive design

CSOs described an overall gender-blindness in governments' approach to anti-GBV legislation. CSOs described that governments often lacked the education, training and governmental infrastructure (particularly across multiple health and non-health sectors) to sensitively and effectively protect women through anti-GBV laws.

For example, in the Netherlands, CSOs reported that the government had a practice of formulating domestic violence policies as gender-neutral phenomena unrelated to traditional gender roles and the unequal power relationships that exist between women and men. They questioned whether policymakers, implementers and police had a sufficient awareness and understanding of gender-related factors.

In Togo, despite measures put in place, gender focal points had not been established across sectors and ministries, making gender mainstreaming non-implementable. CSOs held that in Togo, the promotion of women's rights and advancement of women were minimal or non-existent.

Similarly, in Sierra Leone, CSOs reported that the implementation of the Domestic Violence Act was problematic due to a lack of resources, partnerships and gender focal points. This had contributed to a lack of clarity about who was responsible for enforcing, evaluating and maintaining anti-GBV legislation.

In Venezuela, those working within the justice system, including specialised judges and prosecutors, were not adequately trained to interpret the law about violence against women, which had caused deferrals, unjustified dismissal of the charges and loss of judicial files.

Intersecting issues

GBV laws intersected with other forms of discrimination. In Zambia, CSOs highlighted inadequate GBV data on women and girls with disabilities. This was particularly important because of the compounding impact of the multiple forms of discrimination they faced in education, employment and access to healthcare. Further, services and information pertaining to victims' rights were not easily accessible to women and girls with disabilities living in institutions and the community.

In North Macedonia, CSOs highlighted that rural families lived relatively far from public schools, and girls' trips to schools were a significant expense for already low-income families. Further, their daily journey to school exposed girls to the risk of violence. This was especially the case in municipalities where there was no organised student transport from rural settlements to major cities or settlements. Also in North Macedonia, Roma women often did not report violence as a result of fear and a historical legacy of rampant discrimination, which had left the Roma with a deep-seated distrust of institutions.

In Zambia, CSOs described a widespread and systematic pattern of brutality. CSOs reported that female detainees reported being subjected to brutal beatings while in police custody, sometimes rising to the level of torture, in order to extract confessions; others were offered release in exchange for sex. Despite heightened vulnerability, women in prison had been tested for HIV and tuberculosis (TB) at lower rates than their male counterparts. Prenatal health services for pregnant inmates were non-existent or inadequate, with no nutritional support provided.

STIGMATISED, CRIMINALISED AND DENIED HEALTHCARE: LIFE AS A SEX WORKER IN KENYA

Legislation criminalising HIV transmission counteracts efforts to improve women's health

Carolyne Njoroge is an HIV+ sex worker and a sex workers' rights activist with the Kenya Sex Workers Alliance. One night, she fell sick and visited the local healthcare centre in Nairobi for a check-up. She waited in a queue for hours while doctors refused to address her concerns, instead forcing her to undertake tests for HIV and sexually transmitted infections (STIs) in front of other waiting patients.

'The healthcare workers were hurling abuse at me, calling me a "husband snatcher" and a "disease spreader" ', Carolyne says. She has vowed never to visit a public hospital again, no matter what the medical emergency.

This kind of prejudice is faced by 197,100 sex workers in Kenya every day.[53] It is estimated that 29.3% of sex workers live with HIV in Kenya, (54) and most of them do not have access to comprehensive treatment. Article 12 of CEDAW, which requires governments to take appropriate measures to eliminate all forms of discrimination against women in their access to healthcare, has been enshrined in the Kenyan Constitution, yet women and trans women sex workers in Kenya continue to face routine discrimination and stigma.

The legal status of sex workers in Kenya is complex. While sex work is a legal occupation under national law, Section 26 of the Sexual Offences Act criminalises deliberate HIV transmission.[55] The arbitrary enforcement of this law leads to the arrest and harassment of women sex workers at the hands of the police, whose harsh treatment of them includes impeding their access to sexual and reproductive health equipment, drugs and services.

In addition, sex work is criminalised in most counties. As possession of condoms is often used by police and prosecutors as evidence of prostitution, sex workers in Kenya avoid using and carrying them, putting them at greater risk of contracting HIV and other STIs and weakening the government's efforts to end the AIDS epidemic.

> 'None of us trusts the police at all, so we would never go to them to report it when we're attacked, and people know that and take advantage', explains Carolyne.(56)

Women sex workers are also highly vulnerable to GBV from clients and other members of the public.

In 2017, the CEDAW Committee commended the Government of Kenya on its efforts to improve women's health but flagged concerns about the lack of access to quality healthcare for many women, including sex workers.[57] The Committee recommended that the government take measures to decriminalise prostitution and eliminate violence against women sex workers, including by the police, and ensure that women can report such violence without fear of retribution or stigma. It also called for the prohibition of mandatory testing for HIV and STIs of women in prostitution following arrest, while encouraging them to undergo voluntary testing.

In response to these recommendations, the government introduced a National Policy on Prevention and Response to Gender-Based Violence and directed the National AIDS STI Control Programme to create a violence response manual and facilitate training for police and healthcare providers. These efforts have, to date, changed little for sex workers like Carolyne, who continue to be stigmatised, discriminated against and left without access to the quality healthcare they are entitled to.

Interview conducted on 29 July 2022 with Carolyne Njoroge, Sex Workers' Rights Activist, Kenya Sex Workers Association KESWA -Kenya Sex Workers Association.

WOMEN EXPERIENCING GENDER-BASED POVERTY

Intersecting issues

CSOs highlighted that gender-based poverty laws intersected with other forms of discrimination.

Inheritance laws

In Burundi, the CEDAW Committee had recommended in 2008 that the government adopt a uniform family code ensuring equality for women with regard to inheritance and matrimonial regimes. CSOs highlighted in the country's 2015 review that the draft law had been stifled for years, with no effort to move the legislation process forward. The president had banned women's organisations from continuing to campaign for the adoption of the law.

In Sierra Leone, due to social and cultural stereotypes and stigma, many widows had their possessions but also their children taken by the deceased husband. They were treated as outcasts and had little to no chance of remarrying.

Legal pluralism

In Burundi, CSOs highlighted that statutory law upheld the notion of gender equality but customary law routinely discriminated against women in relation to land and inheritance rights. Land went to male members of the paternal line, and there was no protection for women under statutory law.

Sexual and reproductive health

In Burkina Faso, abortion had not been decriminalised, increasing rates of unsafe abortions and teenage pregnancies. The latter had, in many instances, led to their rejection from the family, and to these young women having to fend for themselves. Young women living rurally were at a greater risk because youth centres and other health and social services were inaccessible.

Rurality

In general, rural women did not appear as
social welfare beneficiaries due to the fact that social allowance was low and they incurred travel and document costs that, in most cases, they could not afford.

Employment

In Togo, women's capacity to earn a living was limited due to the discriminatory treatment of women. For example, low-income jobs such as fish cleaning in a fish factory were advertised to women only, whereas, in some cases, those for policing staff were not open to women.

Government inaction and non-implementation

Structural inequality

In Canada, CSOs reported that the government lacked a strategic plan to dismantle structural inequality. This meant that poverty remained and was exacerbated by unequal pay, lack of access to justice, violence, inadequate childcare, precarious work and a lack of adequate housing. Indigenous and racialised women, women with disabilities, single mothers, and refugee and immigrant women were most at risk. Seventy per cent of the 51 Inuit communities across Inuit Nunangat did not have a safe shelter for women. Inuit communities are not reserves, so shelters serving Inuit women in the Arctic were prevented from accessing this funding. The number of women with a long-term low income was on the rise, but there were not any gender-specific policies to reduce poverty among women. Single mothers with young children were living in poverty, yet there was no structural policy to reduce poverty for this group. CSOs were concerned about the lack of clear targets and benchmarks and wanted the government to be pressed on the results of their GBV-prevention initiatives.

Ineffective implementation of education law hits Indigenous girls and women hardest

Lack of access to quality education leads to extreme, gender-based poverty in Peru

Indigenous peoples make up more than a quarter of the population of Peru. Many live in remote and rural regions and disproportionately experience poverty and malnutrition as a result of centuries of discrimination, particularly among women and girls. High-quality education is mostly limited to urban districts, and Peru's highest illiteracy rates are reported to be in isolated regions where Indigenous languages such as Quechua or Aymara are widely spoken but rarely written.[58]

Under the General Education Law (2003),[59] education is compulsory and free in public schools up to the secondary level in Peru. Students who are unable to pay tuition fees and have adequate academic performance can also attend public universities for free. However, according to the Centre for Sociological, Economic, Political and Anthropological Research (CISEPA), a leading social research institute in the country, Peru's high poverty rates (standing at 20.2% in 2019) stem from its poor education system, which excludes people from Indigenous communities, especially girls and women.

Some of the other major barriers include poor infrastructure, inadequate learning materials, language barriers, long journeys to school, a lack of well-trained teachers and widespread gender biases.

The historical exclusion of Indigenous women and girls from the education system has reduced their economic opportunities and led them to experience extreme, gender-based poverty, with significant impacts on their health and wellbeing. Many have no option but to combine a heavy burden of household chores with informal agricultural work.[61]

'When young Indigenous girls are unable to participate in education, they become more vulnerable to different forms of gender-based violence, such as child marriage, early pregnancy and child labour, and they become trapped in a cycle of poverty', says Gianella Malca.[60]

In 2022, the CEDAW Committee welcomed the Government of Peru's efforts to increase Indigenous girls' and women's access to education through the development of a bilingual, intercultural education service model, and commended its efforts to establish gender equality mechanisms.[62] However, the Committee remained concerned by the high levels of illiteracy and poverty disproportionally affecting women and girls from Indigenous, rural and Afro-Peruvian communities, and it urged the government to strengthen its national poverty reduction strategy with a particular focus on these groups.[62]

Peru has since made efforts to bolster women's rights through the enactment of various laws and policies, but effective implementation remains absent.[61] To ensure Indigenous girls and women can break the cycle of poverty, ending discriminatory barriers to education must be the first step.

Interview with Camilla Gianella Malca, Executive Director, Centre for Sociological, Economic, Political and Anthropological Research – CISEPA on 7 August 2022.

'Unfortunately, ineffective regulation, corruption and lack of political will mean that girls and women from Indigenous communities are unable to access quality education,' says Camilla Gianella Malca, Executive Director of CISEPA.[60]

A lack of data

In North Macedonia, the government report to the CEDAW Committee did not include data and information on the legal and social status of unpaid women working in family businesses, whereby they are deprived of social benefits and payments.

Under funding and under resourcing

In Venezuela, free access to legal aid for poor women was insufficient.

REFUGEE, ASYLUM SEEKER AND MIGRANT STATUS

CSO reports on refugee and migrant women's health were exclusively from the Netherlands. This may indicate a lack of capacity, resources or awareness of CSOs working with refugee and migrant women in other countries.

Undermining women's organisations

In the Netherlands, government policies had undermined migrant and refugee organisations and their key role in addressing harmful practices in their communities—including funding cuts, delegation of service from the central government to the municipalities and cancelling measures for support to specific target groups.

CSOs reported that Dutch funding bodies favoured large, non-gender-specific organisations rather than women's organisations, particularly those representing migrant or refugee women. This meant that women's rights and refugee and migrant organisations needed to partner with larger bodies to have initiatives funded, and larger organisations were often unwilling.

Intersecting issues

CSOs report that asylum seekers experienced maternity complications up to four times more often than Dutch women. They hypothesised that frequently moving asylum seeker women from one part of the country to another, and the government's defunding of the subsidy for translation services, hampered the continuity and quality of their healthcare and therefore contributed to maternity complications.

Government inaction and non-implementation

While the government had ratified the Optional Protocol (which allows people to bring a complaint to the CEDAW Committee about an alleged breach of the rights under CEDAW), it had not followed through on individuals' complaints and compensation, particularly for migrant women. CSOs also reported a lack of attention to migrant and refugee women in domestic violence policies.

ASYLUM-SEEKING SURVIVORS OF VIOLENCE DENIED ACCESS TO SERVICES ON THE GROUNDS OF VISA STATUS

Women without permanent residency in Australia are left unprotected and unsupported

Krishna (name changed) fled persecution in her country in Asia and sought asylum in Australia with her husband and daughter. On arrival, she was placed on a 'Bridging E' temporary visa. This allowed her to stay in the country until a decision was made on her application for asylum but placed restrictions on her ability to work and access benefits, including housing, employment, childcare and other services.

After a few months of living in Australia, she found herself becoming a victim of routine domestic violence at the hands of her husband. Despite being burnt, abused and assaulted many times, Krishna felt she could not go to the police or seek external help because of her fears about her visa status and the shame she felt about publicising a 'personal matter'. It was only when her daughter's school approached her regarding warning signs they had picked up from her daughter that Krishna admitted she was experiencing domestic violence and had no access to any form of support.

Like Krishna, thousands of asylum-seeking women live on temporary visas in Australia. According to the Tamil Women's Development Group, which works to support them, these women are highly vulnerable to domestic, sexual violence and GBV, and they face significant barriers to accessing appropriate services. Their hesitancy in seeking out formal support is exacerbated by a lack of knowledge of local laws, distrust of the authorities, social and community pressures to remain married, a lack of social support networks and the impact of broader discrimination against refugees in society.

In 2018, the CEDAW Committee recommended that the Government of Australia guarantee that refugee and asylum-seeking women and girls have unconditional access to social, educational, mental and physical health services appropriate to their gender, age, culture and language. It also asked the government to ensure that all immigration facilities under its responsibility adhere to standards for the prevention of sexual violence and GBV, that perpetrators of violence be punished and that adequate compensation be provided to survivors.[63]

In response, the Australian Government's Fourth National Plan to Reduce Violence Against Women and their Children (2019–2022) incorporated the tenets to 'respect, listen and respond to the diverse lived experiences and knowledge of women and their children affected by violence', including that of asylum seekers and refugees, and set out specific actions to be taken.(64) However, while some of these actions have been implemented in places—including the provision of essential support services, such as interpretation and free legal advice on immigration—uniform implementation of the plan has yet to be achieved.

The Tamil Women's Development Group and other women's rights organisations believe that if Australia is to fully implement the CEDAW Committee's recommendations, it must put an end to discrimination against women on the grounds of visa status. All survivors of domestic violence and GBV should have equitable access to the support they urgently need, including social benefits such as child subsidies, social security payments and housing services.

Interview with Viji Dhayanathan and Kanchana Krishna from Tamil Women's Development Group, Australia on 5 September 2022.

LGBTQIA+ IDENTIFYING

Inadequate infrastructure for gender-responsive design

In the Netherlands, CSOs reported a lack of expertise on LGBTQIA+ issues (sexual and gender diversity) in the youth, healthcare and welfare sectors for members of staff in asylum procedures and asylum seeker centres. CSOs expressed that this meant they did not have the skills to adequately support them and address discrimination, exclusion or abuse.

In the Netherlands, according to the Transgender Act 2014, young people needed to be at least 16 years of age to qualify for legal recognition. This raised issues for those that had already transitioned socially in expressing their gender identity, especially when identifying themselves at school, in sports clubs or on public transport. Using the wrong gender marker on their IDs put them at risk of harassment.

In Venezuela, this lack of training had led to the exclusion of the lesbian community in the Organic Law for the Rights of Women to a Life Free of Violence.

Multi-sectoral collaboration

In the Netherlands, CSOs also described an urgent need for multisectoral collaboration to improve the health of the LGBTQIA+ community.

For example, CSOs had pushed for a media code to address stereotypes on sexual orientation in the mainstream media.

CSOs raised concerns regarding the health sector, with intersex children still routinely subjected to medically unnecessary and irreversible surgery and other normalising treatments without their free and fully informed consent.

In the public and private (insurance) sectors, the adaption of several sex characteristics such as breast construction were excluded from basic health insurance, which meant that transgender women could not have the cost of these procedures reimbursed. CEDAW recommendations had called for the reimbursement of breast implants for transgender women. The Dutch Government reported that this kind of reimbursement would constitute unequal treatment since other non-LGBTQIA+ women did not have access to it. CSOs highlighted that the social acceptance of trans women was reliant on their sex characteristics corresponding with their gender identity. This funding now exists.

In education, CSOs described a pressing need to include LGBTQIA+ ally training into the curriculum of teacher academies, as a lack of awareness was leading to further exclusion and discrimination. Current inclusion in Dutch schools was brief and tokenistic. Four out of 10 high school students (38%) indicated that the subject of acceptance of LGBTQIA+ had never been addressed in any way at their school.

With regard to the policing and justice sectors, more needed to be done to support LGBTQIA+ survivors of discrimination and hate crimes. One CSO estimated that while hundreds of thousands of LGBTQIA+ individuals in the Netherlands experienced hate crimes and discrimination each year, only 10 perpetrators were convicted each year.

LESBIAN, BISEXUAL AND TRANSGENDER WOMEN LIVING IN 'WEIRD LEGAL FRAMEWORK' IN SINGAPORE

CEDAW Committee probes government on how legislation protects queer women

In 2010, gay man Tan Eng Hong was arrested for having oral sex with a consenting adult man in a locked toilet cubicle at a mall in Singapore after staff at a nearby restaurant reportedly called the police. Tan—then 47—was handcuffed; his bags were searched, and he was taken into custody.[65,66]

Tan's arrest in 2010 led him to file a petition in court to repeal the British-era, anti-gay and discriminatory law Section 377A of the Singapore Penal Code, which prohibits sexual relations between consenting men in public and in private. While this colonial law is only applicable to men, it perpetuates and condones discrimination against the whole LGBTQ+ community and queer people, including queer women.

Queer women in Singapore face further discrimination under Section 12, Clause 1 of Singapore's Women's Charter.[67] This charter prohibits same-sex relations and marriage, preventing queer women from accessing many fundamental rights, including employment opportunities, maternity benefits, healthcare, medical insurance and family-planning services.

The discriminatory provisions in the Women's Charter contravene Articles 15(3) and 16(1) of CEDAW, which state respectively that contracts directed at restricting the legal capacity of women should be deemed null and void, and that women should have the right to enter marriage and the freedom to choose a spouse.

In 2007, the CEDAW Committee asked the Singapore Government how it intended to 'prevent discrimination against lesbian women in the workplace, in access to health services and in society in general'. The response of the government was that 'homosexuals were not discriminated against... they had the same right to employment, education, or housing as everyone else'.

During a constructive dialogue with the Singapore Government that followed, several members of the CEDAW Committee put forward further comments and questions—for example, about the 'weird legal framework' in which lesbian, bisexual and transgender women seemed to live. Though the government's responses to these questions remained disconnected from the realities faced by the LGBTQ+ community, the exchange showed increased sensitivity and inclusivity on behalf of the Committee regarding sexual orientation and gender identity, which had remained non-existent until a few years before. The Committee's wish to learn more from LGBTQ+ CSOs' experiences was also appreciated by the presenting CSOs.

In August 2022, because of continued advocacy by Tan and many other LGBTQ+ individuals and community groups, the Prime Minister of Singapore finally announced the repeal of Section 377A.[68] This was hailed as a groundbreaking move in reducing discrimination and stigma against same-sex couples and a welcome step towards the meaningful adoption of CEDAW recommendations. However, other discriminatory policies, including the Women's Charter, remain in place.

METHODS

DATA SOURCES

The primary data source for this publication is the CEDAW Implementation Map (the CEDAW Map). The CEDAW Map was developed from government, civil society and CEDAW Committee reports (concluding observations), United Nations (UN) Treaty Body Database hosted by the UN Human Rights Office of the High Commissioner (OHCHR): www.tbinternet.ohchr.org. Concluding observations are the recommendations issued by the CEDAW Committee after consideration of a Member State's four-yearly progress report (state report). Concluding observations should be concrete, focused and implementable, providing a new 'baseline' against which future progress by governments can be measured. As each concluding observation generally contains several actions (for example, the implementation of an awareness campaign, increasing the number of women's shelters and legislation to target GBV) for our analysis, each observation was separated into individual recommendations containing only one action.

All reports were accessed between June 2019 and October 2020 by George Institute for Global Health (Asia Pacific countries) and Ashurst International (all other countries) researchers. Only full periodic government reports were reviewed (i.e., the progress reports produced by Member States at least once every four years). Lists of issues, responses to lists of issues and follow-up state reports were excluded for feasibility. A list of issues document includes themes or topics that guide and focus the dialogue between a UN Member State's delegation and the CEDAW Committee during the consideration of a state report.

The Map currently captures data from 117 of the 189 countries that have ratified CEDAW. These include Afghanistan, Algeria, Angola, Argentina, Aruba, Australia, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Cook Islands, Costa Rica, Cuba, Democratic Republic of Congo, Democratic Republic of Korea, Denmark, Ecuador, El Salvador, Eritrea, Eswatini, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Iraq, Japan, Jordan, Kenya, Kuwait, Lao, Lesotho, Liberia, Luxembourg, Madagascar, Malawi, Maldives, Mauritania, Mauritius, Mexico, Moldova, Mongolia, Montenegro, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, North Macedonia, Norway, Pakistan, Paraguay, Peru, Philippines, Poland, Qatar, Republic of Korea, Rwanda, Samoa, Senegal, Seychelles, Sierra Leone, South Africa, Sri Lanka, St Kitts and Nevis, St Vincent and the Grenadines, Switzerland, Tajikistan, Tanzania, Thailand, the Bahamas, Timor-Leste, Togo, Trinidad and Tobago, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela, Vietnam, Zambia and Zimbabwe.

DATA EXTRACTION

The methods used to develop the Map have been published in detail.(69) Below is a summary of the methods used to undertake this sub-study using data from the Map.

Legislation was extracted from state reports to CEDAW by our partner, Ashurst International, using the World Health Organization's (WHO) CEDAW health-related articles and general recommendations. This includes Article 1 (definition of discrimination), Article 2 (policy measures), Article 3 (guaranteeing equality), Article 4 (temporary special measures), Article 5 (sex roles and stereotyping), Article 10 (education), Article 11 (employment), Article 12 (health), Article 12 (rural women), Article 16 (marriage) and general recommendations 12, 14, 15, 19, 24 and 35. The team at Ashurst used an extraction form detailing the country, name of the law, its core objectives and whether the law was current or not.

Of the 117 countries contained in the CEDAW Implementation Map, 98 countries had implemented 423 laws. Of the 98 countries, 57 had implemented or amended 85 laws relating to the four situations of vulnerability this report focuses on: gender-based poverty (GBP); refugees, asylum seekers and migrants; and women identifying as LGBTQIA+. These countries include Afghanistan, Algeria, Angola, Argentina, Australia, Belize, Benin, Bhutan, Bolivia, Brazil, Burkina Faso, Burundi, Canada, Cape Verde, Chile, Colombia, Costa Rica, Eswatini, Finland, France, Gambia, Ghana, Lao, Mauritius, Mexico, Mozambique, Nepal, Netherlands, Nicaragua, Nigeria, North Macedonia, Norway, Paraguay, Poland, Sierra Leone, South Africa, St Kitts and Nevis, St Vincent and the Grenadines, Switzerland, Thailand, the Bahamas, Timor-Leste, Togo, Turkey, Tuvalu, Uganda, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela, Vietnam and Zambia.

Only health-related laws were included (as per the WHO CEDAW health-related articles described above). Within this group, for each situation of vulnerability, the following laws were included:

GBV: All laws referencing any form of violence against women.

GBP: All laws that addressed poverty explicitly, or indirectly through schemes aimed at low-income families, protections against catastrophic health and other expenditure, or providing social assistance.

LGBTQIA+: All laws referencing lesbian, gay, bisexual, transgender, queer, intersex, asexual, two-spirited and other sexually or gender diverse people.

Refugee, Migrant & Asylum Seeker: All laws referencing refugee, migrant and asylum seekers.

These 85 laws were coded by:

- situation of vulnerability (GBV, GPV, LGBTQIA+ and refugees, migrants & asylum seekers)
- country
- WHO region (70)
- income status (71)
- humanitarian crisis status (69)
- CEDAW recommendations
- state action
- law
- core objectives
- category of law (developed from an analysis of all laws)
- civil society reports on the four situations of vulnerability.

Ninety-five countries refused to implement the CEDAW Committee's law-related recommendations. These recommendations were analysed separately.

Research question	Data points analysed
How does the CEDAW Committee use its recommendations to encourage governments to design, implement and enforce health-promoting laws?	CEDAW Recommendations
What types of legal interventions have resulted from the CEDAW review process?	Implemented or amended: • Situation of vulnerability • State Action • Category of law • Law • Core objectives • Country • Region • Income group • Humanitarian crisis status Not implemented or unacknowledged: • Situation of vulnerability • CEDAW recommendation • Country • Region • Income group • Humanitarian crisis status
The civil society perspective: how are women experiencing these legal interventions?	Civil society reports

LIMITATIONS

There are a number of important limitations to this research. Firstly, given the intersectional focus of this publication, to be included in our analyses, the core objectives (as extracted by our pro-bono partner, Ashurst International) needed to specifically address the needs of the four situations of vulnerability. As such, more general gender equality laws, which often promote gender equality more broadly in policies, programs and services, were not included. We fully acknowledge that such acts can shape women's health in situations of vulnerability in important ways. Nevertheless, these laws were excluded in order to ensure the feasibility of the project and rigorous analyses using comparable data points.

Secondly, data were analysed using terms and concepts as they are defined by governments, the CEDAW Committee and CSOs. These terms relate to sex and gender, poverty, violence, migration, refugee and asylum seeker status, and discrimination. In many instances, their definitions differ across countries and governments, and UN and civil society stakeholders. We have not attempted to address these differences and, as such, the situations of vulnerability are not homogenous categories—the GBV category, for example, includes all laws in which violence was referenced, regardless of how violence has been defined by each country.

Finally, due to the paucity of data on the effectiveness and acceptability of laws, we were not able to systematically evaluate the impact of these laws on health and social outcomes for women. We hope this work acts as a trigger to close gender data gaps, invest in improving data infrastructure and formalise the idea of a gender data ecosystem so that this work can be done accurately and meaningfully. The next stages of our work will involve collecting primary and secondary data to evaluate laws in four countries—India, Indonesia, South Africa and Kenya—in partnership with local CSOs.

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ANNEX 1

Country	Topic	Year of recommendation	Year unacknowledged	Year implemented	Notes on implementation	Source
Angola	Enactment of national legislation to prohibit female genital mutilation, including penalties for perpetrators.	2013	2017	2021	The Committee's recommendation was unacknowledged in Angola's 2017 periodic review. However, in 2021, the Penal Code was updated to criminalise female genital mutilation.	Human Rights Watch, *World Report 2022*
Bolivia	Introduction of specialised courts for violence against women	2015	2020	2022	The Committee's recommendation to was unacknowledged in Chile's 2016 periodic report. However, in 2017, the termination of pregnancy resulting from rape (and when a woman's life is in danger or when a fetus is unviable) became lawful. The enshrinement of the right to abortion in the Constitution is still being debated.	UN OCHCR *News*
Chile	Expanding grounds for abortion to include instances of incest and rape.	2012	2016	2017	The Committee's recommendation to was unacknowledged in Chile's 2016 periodic report. However, in 2017, the termination of pregnancy resulting from rape (and when a woman's life is in danger or when a fetus is unviable) became lawful. The enshrinement of the right to abortion in the Constitution is still being debated.	*Reuters article, Reuters article 2*
China	Introduction of legislation prohibiting sexual harassment in the workplace, including sanctions, civil remedies and compensation for victims.	2012	2013	2022	The Committee's recommendation was unacknowledged in China's 2013 periodic report. However, in October 2022, China passed legislation (the Law on the Protection of the Rights and Interests of Women) aimed at giving women more protection against gender discrimination and sexual harassment in the workplace.	Reuters *news*
Eswatini	Introduction of legislation prohibiting sexual harassment in the workplace, including sanctions, civil remedies and compensation for victims.	2014	2014	2018	The Committee's recommendation was unacknowledged at India's review in 2012. However, in September 2022, the Supreme Court expanded the definition of rape to include marital rape in a case ruling.	*Sexual Offences and Domestic Violence Act 2018*
India	legislation prohibiting domestic violence (including marital rape)?	2007	2012	2022	The Committee's recommendation was unacknowledged at India's review in 2012. However, in September 2022, the Supreme Court expanded the definition of rape to include marital rape in a case ruling.	*CNN News*
Lesotho	legislation prohibiting domestic violence (including marital rape)?	2013	2015	2021	While Lesotho's Sexual Offences Act 2003 already prohibited marital rape, the Committee highlighted that specific domestic violence legislation did not exist and recommended it be implemented. This recommendedation was unacknowledged in 2015. However, in 2021, the Counter Domestic Violence Bill was introduced.	*Counter Domestic Violence Bill 2021. Sexual Offences Act 2003*
Malawi	introduced legislation allowing for the prosecution of traditional healers prescribing sexual intercourse with girls as a panacea for HIV infection?	2008	2014	2018	In 2008, the Committee recommended that Malawi "prosecute traditional healers who prescribe sexual intercourse with girls as a panacea for HIV infection". At Malawi's 2014 CEDAW review, the recommendation was not implemented. However, in 2018, the HIV and Aids Act was introduced. The Act defines a set of harmful practices (Definitions, s 4) that could include advice to have sexual intercourse, but it's application to the issue remains to be seen.	*HIV and Aids (Prevention and Management) Act 2018*

Country	Topic	Year of recommendation	Year unacknowledged	Year implemented	Notes on implementation	Source
Mongolia	legislation prohibiting domestic violence (including marital rape)?	2008	2015	2026	In 2008, the Committee recommended Mongolia implement the revised Law on Combatting Domestic Violence. While this recommendation was unacknowledged in 2015, in 2016 the revised Law on Combatting Domestic Violence was introduced, and amendments to the Criminal Code were made to include sexual violence. However, marital rape is still not explicitly recognised.	United Nations Rapporteur *Statement; Mongolia's Revised Criminal Code*
Nepal	legislation prohibiting domestic violence (including marital rape)?	2011	2017	2017	The Committee's recommendation to enact a law increasing the penalty for marital rape was unacknowledged in 2017, however, Section 219 (4) of the Nepalese Penal Code classifies marital rape as a crime with the penalty increased from up to six months, to up to five year imprisonment.	*Nepalese Penal Code (2017)*
Nigeria	introduced legislation prohibiting violence against women?	2008	2015	2019	While this recommendation was unacknowledged in Nigeria's 2015 periodic report, the country had introduced the Violence Against Persons Act of 2015 and 2019, Enugu State introduced a Violence Against Persons Prohibition Act 2019 that includes sexual violence.	Enugu State Violence Against Persons Prohibition Act 2019; Violence Against Persons Act *Violence Against Persons Prohibition Act*
Nigeria	enacted national legislation to prohibit female genital mutilation, including penalties for perpetrators?	2008	2015	2015	The Committee's recommendation in 2008 urging Nigeria to enact legislation prohibiting Female Genital Mutilation (FGM), no commitment was made in its 2015 periodic report. However, in 2015 FGM was banned in Nigeria when the President signed the Violence Against Persons Prohibition Act.	*Public Health Nigeria* *The Borgen Project News Violence Against Persons Prohibition Act*
Senegal	introduced legislation prohibiting sexual harassment in the workplace, including sanctions, civil remedies and compensation for victims?	2015	2020	2020	Although the government had provided an inadequate response in its 2020 report to the Committee, the Senegal Rape Law was introduced in 2020 and now criminalises sexual harassment in the context of authority including work (Article 319 bis.)	*Senegal Rape Law of 2020*
Seychelles	legislation prohibiting domestic violence (including marital rape)?	2013	2018	2020	The Committee's 2013 recommendation was unacknowledged at the country's 2018 review. However, in 2020, Seychelles passed the Domestic Violence Act 2020. The Penal Code (s 130) does not explicitly include spousal rape but is presumed to extend to marital rape.	*Seychelles Penal Code* *Commonwealth Secretariat News* *www.state.gov/wp-content/uploads/2021/03/SEYCHELLES-2020-HUMAN-RIGHTS-REPORT.pdf*
Sierra Leone	the government had finalised the Sexual Offences Bill and sought Cabinet approval for submission to Parliament, but the Bill had not been enacted or implemented at the time of reporting. Has it now been implemented?	2013	2018	2019	While the law had not been implemented at the time of Sierra Leone's 2018 CEDAW review, Sierra Leone passed the Sexual Offences (Amendment) Act in 2019 which increases penalties for sexual offences.	*Sexual Offences (Amendment) Act 2019*

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