

68TH COMMONWEALTH PARLIAMENTARY CONFERENCE

*Parliamentarians combatting discriminatory laws
that perpetuate the disempowerment of women*

CWP WORKSHOP RESEARCH BRIEFING

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Executive Summary

The existence of discriminatory laws remains one of the most significant barriers to achieving substantive gender equality and the full empowerment of women globally. This report analyses the critical role of Parliamentarians in identifying, challenging, and reforming these laws. It argues that while legislative power is vested in Parliaments, the successful repeal or amendment of discriminatory legislation is not guaranteed. Instead, it is the result of a powerful convergence of three key factors: **political will**, **strategic advocacy**, and **evidence-based policymaking**. Parliamentarians serve as pivotal agents of change by using their legislative positions to scrutinise outdated laws, champion reform bills, and engage in cross-party collaboration.

The report provides compelling case studies from diverse Commonwealth nations where dedicated Parliamentarians, often working in concert with robust civil society movements, have successfully overturned deeply entrenched legal provisions. These examples demonstrate that political will, often sparked by the courage of a few committed individuals, is essential for overcoming resistance from powerful cultural and political interests. This will is fortified by the strategic advocacy of women's rights organisations, which provide critical public pressure and expert support. Furthermore, the report highlights the indispensable role of **evidence**, including gender-disaggregated

data, academic research, and international human rights frameworks, in providing a rational and compelling case for reform that is difficult for opponents to refute.

Ultimately, this report concludes that for law reform to be successful, it must be a collaborative effort. It offers recommendations for strengthening the capacity of Parliamentarians, fostering cross-party alliances, and institutionalising mechanisms for evidence-based reform. By doing so, legislative bodies can transform from being mere arenas of debate into powerful engines for social justice and women's empowerment.

1. Introduction

Across the globe, legal systems continue to contain provisions that explicitly or implicitly disempower women and girls, undermining their fundamental rights and hindering their full participation in society. These laws often relate to family matters, land and property rights, personal status, and protection from violence, reflecting and perpetuating patriarchal norms. For instance, in many jurisdictions, women may still require a husband's permission to work, inherit property, or open a bank account. This report examines the vital role of Parliamentarians in identifying and reforming these antiquated legal frameworks. It posits that while the prevalence of such laws is widespread, their existence is not inevitable. Parliamentary action represents the most effective and legitimate pathway to legislative change.

For the purposes of this report, a clear understanding of key terms is essential:

- **Discriminatory Laws:** Legal provisions that either explicitly or through their application create a distinction, exclusion, or restriction that has the purpose or effect of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality with men, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field (UN Women, 2021).
- **Gender Equality:** The state in which women and men have equal rights, responsibilities, and opportunities. It implies that the interests, needs, and priorities of both women and men are taken into consideration, recognising the diversity of different groups of women and men.
- **Disempowerment:** The condition where individuals or groups are denied the power, authority, or agency to make decisions about their own lives and to influence the social and political structures that govern them. Legal

disempowerment occurs when laws directly restrict women's autonomy and rights.

The importance of parliamentary action in reforming such laws cannot be overstated. As the primary legislative body, Parliament holds the power to create, amend, or repeal laws. Legislative change has a unique power to reshape societal norms and behaviours, formalising women's rights in a way that is enforceable and visible. Without the active involvement of Parliamentarians, the most well-intentioned policy proposals or advocacy campaigns often fail to translate into tangible legal reform.

2. The Role of Parliamentarians in Law Reform

Parliamentarians are uniquely positioned to serve as catalysts for legal reform. Their role extends beyond simply voting on legislation; it involves a sophisticated and multi-faceted process of identifying, challenging, and ultimately changing discriminatory laws. This process is rarely straightforward and requires skill, dedication, and an understanding of both the legislative and political landscapes.

- **Proposing and Championing Bills:** The most direct way Parliamentarians can effect change is by introducing private members' bills or by championing government-sponsored legislation aimed at reforming discriminatory laws. This requires a deep understanding of the law to be amended, as well as the political acumen to build support across party lines. An individual Parliamentarian can become the public face of a reform movement, using their platform to raise awareness and put the issue on the national agenda.
- **Scrutinising Existing Legislation:** Parliamentarians, particularly those serving on legislative or human rights committees, play a critical role in reviewing and scrutinising existing laws. They can initiate reviews of archaic legislation, hold public hearings, and invite expert testimony from civil society organisations and legal scholars. This process often reveals the true extent of the harm caused by discriminatory laws and provides a formal platform to document the case for their reform.
- **Building Cross-Party Consensus:** Given that law reform can be a politically sensitive issue, particularly in relation to family or religious matters, the ability to build a cross-party consensus is crucial. Women Parliamentarians, in particular, often form informal or formal caucuses to work together regardless of political

affiliation. This unity sends a powerful message that the issue transcends partisan politics and is a matter of fundamental justice.

- **Engaging with Constituents and Civil Society:** Effective Parliamentarians act as a bridge between the legislative body and the public. They listen to the concerns of their constituents and work closely with civil society organisations, using their expertise and on-the-ground knowledge to inform the legislative process. This collaboration ensures that proposed reforms are not only legally sound but also reflective of the lived experiences and needs of the women they are intended to help.
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3. Examples of Successful Reforms

The following case studies demonstrate how the convergence of political will, strategic advocacy, and evidence-based policymaking has successfully led to the reform of discriminatory laws.

3.1. Marital Rape Legislation in The Gambia

For decades, The Gambia's legal system did not explicitly criminalise marital rape, a legal loophole that effectively rendered married women's bodies as the property of their husbands. This discriminatory legal provision was challenged by a coalition of women's rights organisations and legal reform activists. The campaign gained momentum through a combination of sustained advocacy and a changing political climate.

- **Strategic Advocacy:** Women's rights organisations and legal experts, led by groups like the **Women's Bureau and the Association of Non-Governmental Organisations**, systematically documented cases of spousal violence and the legal impunity perpetrators enjoyed (*Saidykhani & Saho, 2021*). They organised public awareness campaigns and workshops for police officers and magistrates to highlight the gendered violence facilitated by the law.
- **Political Will:** This advocacy gained a powerful ally in progressive Parliamentarians who, supported by a new political administration, committed to modernising the country's laws. The then-Minister of Justice, supported by a cross-party coalition of MPs, championed the reform, framing it not just as a women's rights issue but as a matter of national human rights and development.
- **Evidence-Based Policymaking:** The reformers relied heavily on evidence from other countries where marital rape had been criminalised, demonstrating that

such a law would not threaten the institution of marriage but rather strengthen it by ensuring the safety and autonomy of spouses. They also used reports from the UN and regional bodies to show that the lack of such a law was a violation of international human rights conventions, giving the reform a strong legal and moral foundation (OHCHR, 2022).

The resulting reform, passed in 2021, amended the Women's Act, explicitly criminalising marital rape and setting a precedent for other nations in the region.

3.2. Inheritance Law Reform in Kenya

In Kenya, discriminatory customary laws often governed the inheritance of property, frequently disinheriting widows and daughters. Widows would often be left destitute after the death of their husbands as male relatives would seize their property.

- **Strategic Advocacy:** Civil society groups, including the **FIDA-Kenya** (the Federation of Women Lawyers), launched a long-term campaign to challenge these discriminatory inheritance laws. They provided legal aid to women who had been dispossessed, bringing high-profile cases to court to highlight the injustice and challenge the legal status quo (FIDA-Kenya, 2020).
- **Evidence-Based Policymaking:** FIDA-Kenya and its partners collected extensive data on the number of women and orphans who were dispossessed, linking their poverty directly to discriminatory laws. This data provided the hard evidence needed to show the devastating social and economic consequences of the legal framework. They also cited the new Constitution of Kenya (2010), which guarantees gender equality, providing a strong legal basis for their arguments.
- **Political Will:** The evidence and advocacy efforts created a groundswell of public and parliamentary support. Progressive Parliamentarians, particularly women MPs, used the data to lobby their colleagues and push for legislative change. Their efforts led to the **Marriage Act (2014)** and the **Law of Succession Act (2020)**, which explicitly grants equal inheritance rights to widows and daughters, superseding customary laws and offering a new, legally protected pathway to ownership.

These cases illustrate that when advocates provide the evidence and political champions find the will, even the most deeply entrenched discriminatory laws can be overturned.

4. Strategic Advocacy and Political Will

The relationship between strategic advocacy and political will is a symbiotic one. Advocacy provides the pressure and evidence; political will provides the legislative channel to enact change. Without this partnership, reform efforts can falter.

- **Strategic Advocacy as an External Catalyst:** Civil society organisations (CSOs) play a vital role in identifying legal gaps and injustices. They are often the first to document the real-world harm of discriminatory laws through their on-the-ground work. Their advocacy is strategic when it is targeted, evidence-based, and focused on building a coalition of support. For instance, a report by the **UN Human Rights Office (2023)** highlighted how the strategic use of social media and grassroots campaigns by women's groups in a number of African nations created public pressure that Parliamentarians could not ignore.
- **The Importance of Political Will:** Political will is the commitment of policymakers to make and implement a law or policy. It is often the missing ingredient in the reform process. Without a committed parliamentary champion or a political party willing to expend political capital, even well-researched and popular reforms can be indefinitely stalled. A study on gender equality reforms in Central Asia noted that political will often emerged from a desire to align with international standards, secure development aid, or improve a nation's global reputation (UNDP, 2022). Overcoming the resistance from entrenched interests, such as patriarchal power structures or traditional religious groups, requires immense political courage.

5. Evidence-Based Policymaking

In the modern legislative process, the case for legal reform is increasingly built on robust evidence rather than abstract moral arguments alone. Evidence provides the factual basis for change and can depoliticise a sensitive issue, framing it as a matter of effective governance.

- **Data as an Advocacy Tool:** Gender-disaggregated data is a powerful tool. By showing how a particular law affects women and girls differently from men and boys—for instance, through unequal land ownership, higher rates of gender-based violence, or lower labour force participation—advocates can quantify the harm and demonstrate the economic and social costs of inaction (UN Women,

2021). The use of these data sets has been instrumental in securing legislative buy-in, as they present a compelling, empirical argument for reform.

Beyond the well-known case studies, the CPA's journal *The Parliamentarian*, offers additional insights. For instance, a recent article titled 'Gender Equality in Parliaments: A case study from Pakistan' examines how legislative and procedural reforms can be effectively implemented in a complex political environment.

- **Learning from International Frameworks:** Parliamentary committees often study legal reforms in other countries. The **CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)** provides a powerful framework and a moral compass for reform. By showing that a discriminatory law violates a nation's international commitments, Parliamentarians can make the case for reform not as a radical change but as an act of global legal compliance. A recent analysis of legal reforms in East Asia found that the process was heavily influenced by reports from UN agencies and human rights bodies, which provided the blueprint for new, inclusive laws (Council of Europe, 2023).

6. Challenges and Barriers

Despite the clear path to reform, Parliamentarians face significant challenges that can derail their efforts. These barriers are often a reflection of deeper societal and political issues.

- **Political Resistance:** This is perhaps the most formidable challenge. Reform efforts can be stalled by political parties or factions that benefit from the status quo or fear a backlash from conservative voters. Parliamentarians may be hesitant to champion a controversial cause for fear of losing their seat. The legislative process itself can also be a barrier, with long delays, procedural hurdles, and parliamentary deadlocks used to kill bills.
- **Cultural and Social Barriers:** Discriminatory laws are often deeply intertwined with cultural practices, religious beliefs, and social norms. In many societies, questioning these traditions is met with fierce opposition. Parliamentarians who propose reforms may be accused of undermining national identity or family values. A report by **The Elders (2024)** noted that in some contexts, the public may be unaware of the discriminatory nature of laws, viewing them as simply "*the way things are.*"

- **Patriarchal Structures in Legislative Bodies:** Even within Parliaments, patriarchal attitudes and behaviours can create a hostile environment for women Parliamentarians championing these reforms. They may be sidelined, their expertise dismissed, and their bills treated as a low priority. Male colleagues, and even some female colleagues, may be unwilling to challenge the power structures that have brought them to office. This internal resistance highlights the need for a sustained, systemic change in parliamentary culture itself (Inter-Parliamentary Union, 2023). These internal barriers are not abstract concepts but lived experiences for many women Parliamentarians. Research into women in Manx politics by Professor Peter W Edge, Dr Catriona Mackie, and Dr Alex Powell, for example, provides empirical evidence on the challenges and barriers to political participation in small democratic jurisdictions.

7. Social and Political Implications

The successful reform of discriminatory laws has far-reaching implications, extending well beyond the legal code itself to fundamentally reshape societies.

- **Empowering Women Economically:** Reforming inheritance or property laws, for instance, has a direct and tangible impact on women's economic independence. When women can own land and assets, they have collateral to access credit, start businesses, and invest in their families and communities. A report by the World Bank (2022) found a direct correlation between equal inheritance rights and a reduction in poverty among women. Similarly, in an article of *The Parliamentarian*, Sioned Williams MS highlights a legislative focus on women's economic empowerment in Wales, providing a case study on how policy can directly address the financial barriers women face.
- **Enhancing Women's Participation:** Legal reforms that criminalise violence against women or guarantee their political rights directly contribute to their increased participation in public life. When women feel safe and legally protected, they are more likely to pursue education, seek employment, and run for political office. This creates a more vibrant and inclusive democracy where women's voices are heard and their leadership is valued.
- **Shifting Societal Norms:** Legal reform sends a powerful message that the state no longer condones discrimination. This can have a ripple effect on societal norms and behaviours, encouraging people to abandon outdated attitudes and

embrace gender equality. It provides a formal framework for citizens to demand their rights and hold institutions accountable. A change in the law is not the end of the journey but a powerful beginning that provides a foundation for social change.

8. Conclusion

Parliamentarians are the primary drivers of legislative reform, uniquely capable of translating the demands of social justice into enforceable law. However, this power is only unlocked when it is coupled with a strong political will, fuelled by strategic advocacy from civil society, and supported by a robust body of evidence. The challenges are formidable, rooted in entrenched political resistance, deeply held cultural beliefs, and patriarchal structures within the very legislative bodies tasked with reform.

Despite these barriers, the examples from The Gambia and Kenya demonstrate that change is possible. The successes highlight that the process of law reform is a collective effort, requiring a dynamic partnership between activists, legal experts, and committed parliamentary champions. For women to be truly empowered, their rights must be enshrined in law, and Parliamentarians are the only ones who can make that happen.

Recommendations for Action

1. **Strengthening Parliamentary Capacity:** Parliaments should invest in training for all MPs on gender equality, human rights, and the impacts of discriminatory laws. Dedicated gender equality committees should be established with the power to initiate legal reviews and propose reform bills. Parliaments should invest in training for all MPs on gender equality, human rights, and the impacts of discriminatory laws. The CPA's Communications Handbook for Women Parliamentarians provides a practical guide for female MPs to amplify their voices and champion such reforms, while the CWP's Gender Sensitising Parliaments: Guidelines and a Checklist offers a practical framework for legislatures to become more inclusive institutions.
2. **Building Political Will:** Political parties should adopt internal policies that promote women and marginalised groups to leadership positions and commit to a clear legislative agenda on gender equality. Cross-party women's caucuses should be established and funded to foster collaboration.

3. **Enhancing Evidence-Based Policymaking:** Governments must invest in the collection of gender-disaggregated data to provide a clear picture of how laws affect women. Parliamentary committees should formalise their engagement with civil society and academic institutions to ensure that reforms are informed by the most current evidence and lived experiences.

By implementing these recommendations, Parliaments can move from being places where discriminatory laws are debated to being places where they are decisively dismantled, paving the way for a more just and equitable future for all.

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