



# UNDERSTANDING, ASSESSING & ACHIEVING EQUALITY BEFORE THE LAW IN THE COMMONWEALTH



A PRACTICAL HANDBOOK  
FOR CHANGE AGENTS  
WITH HISTORICAL  
RECORDS, STATISTICAL  
DATA & CASE STUDIES



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# ACRONYMS

<b>BCAOC</b>	British Central Africa Order-in-Council	<b>LGBTIQ</b>	Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer
<b>BDPfa</b>	Beijing Declaration and Platform for Action	<b>NGOs</b>	Non-Governmental Organizations
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women	<b>NUWSS</b>	National Union of Women's Suffrage Societies
<b>CRC</b>	Convention on the Rights of the Child	<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities	<b>SADC</b>	Southern African Development Community
<b>CW</b>	Commonwealth	<b>SDG</b>	Sustainable Development Goal
<b>CSE</b>	Comprehensive Sexuality Education	<b>TF VAW</b>	Technology-facilitated Violence against Women
<b>FAO</b>	Food and Agricultural Organization	<b>UDHR</b>	Universal Declaration of Human Rights
<b>FGM</b>	Female Genital Mutilation	<b>UK</b>	United Kingdom
<b>GDP</b>	Gross Domestic Product	<b>UN</b>	United Nations
<b>GREVIO</b>	Group of Experts on Action against Violence against Women and Domestic Violence	<b>UNCT</b>	United Nations Country Team
<b>HIV</b>	Human Immunodeficiency Virus	<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>HPV</b>	Human Papillomavirus	<b>UNFPA</b>	United Nations Population Fund
<b>ICC</b>	International Criminal Court	<b>UN Women</b>	United Nations Entity for Gender Equality and the Empowerment of Women
<b>ICCPR</b>	International Covenant on Civil and Political Rights	<b>WBL</b>	Women, Business and the Law
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights	<b>WFL</b>	Women's Freedom League
<b>ILO</b>	International Labour Organization	<b>WLM</b>	Women's Liberation Movement
<b>IPU</b>	Inter-Parliamentary Union		

# FOREWORD

We share a common vision of a gender equal world that revolves around our unwavering commitment to the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women, the global blueprint for women's rights, as well as other global and regional international norms and standards.

The nexus between gender equality and gender equal laws is firmly anchored in the Beijing Declaration and Platform for Action. The 30-year review of this important framework served as a unique opportunity for the Commonwealth to take a hard look at the gains that have been made, as well as the gaps which must be closed, to achieve *de jure* equality. While the Commonwealth as a whole has made tremendous strides toward reforming the law in favour of women and girls, much more needs to be done to level the law for all of humanity.

The world has also made progress in measuring gender equal laws in ways that never existed prior to the 2030 Agenda for Sustainable Development. This presents an opportunity for the Commonwealth to generate national data on legal frameworks under relevant Sustainable Development Goals and to use the outcomes to address gaps in the law.

As partners, we value our collective and individual commitments that aim to improve the legal status of women and girls. These are reflected in the *Commonwealth Charter*; the *Commonwealth Declaration for Gender*

*Equality and the Empowerment of Women 2022–2030*; the *Commonwealth Secretariat's Gender Equality Strategy, 2019*; the World Bank's *Gender Strategy (2024–2030) Accelerate Gender Equality to End Poverty on a Livable Planet*; the *Commonwealth Secretariat/World Bank Joint Task Force on Small States*; the Commonwealth Secretariat and World Bank South Asia Region partnership to enhance development impact across South Asia, and the UN Women-led joint initiative *Equality in Law for Women and Girls by 2030: A Multi-Stakeholder Strategy for Accelerated Action*.

The past and present of the law must inform future legal reforms in the Commonwealth.

This seminal Handbook weaves together the rich tapestry of histories, data, and experiences to assist practitioners to effectively advance the rights of women and girls. It provides a basis for renewed commitment to making the law equal by the set timeline of the 2030 Agenda for Sustainable Development. We look forward to working with all stakeholders to make *de jure* equality a living reality for all women and girls in the Commonwealth.

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We also wish to express our appreciation to the numerous parliamentarians, practitioners, policymakers, and advocates from across the Commonwealth whose experiences, case studies, and data informed the development of this resource.

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# DEFINITIONS

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**Allodial Title:** a real property ownership system where the real property is owned, free and clear of any superior landlord. In this case, the owner will have an absolute title over his or her property. Property owned under allodial title is referred to as allodial land. Allodial lands are the absolute property of their owner, and are not subject to any service or acknowledgment to a superior. In allodial lands, there will not be any control by a superior landlord.<sup>1</sup>

**Common law:** law that is derived from judicial decisions instead of from statutes.<sup>2</sup>

**Equity:** a particular set of remedies and associated procedures involved with civil law. These equitable doctrines and procedures are distinguished from legal ones. While legal remedies typically involve monetary damages, equitable relief typically refers to injunctions, specific performance, or vacatur. A court will usually award equitable remedies when a legal remedy is insufficient or inadequate.<sup>3</sup>

**De jure:** of right, legitimate, lawful, by right and just title.<sup>4</sup>

**De facto:** in fact, in deed, actually. This phrase is used to characterize an officer, a government, a past action, or a state of affairs which actually exists and must be accepted for all practical purposes, but which is illegal or illegitimate.<sup>5</sup>

**Dualist states:** those in which treaties have no status in domestic law in and of themselves and must be incorporated through domestic legislation to have effect or be relied on in domestic courts.<sup>6</sup>

**Monist states:** those in which treaties can directly form part of domestic law and be referred to by domestic courts once they have been brought into force (through ratification or other means), without the need for further domestic implementation.<sup>7</sup>

**Legal system:** The sum total of all formal and/or informal laws and institutions, including the principles which govern the interaction of laws and institutions and the manner in which human rights treaties are ratified and integrated into domestic law and practice.<sup>8</sup>

**Primogeniture:** A custom by which all of a family's property goes to the oldest son when the father dies.<sup>9</sup>

**Sharecropping:** A method of farming where a landowner lets someone else use their land to grow crops. The person who uses the land gives some of the crops to the landowner as payment.<sup>10</sup>

**United Kingdom:** Sometimes used interchangeably with "Britain", "The United Kingdom of Great Britain and Northern Ireland developed over several centuries, first through England's union with Wales (in the 1530s), then the Anglo-Scottish Union of 1707 (which formed Great Britain), and the British-Irish Union of 1801 (which formed the United Kingdom of Great Britain and Ireland)."<sup>11</sup> It also includes numerous smaller islands.<sup>12</sup>

**Usufruct:** Usufruct is the right to use and benefit from a property, while the ownership remains with the original or allodial title owner.<sup>13</sup>





# EXECUTIVE SUMMARY



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## 1. The Commonwealth: A Distinctly Diverse Association

The Commonwealth Charter describes the Commonwealth as “a voluntary association of independent and equal sovereign states, each responsible for its own policies, consulting and co-operating in the common interests of our peoples and in the promotion of international understanding and world peace and influencing international society to the benefit of all through the pursuit of common principles and values.”<sup>14</sup>

It is intrinsically diverse – spanning five continents and five oceans, and embraces “peoples of different races, languages and religions, and displays every stage of economic development from poor developing nations to wealthy industrialized nations. They encompass a rich variety of cultures, traditions, and institutions.”<sup>15</sup> Created in 1949, the modern Commonwealth of Nations’ membership is open to any country. It currently consists of 56 sovereign States across Africa (21), Asia (8), the Caribbean and Americas (13), Europe (3), and the Pacific (11).<sup>16</sup>

Systems of governance also vary across the Commonwealth. The majority of the member states are parliamentary democracies, with a significant number

operating as constitutional monarchies. Among these, several retain the British monarch as their ceremonial head of state, reflecting historical ties. Furthermore, of the 56 members, 11 percent are federal states,<sup>17</sup> and the judicial structure of 20 percent is linked to the London-based Judicial Committee of the Privy Council, as the final Court of Appeal and for other purposes.<sup>18</sup>

Across these countries are large populations of Indigenous Peoples as well as national, ethnic, religious, and linguistic minorities.<sup>19</sup> Diversity is also reflected at the intersection of other regional and sub regional groupings that members of the Commonwealth belong to, such as the African Union, Association of Southeast Asian Nations, Caribbean Community, Economic Community of West African States, East African Community, European Union, Organisation Internationale de la Francophonie, Organization of American States, Southern African Development Community, Organisation for Economic Co-operation and Development and Pacific Island Forum.

## 2. About this Handbook

The Vienna Declaration and Programme of Action and Beijing Declaration and Platform for Action (BDPFA) call for accelerated action on *de jure* equality for achieving gender equality. However, across the globe, over 3.7 billion women and girls live in countries where the law does not fully protect their rights,<sup>20</sup> and no country in the world is yet to achieve full *de jure* equality on a consistent basis.<sup>21</sup> Against this backdrop, UN Women, the Inter-Parliamentary Union, the African Union, the Commonwealth, Organisation Internationale de la Francophonie, Secretaría General Ibero-Americana, the International Development Law Organization, and other institutions launched “*Equality in Law for Women and Girls by 2030: A Multistakeholder Strategy for Accelerated Action*”, a global framework and plan of action for eliminating gender discriminatory laws.

The strategy was launched at the 63<sup>rd</sup> session of the United Nations Commission on the Status of Women in March 2019 to serve as a framework for eliminating *de jure* discrimination in six thematic areas falling under women’s economic, social, and cultural rights. Using the strategy as a framework, this Handbook provides an opportunity to address inexhaustive gaps in the legal

rights of women through a ten-point legislative roadmap, the time frame of which must be set by countries.

The Handbook also capitalizes on a growth in measurements and data collection on women’s legal rights through the work of various intergovernmental and non-governmental organizations (NGOs). The 2030 Agenda for Sustainable Development provides the first comprehensive affirmation and elaboration of the nexus between gender equal laws and sustainable development through three indicators of the Sustainable Development Goals (SDGs), as described below.

Furthermore, the World Bank’s *Women, Business and the Law* annual reports represent the first and earliest analysis of data collection on laws which impact on women’s economic opportunities across 190 economies.<sup>22</sup> All of these data sources and tools have incentivized the design and monitoring of gender equality legislative reforms. Together, these elements make the Handbook a vital resource for lawmakers, policymakers, and advocates alike, offering both a clear roadmap and evidence-based tools to accelerate progress toward achieving full legal equality for women and girls worldwide.

## 3. Purpose

This Handbook serves as a toolbox for parliamentarians, legislatures, judges, policy makers, policy influencers, academics, and advocates working in governmental, intergovernmental, and non-governmental spaces at advancing *de jure* equality in the Commonwealth. For parliamentarians, the Handbook provides resources for preparing for debates on bills which promote gender equality. Judges will benefit from a better appreciation

of the historical origins of the laws that they use in making judicial decisions, and non-governmental organizations will be strengthened in their advocacy for the elimination of discriminatory laws. The Handbook also complements the *Inter Parliamentary Union (IPU) and UN Women Handbook on Gender Responsive Law-Making*, which supports lawmakers around the world in designing gender-equal laws.<sup>23</sup>

## 4. Methodology

The methodology used in designing this Handbook consisted of a desk review and analysis of laws and constitutions of Commonwealth countries; published books; journals; archival resources;<sup>24</sup> population surveys; judicial decisions; parliamentary legislation and acts; national legal assessments;<sup>25</sup> reports of human rights mechanisms and treaty bodies; the latest concluding observations and recommendations of the Committee on the Elimination of Discrimination Against Women (CEDAW Committee)

to Commonwealth State Parties on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, the Convention); data from the UN’s Sustainable Development Goals (SDGs) database; data from cases studies submitted by Commonwealth parliaments; the World Bank’s *Women, Business and the Law* annual reports and datasets from 1970 to 2024; monthly data of the Inter-Parliamentary Union on women’s representation in parliaments; UN Women’s



Global Gender Equality Constitutional Database; and its global data on women in executive positions as heads of state, heads of government, cabinet members heading ministries, and women's representation in local government. Utilizing these data sources allowed for comparability over time, as well as across countries, to demonstrate regression or progress for necessary action or for lessons to be drawn.

The Handbook is anchored in a historical approach, using the periodicity of the pre-colonial, colonial and post-independence experiences of Commonwealth

States to appreciate the “currents and crosscurrents of women’s social history.”<sup>26</sup>

The Handbook is, however, limited as it relies on written records. It therefore does not benefit from the diverse community of social and governance systems and oral record keeping that shaped the experiences of women prior to colonization. Furthermore, the Handbook does not examine thematic areas in specific detail, nor the implementation and effectiveness of laws in the Commonwealth. These gaps and implementation issues can be addressed in separate research undertakings.

## 5. The Toolbox

The Handbook provides guidance in assessing and undertaking gender responsive legislative reforms through the following tools:

### 5.1 A Comprehensive Understanding of Legal Systems and their Impact on Women’s Rights

Legal systems comprise the convergence of norms and institutions which existed in pre-colonial, colonial, and post-colonial eras. These include customary laws, religious laws, received law, post-independence constitutions and statutes. Christianity, Islam and Hinduism

are the three most dominant religions in the world. The Handbook outlines how customary law and religious norms have and can impact on the achievement of *de jure* equality.

### 5.2 An Appreciation of Received Law

The Handbook sets out the key forms of laws and policies that were introduced into present day Commonwealth countries under the British Empire. These include:

- *The common law doctrine of coverture*, which merged a married woman’s identity with that of her husbands and therefore compromised her economic and sexual autonomy;
- *The marriage bar*, which restricted the employment of married women in the public service; and
- *Legal frameworks on marriage and divorce*, which early on discriminated against women that sought to divorce their husbands through a rigorous, fault-based system that did not exist for men.

### 5.3 Dualist Approaches to the Integration of CEDAW into Domestic Law

The majority of Commonwealth countries adopt a dualist approach to the integration of human rights treaties into domestic law. This requires an Act of Parliament and implies that treaties which have been ratified by Member States do not have direct application in law. The CEDAW Committee has generally signaled to Commonwealth

countries that direct and timely incorporation of the Convention into domestic law is the best approach to achieving *de jure* equality, regardless of the policy approach adopted by the country concerned. This “soft law” being applied by the Committee calls for change in the status quo.

## 5.4 Measurement of Women's Legal Status through the 2030 Agenda for Sustainable Development

Drawing on the international human rights framework, SDG 5 aims to “achieve gender equality and empower all women and girls” through global measurements defined by Target 5.1: “End all forms of discrimination against women and girls everywhere.” The following three SDG 5 indicators relate to the elimination of discrimination in law:

- **SDG indicator 5.1.1**, “whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex”. The methodology for data collection was designed by UN Women, the World Bank Group, and the Organisation for Economic Co-operation and Development (OECD) Development Centre. The indicator is monitored using a list of 42 questions falling under four areas, namely:
  - Area 1: overarching legal frameworks and public life
  - Area 2: violence against women
  - Area 3: employment and economic benefits
  - Area 4: marriage and family
- **SDG indicator 5.6.2**, “Number of countries with laws and regulations that guarantee full and equal access to women and men aged 15 years and older to sexual and reproductive health care, information and education.” The methodology for data collection was designed by the United Nations Population Fund (UNFPA).
- **SDG indicator 5.a.2**, “The proportion of countries where the legal framework (including customary law) guarantees women’s equal rights to land ownership and/or control.” The methodology for data

collection was designed by the Food and Agriculture Organization (FAO).

SDG Indicator 5.1.1 data is available for only 36 of the 56 Commonwealth Member States (64 percent). Improved monitoring and reporting across the Commonwealth would allow for a better understanding of whether Member States are fulfilling their SDG 5 obligations and will help identify trends and areas where targeted interventions are required to drive further progress.

From the available data, the analysis demonstrates that no country scores the maximum of 100 under Area 1 (overarching legal frameworks and public life); six countries (Australia, Solomon Islands, Fiji, Malta, Mauritius, and UK) score 100 under Area 2 (violence against women); five countries (Australia, Mauritius, New Zealand, Sierra Leone and UK) score 100 under Area 3 (employment and economic benefits); and four countries (Fiji, India, Sierra Leone and UK) score 100 under Area 4 (marriage and family).

The countries listed tend to perform well across all areas, indicating that they have invested in comprehensive reforms, although more needs to be done as legal gaps remain.

Data on SDG Indicator 5.6.2 was collected in 2019 from 107 countries, representing 75 percent of the global population. However, only 31 of the 56 Commonwealth countries were included in this analysis. SDG indicator 5.6.2 measures 13 components across four sections, as detailed below:

### Components of SDG Indicator 5.6.2

Maternity Care	Contraception and Family Planning	Comprehensive Sexuality Education (CSE) and Information	Sexual Health and Well-being
Maternity Care	Contraception	CSE Law	HIV Testing and Counselling
Life-saving Commodities	Consent for Contraceptive Services	CSE Curriculum	HIV Treatment and Care
Legal Status of Abortion Post-Abortion Care	Emergency Contraception		Confidentiality of Health Status of Men and Women Living with HIV
			HPV Vaccine

Source: Adapted from United Nations Population Fund, Ensure universal access to sexual and reproductive health and reproductive rights, Measuring SDG Target 5.6 (February 2020).

Namibia is the highest performer, scoring 96 percent for SDG indicator 5.6.2, followed closely by South Africa (95 percent), New Zealand and Mozambique (94 percent each), the UK (92 percent) and Zambia (91 percent). These countries generally score 100 percent across each of the sub areas, and therefore demonstrate a comprehensive approach to women’s sexual and reproductive health care.

Data for SDG indicator 5.a.2 highlights significant variation in progress among Commonwealth countries. Scores range from a low of 1, shared by Belize, Ghana, Saint Lucia, and Sierra Leone, to a perfect score of 6 achieved by Rwanda, signifying that the target has been fully met. However, with data available for only 14 countries, it is challenging to draw broader conclusions for the Commonwealth as a whole.

Complementary to its work with UN Women and the OECD Development Centre, the World Bank Group’s *Women, Business and the Law* (WBL) annual reports rank 190 economies based on the extent to which they provide an enabling environment for women’s economic opportunity.<sup>27</sup> The findings of the WBL 2024 report (the most current) revolve on WBL 1.0 and WBL 2.0 indicators. WBL 1.0 focuses on only one dimension of the law (*de jure* equality), using eight indicators structured around women’s interactions with the law as they begin, progress

through, and end their careers: mobility, workplace, pay, marriage, parenthood, entrepreneurship, assets, and pension.<sup>28</sup> WBL 2.0 is an expanded version of WBL 1.0 and revolves on three dimensions: legal frameworks, supportive frameworks, and expert opinions. It introduces two new indicators to those of WBL 1.0: *safety*, measuring frameworks addressing violence against women, and *childcare*, measuring frameworks for the availability, affordability and quality of childcare.<sup>29</sup>

Datasets on WBL 1.0 are available for the period from 1971 to 2024 (calendar years 1970 to 2023) and can be used to study trends across Commonwealth countries over time.<sup>30</sup> In the case of WBL 1.0, 35 aspects of the law are scored across the above eight indicators, using four or five binary questions. Indicator-level scores are obtained by calculating the unweighted average of the questions within that indicator and scaling the result to 100. Overall scores are then calculated by taking the average of each indicator, with 100 representing the highest possible score.<sup>31</sup>

WBL 1.0 data from 1970 to 2023 shows progress across all Commonwealth countries in improving the legal status of women. Examples of such progress are highlighted below:

## Examples of *Women, Business and the Law* Reform Progress in Commonwealth Countries, 1970-2023

Country	WBL 1.0 1970 Index	WBL 1.0 2023 Index
Antigua and Barbuda	51.9	68.8
Australia	54.4	96.9
Barbados	60.0	80.0
Canada	63.8	100.0
Dominica	45.6	62.5
Gabon	43.1	95.0
Kiribati	46.3	76.3

Source: *Women, Business and the Law* database, available at <https://wbl.worldbank.org/en/all-topics>.

## 5.5 Women's Rights in Constitutions

An analysis of UN Women's Global Gender Equality Constitutional Database<sup>32</sup> reveals that 55 countries (98 percent) embody equality and/or non-discrimination provisions in their constitutions. Forty-seven (84 percent) mention 'sex' as a prohibited ground for discrimination, while 10 (18 percent) mention 'gender' in a similar fashion. In addition, Fiji, Malta, New Zealand, South Africa and the UK mention 'sexual orientation' as a prohibited category, while Fiji and Malta also include 'gender identity.'

Nevertheless, 22 countries (39 percent) retain clawback provisions which provide an exception to existing provisions on equality and non-discrimination. In most cases, the claw back relates to issues of adoption, marriage,

divorce, burial, devolution of property on death or other matters of personal law.

Among the 43 countries that have constitutional provisions on principles of state policy, that of Malawi is noted for its stand-alone state principle on 'gender equality.'

Of the 34 constitutions that contain standalone clauses on women's rights globally, Eswatini, Gambia, Ghana, Guyana, Malawi, Mozambique, Namibia and Uganda constitute the 24 percent of Commonwealth constitutions with such provisions.<sup>33</sup> Furthermore, of the nine constitutions that confer constitutional status on national gender machineries, four (Guyana, Rwanda, South Africa and Zambia) are members of the Commonwealth.

## 5.6 Gaps in Women's Legal Protections and Human Rights

Violence against women and girls:

- The CEDAW Committee has had occasion to recommend the elimination of various kinds of harmful practices against women and girls based on its role as monitoring body. The most common issues which have been brought to its attention through State Party and confidential reporting include: forced and early marriage; marital rape; femicide; female genital mutilation; breast ironing; widowhood rites; kidnapping of children, especially young girls, for the sale of organs or magic/religious practices; virginity testing; polygamy; pre-marriage; forced and early marriage; levirate marriage; sororate marriage; bondage; denial of inheritance rights; enslavement to voodoo convents and violence against children and elderly women believed to be witches; the practice of prescribing sex with girls or women with albinism as a cure for HIV; ritual killings and attacks on women and girls with albinism, including the use of their body parts for purposes of witchcraft; stigma and social exclusion suffered by mothers of children with albinism; cyber/digital violence; technology-related violence; and trafficking and exploitation of prostitution.<sup>34</sup>
- Six (6) countries in the Commonwealth allow girls to legally marry below 18 years. Four (4) countries have lower marriageable ages for girls than boys, and one (1) country does not provide for a legally defined marriageable age for either girls or boys.

- Female genital mutilation (FGM) is also practiced in 24 Commonwealth countries – a 26 percent share of the global number of countries where FGM is practiced. Anecdotal evidence also points to the practice being present, albeit to a lesser degree, in 14 other countries.

Nationality rights:

- An analysis of existing data shows that of the 24 countries that discriminate against mothers in their ability to confer nationality on their children, 7 (29 percent) are Commonwealth countries, representing 13 percent of the Association.<sup>35</sup>
- Additionally, all 3 of the countries that discriminate against unmarried fathers in their ability to confer nationality on their children are Commonwealth countries, representing 5 percent of the Commonwealth membership.<sup>36</sup>
- Of the 44 countries with gender-based discrimination pertaining to the conferral of nationality on spouses and/or to acquire, change and retain their nationality, 17 (39 percent) are Commonwealth countries, representing 30 percent of the Commonwealth membership.<sup>37</sup>

Family, marriage and property rights:

In its Concluding Observations and Recommendations to Commonwealth countries, the CEDAW Committee has generally recommended the repeal of laws which



date back to colonial times, including on bride price, marital power, and polygamy, while protecting the rights of women in polygamous relationships and legally recognizing *de facto* unions, equitable marital property regimes, equal inheritance rights, unified marriage laws in plural marital systems, and registration of all types of marriages.

#### Employment and labour rights:

The CEDAW Committee has expressed concerns about the lack of or limited data on labour force participation by sex, gender pay gaps, employment segregation, the high concentration of women in the informal economy, the low concentration of women in decision-making positions in the public and private sectors of the economy, the lack of maternity and social security protection, the lack of protections for domestic and migrant workers, and discrimination on the basis of disability, refugee status and sexual orientation in the Commonwealth.<sup>38</sup>

#### Participation in public life:

Women are acutely underrepresented at all levels of decision making in government – from the executive level to parliaments and local government. Below are some key data points:

- As of January 2025, women lead only 25 countries globally.<sup>39</sup> Of these, six (Barbados, Dominica, India, Malta, Trinidad and Tobago and the United Republic of Tanzania) are Commonwealth countries, as are four (Barbados, Samoa, Togo, and the United Republic of

Tanzania) of the 16 women who occupy the position of Head of Government.<sup>40</sup>

- The global average of women cabinet ministers currently stands at 22.9 percent.<sup>41</sup> Among Commonwealth countries, the United Kingdom, Australia, Canada and South Africa respectively have 50.0 percent, 48.3 percent, 45.7 percent and 43.8 percent of cabinet positions being held by women (see Annex III for the full data).
- In the Commonwealth, women hold an average of 25.6 percent of seats in lower chambers and unicameral parliaments and 29.4 percent of seats in upper chambers, with an average across all chambers standing at 26.4 percent.<sup>42</sup> Rwanda's 63.8 percent of seats in the lower house of Parliament is the highest in the world.
- At the level of local government, there are 1,454,542 women elected to deliberative bodies of local government in Commonwealth countries for which there are data, out of a total of 3,478,048 total elected seats.<sup>43</sup> The Commonwealth therefore holds 42 percent of elected seats in deliberative bodies of local government, which is above the global average of 35.5 percent.<sup>44</sup>
- A total of 93 countries across the world have in place a gender quota system at national level. To date, 16 out of 56 Commonwealth countries (8 percent globally and 29 percent of the Commonwealth) have legal frameworks in place to advance women's participation in parliaments.<sup>45</sup> Sixteen Commonwealth countries are also implementing gender quotas at local level.<sup>46</sup>



## 6. Key Recommendations

### 1. Ratify and commit to relevant human rights norms and standards

Commonwealth countries must ratify all relevant human rights global and regional treaties and withdraw reservations where they have been made. This effort must include accession to all relevant ILO Conventions, especially the Maternity Protection Convention, 2000 No. 183, which has been ratified by only 5 percent of Commonwealth countries, and the Violence and Harassment Convention, 2019 No. 190, ratified by 29 percent to date.

### 2. Promote the full integration of CEDAW and other relevant global and regional treaties into domestic law

In line with the Committee's recommendations, steps must be taken to ensure the direct and timely incorporation of the Convention into domestic law as the best approach to achieving *de jure* equality, regardless of whether the country concerned applies the dualist or monist approach to the incorporation of international treaties.

### 3. Improve data collection and analysis of relevant indicators of the 2030 Agenda for Sustainable Development

Efforts must be made by all Commonwealth countries to improve data collection and analysis across the SDGs, particularly SDG 5.1.1; SDG 5.6.2; and SDG 5.a.2, for which under 40 percent of countries have data across the three indicators. All Commonwealth countries must participate in these processes as a basis for building evidence to justify legal reforms.

### 4. Address discriminatory constitutional provisions

In the light of the overarching supremacy of constitutions over other legal frameworks, efforts must be made to repeal all clawback clauses, promote the justiciability of principles of state policy, and enact provisions that foster affirmative action and women's equal participation in decision-making.

### 5. Address discrimination among marginalized and excluded women

The Commonwealth is home to various groups of women who face discrimination based on their socio-economic background. Of primary attention should be women of Indigenous and minority (national, ethnic, religious and linguistic) background, Scheduled Castes, Scheduled Tribes, women with disabilities, albino women, rural women, sex workers, asylum seekers, migrants, LGBTIQ women, and children born out of wedlock and their mothers. Interventions should include the incorporation of the definition of discrimination in line with CEDAW into all constitutions and legislation and anti-discrimination education across all segments of society.

### 6. Combat violence against women and girls

Steps must be taken to address the most common forms of violence that the Committee has identified in Commonwealth countries, as well as the social norms behind such practices. Particular attention must be paid to raising the minimum age of marriage to 18 years for both women and men in all countries.

### 7. Decriminalize abortion and make it safe through legislation

Efforts must be made to repeal restrictive abortion laws within the broader framework of reproductive healthcare services for women and adolescents, and in line with the CEDAW Committee's recommendations, which encompass decriminalization and consideration for exceptions to the general prohibition of abortion in cases of therapeutic abortion and when the pregnancy is the result of rape or incest.

### 8. Equalize nationality rights

Steps must be taken by all affected Member States to repeal legislation that discriminates against women and unmarried fathers in their ability to confer equal nationality rights, as well as discriminatory provisions contained in constitutions.



### 9. Promote legal equality in family, marriage, and property relations

Laws must take into account the evolving character of marriage and families, which in contemporary times include same sex couples and informal unions. Steps must also be taken to protect the rights and needs of women in polygamous unions, while further research must be undertaken to better appreciate the state of inheritance rights.

### 10. Advance participation in public life

Efforts must be made to create a level playing field for women to participate in decision-making across

all sectors, as well as within the political sphere, on an equal basis with men. This needs to take into account the Committee's General Recommendation No. 40 on equal and inclusive representation of women in decision-making systems (2024), which defines "equal and inclusive representation" as parity 50:50 between women and men in all their diversity in terms of equal access to and equal power within decision-making systems. It also defines "decision-making systems" to encompass decision-making taking place in all sectors, in formal and informal processes, including the political, public, economic, and private spheres as well as digital spaces.







# 1

## CHAPTER 1: AN INTRODUCTION TO THE HANDBOOK





**Key Messages:** Gender-responsive lawmaking requires a comprehensive understanding of the historical, political, cultural and religious backgrounds of states, including how laws came into existence and why they reinforce or detract from *de jure* equality. This chapter underscores the purpose of the Handbook as a toolbox on such background information for policymakers, legislatures and advocates based in Commonwealth countries. In using this Handbook, practitioners can appreciate the rationale and urgency for *de jure* equality, especially within the context of the limited time remaining for meeting the targets of the 2030 Agenda for Sustainable Development.

**Uses:** This Chapter can be used for understanding the economic, social, cultural, and political context of the Commonwealth, the overall global context in which women's legal equality is being addressed, and the backdrop against which Member States are being held to account.

## 1.1 The Commonwealth: A Distinctly Diverse Association

The Commonwealth Charter describes the Commonwealth as “a voluntary association of independent and equal sovereign states, each responsible for its own policies, consulting and co-operating in the common interests of our peoples and in the promotion of international understanding and world peace and influencing international society to the benefit of all through the pursuit of common principles and values.”<sup>47</sup>

It is intrinsically diverse, spanning five continents and five oceans, and embraces “peoples of different races, languages and religions, and displays every stage of economic development from poor developing nations to wealthy industrialized nations. They encompass a rich variety of cultures, traditions, and institutions.”<sup>48</sup> Created in 1949, the modern Commonwealth of Nations' membership is open to any country. It currently consists of 56 sovereign states across Africa (21), Asia (8), the Caribbean and Americas (13), Europe (3), and the Pacific (11).<sup>49</sup>

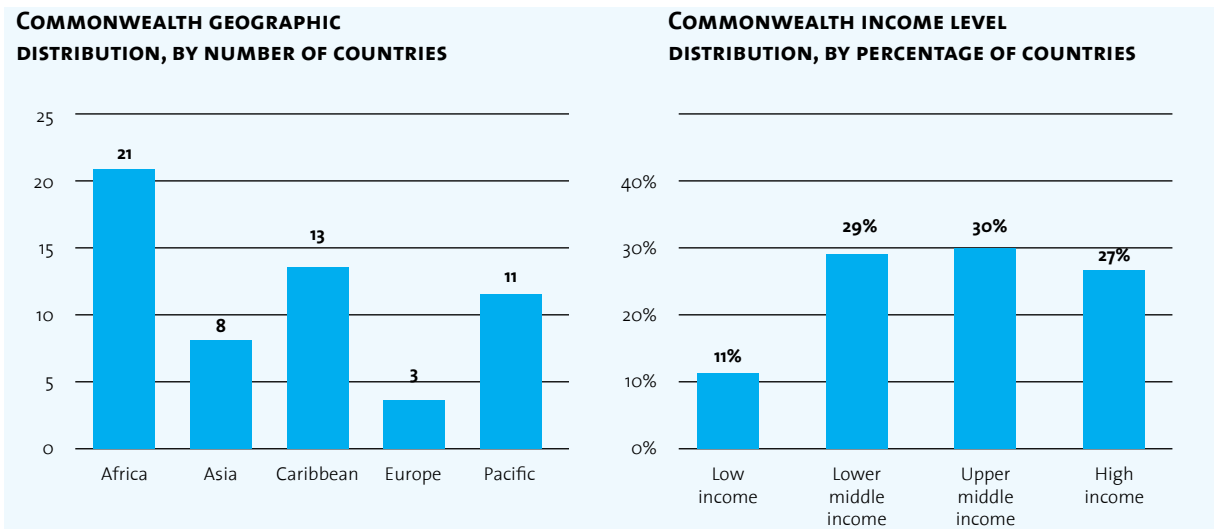
With a combined estimated population of 2.7 billion, 60 percent of whom are below the age of 29 years,<sup>50</sup> the Commonwealth varies significantly in size, from the smallest country, Nauru, with an estimated population

of 10,000, to the largest, India, with an estimated population of 1.4 billion.<sup>51</sup>

Systems of governance also vary across the Commonwealth. The majority of the member states, are parliamentary democracies, with a significant number operating as constitutional monarchies. Among these, several retain the British monarch as their ceremonial head of state, reflecting historical ties. Furthermore, of the 56 members, 11 percent are federal states,<sup>52</sup> and the judicial structure of 20 percent is linked to the London-based Judicial Committee of the Privy Council as the final Court of Appeal and for other purposes.<sup>53</sup>

Across these countries are large populations of Indigenous Peoples as well as national, ethnic, religious, and linguistic minorities.<sup>54</sup> Among the 56 economies, 11 percent are low income, 29 percent are lower middle income, 30 percent are upper middle income, and 27 percent are high income.<sup>55</sup> In 2021, the combined GDP of Commonwealth countries stood at US\$13.1 trillion. It is estimated to reach \$19.5 trillion by 2027, almost doubling in 10 years from \$10.4 trillion in 2017.<sup>56</sup>

**FIGURE 1.1**  
**Geographic and Economic Diversity in the Commonwealth**



Source: The Commonwealth; World Bank.

Diversity is also reflected at the intersection of other regional and sub regional groupings that members of the Commonwealth belong to, such as the African Union, Association of Southeast Asian Nations, Caribbean Community, Economic Community of West African States, East African Community, European Union,

Organisation Internationale de la Francophonie, Organization of American States, Southern African Development Community, Organisation for Economic Co-operation and Development, and The Pacific Island Forum.



**Tips:**

The diverse nature of the Commonwealth and membership in institutions present opportunities to place the issue of women's legal rights on the agenda of several platforms at a time and thereby reach several audiences for regional and global impact.

As an advocate or practitioner, you can access the calendars of all institutions to which Commonwealth Member States are affiliated and explore how you can get issues of interest or concern on the agenda.

Work with the media, especially where led by women, to project the state of legal equality in your country and the impact that this has on the overall achievement of gender equality.

## 1.2 About this Handbook

The Vienna Declaration and Programme of Action and Beijing Declaration and Platform for Action (BDPfA) call for accelerated action on *de jure* equality for achieving gender equality.

However, across the globe, over 3.7 billion women and girls live in countries where the law does not fully protect their rights,<sup>57</sup> and no country in the world is yet to achieve full *de jure* equality on a consistent basis.<sup>58</sup>

Against this background, UN Women, the Commonwealth Secretariat, African Union, Inter-Parliamentary Union, Organisation Internationale de la Francophonie, Secretaría General Ibero-Americana, International Development Law Organization, and others launched *Equality in Law for Women and Girls by 2030: A Multi-Stakeholder Strategy for Accelerated Action* at the 63rd session of the United Nations Commission on the Status of Women in March 2019. The strategy serves as a framework for accelerated action on eliminating *de jure* discrimination in six thematic areas falling under women's economic, social and cultural rights.<sup>59</sup>

The Handbook uses the strategy while also capitalizing on a growth in measurements and data collection on women's legal rights through the work of various intergovernmental and non-governmental organizations (NGOs). The 2030 Agenda for Sustainable Development provides the first comprehensive affirmation and elaboration of the nexus between gender equal laws and sustainable development through the following three indicators of the Sustainable Development Goals (SDGs):

- **Indicator 5.1.1:** *whether or not legal frameworks are in place to promote, enforce, and monitor equality and non-discrimination on the basis of sex;*

- **Indicator 5.6.2:** *Number of countries with laws and regulations that guarantee full and equal access to women and men aged 15 years and older to sexual and reproductive health care, information, and education; and*
- **Indicator 5.a.2:** *The proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control.*

Furthermore, the World Bank's *Women, Business and the Law* annual reports represent the first and earliest analysis of data collection on laws which impact on women's economic opportunities across 190 economies.<sup>60</sup>

All of these data sources and tools have incentivized the design and monitoring of gender equality legislative reforms.

Reforming laws, however, requires a comprehensive understanding of "national and regional particularities and various historical, cultural and religious backgrounds" of States.<sup>61</sup> The legal systems of Commonwealth countries have been shaped by their individual and collective experiences, including the impact of "received law" under the former colonies of the United Kingdom of Great Britain and Northern Ireland (UK).



#### Tip:

Check whether your government (particularly, the National Bureau of Statistics) has taken steps to report on Indicators 5.1.1, 5.6.2 and 5.a.2 as part of its overall SDG reporting, including National Voluntary Reviews.

## 1.3 Purpose

This Handbook serves as a toolbox for parliamentarians, legislatures, judges, policy makers, policy influencers, academics, and advocates working in governmental, intergovernmental, and non-governmental spaces to advance *de jure* equality in the Commonwealth. For parliamentarians, the Handbook provides resources for preparing for debates on bills which promote gender equality. Judges will also benefit from a better

appreciation of the historical origins of the laws that they use in making judicial decisions, and non-governmental organizations will be strengthened in their advocacy for the elimination of discriminatory laws. The Handbook also complements the *Inter Parliamentary Union (IPU) and UN Women Handbook on Gender Responsive Law-Making*, which supports lawmakers around the world in designing gender equal laws.<sup>62</sup>

## 1.4 Methodology

The methodology used in designing this Handbook consisted of a desk review and analysis of laws and constitutions of Commonwealth countries; published books; journals; archival resources;<sup>63</sup> population surveys; judicial decisions; parliamentary legislation and Acts; national legal assessments;<sup>64</sup> reports of human rights mechanisms and treaty bodies; data from the UN SDG database; data from cases studies submitted by Commonwealth parliaments; the World Bank's *Women, Business and the Law* annual reports and datasets from 1970 to 2024; monthly data of the Inter-Parliamentary Union on women's representation in parliaments; UN Women's Global Gender Equality Constitutional Database; and its global data on women in executive positions as heads of state, heads of government, cabinet members heading ministries, and women's representation in local government. Utilizing these data sources allowed for comparability over time, as well as across countries, to demonstrate regression or progress for necessary action or for lessons to be drawn.

## 1.5 Structure of the Handbook

This Handbook is organized around six chapters and four distinct and interrelated annexes. Users can pick and choose which aspects are relevant to the work they are undertaking.

The first part presents the executive summary and this introduction (Chapter 1). The second part consists of five additional chapters, encompassing Chapter 2, the evolution of legal systems in the Commonwealth; Chapter 3, human rights obligations of Commonwealth states; Chapter 4, foundational drivers, enablers and barriers to *de jure* equality; Chapter 5, women and the law in the present-day Commonwealth; and Chapter

The Handbook is anchored in a historical approach, using the periodicity of the pre-colonial, colonial and post-independence experiences of Commonwealth States to appreciate the “currents and crosscurrents of women’s social history.”<sup>65</sup>

The Handbook is, however, limited as it relies on written records. It therefore does not benefit from the diverse community social and governance systems and oral record keeping that shaped the experiences of women prior to colonization. There is also a risk of generalization and losing the specific experiences of all 56 Commonwealth States in this “condensed” resource. Furthermore, the Handbook does not examine thematic areas into specific detail, nor the implementation and effectiveness of laws in the Commonwealth. These gaps and implementation issues should be addressed in separate research undertakings.

6, key lessons and recommendations for law reform. The annexes are as follows:

**ANNEX I:** Presents how to undertake a legal assessment as a prelude to comprehensive law reform.

**ANNEX II:** Presents SDG5 indicators related to legal frameworks.

**ANNEX III:** Provides data on women in decision-making at executive, parliamentary and local government levels.

**ANNEX IV:** Presents the World Bank Group's *Women, Business and the Law* data in Commonwealth countries.







A photograph of a woman in a red headscarf and a red and orange top, carrying a baby on her back. The baby is looking towards the camera. The background is a blurred outdoor setting with a thatched roof visible on the right.

# 2

CHAPTER 2:  
THE EVOLUTION OF  
LEGAL SYSTEMS IN THE  
COMMONWEALTH



**Key Messages:** Understanding the legal system of a country is an indispensable step towards reforming the law in favour of women and girls. It refers to “the sum total of all formal and/or informal laws and institutions, including the principles which govern the interaction of laws and institutions and the manner in which human rights treaties are ratified and integrated into domestic law and practice” (see definitions section). This Chapter presents a historical evolution of the plural legal system of the Commonwealth, which has emerged from pre-colonial religious and customary norms, as well as received law from Britain and other colonial powers and post-independent constitutions, statutes, and regulations.

**Uses:** This Chapter can be used by practitioners and advocates to assess the diverse cultural, religious and historical underpinnings of legislative design and advocacy and how they can obstruct or drive *de jure* equality.

## 2.1 Introduction

This chapter traces the historical foundations of Commonwealth legal systems, showing how layered legacies of customary, religious, and colonial law continue to influence present-day debates on equality.

The current legal status of women in the Commonwealth is rooted in norms and statutes that have evolved across the pre-colonial, colonial, and post-independence periods and their interactions with each other. The persistence of legal and structural inequalities between men and women across most of the world reflects the enduring influence of patriarchal systems, many of which pre-date colonial rule and were further entrenched by it. However, the forms and intensity of patriarchy have

varied across cultures and historical contexts. In the Commonwealth, laws derive their validity from several sources: customary law, religious law, received law from Britain and other former colonial powers, and post-independence constitutions, statutes and regulations, all of which are governed and enforced by their corresponding institutions.

This subsection lays the foundation for the more specific analysis of the legal status of women in Chapters 3-5 by capturing the evolution of the different components of the law and their implications across the pre-colonial, colonial, and post-colonial eras in the Commonwealth.

## 2.2 The Role of Customary Laws, Religious Laws, and Corresponding Institutions in Pre-Colonial Times

Across many regions that now constitute the present-day Commonwealth of Nations, pre-colonial political formations were shaped by dynamic processes of migration, conquest, and the consolidation of power. These formations often took the form of people groups, kingdoms, chiefdoms, and other community-based governance systems rather than fixed territorial states, as understood in the modern context. For example, Eswatini experienced Dlamini military hegemony coupled by incursions from Ndwande and Zulu clans from the South.<sup>66</sup> Prior to being colonized, these States had already been established through lineages, chiefdoms,

and kingdoms, with full-fledged executive, legislative, and judicial power governed by largely unwritten customary and religious norms.<sup>67</sup> The institutions were hierarchical in nature and norms were fashioned to govern all aspects of political, civil, economic, social, and cultural life, e.g., crime, commerce, natural resources, succession to political leadership, land tenure, property rights, marriage, and family.<sup>68</sup> The multi-ethnic and multi-religious nature of societies during this era gave rise to a multiplicity of customary and religious norms within the community.

Similarly, Nigeria was (and still is) known to be host to an estimated 250 distinct ethnic groups, among which the Yoruba, Igbo, Hausa, and Fulani were the largest, followed by Edo, Ibibio, Tiv, Nupe, Kanuri, Ijaw, Itsekiri, and Kalabari, all possessing distinct customs, traditions, languages and practices since pre-colonial times.<sup>69</sup> Various ethnic groups created political institutions, such as the ogboni, osugbo, ilari, age-grades, guilds,<sup>70</sup> and ekpe, primarily for maintaining peace and law and order. Violations of the law were sanctioned through both customary norms and religious-based systems.<sup>71</sup> Across African countries, both customary law and African traditional religions served as frameworks for defining and punishing acts which were considered crimes, e.g., adultery, murder, rape, stealing, and witchcraft.<sup>72</sup>

As with Nigeria, the laws of the Aboriginal people of Canada are varied and diverse, with their roots traceable

to territories where they originated from historically.<sup>73</sup> “Large differences existed then (and now) between Aboriginal people and, as a result, all have developed different customs and conventions to guide their relationships. These customs and relationships then became the foundations for the various complex systems of Aboriginal law.”<sup>74</sup> Boyer highlights examples from different Aboriginal communities, e.g., the Salish of British Columbia and the Cree people in Central Saskatchewan, among which she describes the different unwritten traditional religious norms and institutions that existed among the Aboriginals of Canada prior to colonialism to govern societies.<sup>75</sup> These examples illustrate how the diverse societies that make up today’s Commonwealth developed complex, distinct, and adaptive governance systems long before colonial encounters.

## 2.3 Additional Religious Influences and their Impact on Legal Systems of the Commonwealth

Religious influences occurring from outside the geographical boundaries of pre-colonial and colonial times have also played a key role in shaping legal systems. An understanding of the influence of external religions is important, because they have also contributed to shaping pre-existing laws and institutions, e.g., marriage and family. This subsection reviews the influence of the most dominant religions of the world, Islam, Christianity, and Hinduism, all of which took root several centuries before colonialism.<sup>76</sup>

Islam began in the Middle East and spread across North Africa in the second half of the 7<sup>th</sup> century CE, and from there to various African and Asian Kingdoms, mainly through trade routes.<sup>77</sup> The United Nations Educational, Scientific and Cultural Organization (UNESCO) describes Islam as not just a religion, but “a comprehensive way of life, catering for all the fields of human existence. Islam provides guidance for all aspects of life - individual and social, material and moral, economic and political, legal and cultural, national and international.”<sup>78</sup> Islam was integrated into the body politic and legal systems of practicing countries four centuries before British colonization in the 17<sup>th</sup> century.

Christianity, introduced centuries later through missionary activity and colonial expansion, also became deeply intertwined with governance and law. It was not until the 1400s that the Danish, Dutch, Italian, Spanish and Portuguese Christian missionaries appeared in West African countries such as Ghana and Sierra Leone.<sup>79</sup> Similar to the spread of Islam, Christian missionary activity was soon to be integrated into commerce, albeit from the 19<sup>th</sup> Century, and reached a peak when more actors such as the British and Germans joined.<sup>80</sup>

Christianity has been a part of the British common law from Anglo-Saxon England since the 18<sup>th</sup> century, serving to limit the powers of the monarch and sharpen accountability to the people through defined duties and responsibilities.<sup>81</sup> In particular, canon law was introduced by William the Conqueror to, inter alia, afford protections to “widows, orphans, the poor, the handicapped, abused wives, neglected children, maltreated servants, and others.”<sup>82</sup> The Christian faith also contributed to defining the Magna Carta, the foundation of British constitutionalism, concepts of good faith and equity, the creation of the courts of equity, and humane penalties for crime.<sup>83</sup>



Hinduism has existed for over 4,000 years and has played a parallel role in shaping customs, norms, and legal systems. The third largest religion in the world, a majority of its members (over 90 percent) are based in the Indian subcontinent (India, Pakistan, Bangladesh, Sri Lanka, Nepal, and Bhutan).<sup>84</sup> The West Indian experience demonstrates that the religion spread during the colonial era, when Hindus from the Indian subcontinent were transported to British and Dutch colonies in the West Indies (especially Guyana, Jamaica, Suriname, and Trinidad and Tobago), Fiji, Malaysia, Mauritius, and South Africa as indentured laborers.<sup>85</sup> Demographic data show that Canada, Ghana, Kenya, and the United Kingdom are also host to Hindu populations. Similar to Islam and Christianity, Hinduism is interwoven into the social and legal fabric of those who practice it and therefore has contributed to shaping gender relations.

Religious influences are not confined to history, but remain deeply embedded in the fabric of modern

Commonwealth states. For example, approximately 80 percent of the population of Bangladesh is Muslim, making Bangladesh the third largest Islamic nation in the world. Fifteen percent is Hindu, the majority of which belong to scheduled castes. Bengali Muslims also maintain a type of caste system.<sup>86</sup> In Trinidad and Tobago, religion forms an important part of the population's diversity. Christians account for the largest religious group (76 percent), followed by Hindus (18.2 percent) and Muslims (5 percent).<sup>87</sup>

Chapter 4 presents a deeper analysis of how religion and the varied interpretation of religious texts have had a profound impact on the achievement of gender equality and the empowerment of women. There, an overview is provided of the different ways in which this has been manifested across pre-colonial traditional religion as well as the three dominant religions of the Commonwealth.<sup>88</sup>



#### Tip:

Population census data can provide insight into the composition of different religious groups. Considering how various perspectives on the rights of women and girls may affect the implementation of gender equality laws can help inform a more inclusive legal and policy approach.

## 2.4 The Introduction of British Law (Received Law) into the Former British Empire

British colonial rule carried with it legal traditions that have since become lasting features of Commonwealth legal systems. While various Acts of Parliament were passed in Westminster to legalize British colonial governance in the former British Empire, these general laws of colonial legitimacy were distinct from legislation, which officially integrated the English common law, the doctrines of equity, and statutes of general application (British law) into the colonies.

In Nigeria, this was expressed through the Supreme Court Ordinance of 1914 and preserved under Section 32 of the post-independence Interpretation Act, 1960, which provides as follows:

*"Subject to the terms of this or any other ordinance, the rules of common law, doctrines of equity and Statutes of General Application In force on January 1st 1900 shall be in force in the jurisdiction of this court."*

Similarly, in Guyana, the Civil Law of Guyana Act, Cap. 6:01 (Laws of Guyana, Vol.2), 1917 had as its objective "... to codify certain portions of the Roman-Dutch Law of the State and in other matters to substitute the English Common Law and Principles of Equity, along with certain English Statutory Provisions for the Roman-Dutch Law," and provided as follows:

*"The common law of Guyana shall be the common law of England as at the date aforesaid including therewith the doctrines of equity*

*as then administered or at any time hereafter administered by the courts of justice in England, and the High Court shall administer the doctrines of equity in the same manner as the High Court of Justice in England administers them at the date aforesaid or at any time hereafter.” (Section 3(b)).*

In New Zealand, the Māori people were the native inhabitants, while the first immigrants of the New Zealand Land Company arrived in January 1840. Robinson and Shotwell (1922) describe the formation of the New Zealand colony in the following way:

*“As a result of this activity on the part of colonizers, the home Government was forced to act, in order that the settlement might be under imperial control. Therefore, in 1840 Captain Hobson was sent out as Governor. It was made clear that no land purchases would be valid unless sanctioned by the Crown. One of Governor Hobson’s first acts was to make a treaty with the Maoris; by the aid of the missionaries the famous Treaty of Waitangi was negotiated with the natives in February, 1840. In this agreement the full sovereignty of the islands was ceded to Great Britain, which, in turn, granted the natives the standing of British subjects and the right to possess their lands as long as they wished to do so. In case of the sale of lands the Government*

*was to exercise supervision over their disposal. Hobson established Auckland in 1840 as the capital and proceeded to exercise the rights of the ordinary British governor.”<sup>89</sup>*

The three important pillars of English law – the common law, doctrines of equity and statutes of general application – are often times described as received law because they were fashioned, designed and enacted by the British courts and legislature and introduced into the former British Empire. Though rooted and inherited from the colonial era, received law remains an important feature of the legal systems of Commonwealth countries in post-independent times, dominating areas such as criminal law, criminal procedure, company law, public service law, employment law, contract, tort, marriage, divorce, child custody and child maintenance.<sup>90</sup>

While the UK and many Commonwealth Member States have taken steps to repeal or amend many of these laws, several continue to exist in their original form or with modifications. Interactions with law reform commissions, legal experts and advocates across the Commonwealth as part of the rollout of legal assessments (see footnote 35) demonstrate that received laws have remained in statute books without constant review due to limited financial and technical capacity.

Examples of such laws may be found in Bangladesh, The Gambia, and Trinidad and Tobago, and are presented in Box 2.4 below.

#### BOX 2.4:

#### Examples of Received Law in Bangladesh, The Gambia and Trinidad and Tobago<sup>91</sup>

##### Bangladesh:<sup>92</sup>

- Code of Criminal Procedure, 1898
- Dissolution of Muslim Marriages Act, 1939
- Divorce Act, 1869
- Evidence Act, 1872
- Guardians and Wards Act, 1890
- Hindu Married Women’s Right to Separate Residence and Maintenance Act, 1946
- Hindu Widow’s Remarriage Act, 1856
- Hindu Women’s Right to Property Act, 1937
- Muslim Personal Law (Shariat Application) Act, 1937
- Penal Code, 1860
- Special Marriage Act, 1872



- Transfer of Property Act, 1882
- Trusts Act, 1882

The Gambia:<sup>93</sup>

- Christian Marriage Act 1862, Cap 41:03 Volume 7
- Married Women's Property Act, 1885 Cap 41:05 Volume 7
- Births, Deaths and Marriages Registration Act, 1886 Cap 41:01 Volume 7
- The Sharia Law Recognition Act, 1905 Cap 6:04 Volume 2
- Lunatics' Detention Act, 1917 Cap 40:04 Volume 6
- Maintenance Orders (Facilities for Enforcement) Act, 1923 Cap 44:02 Volume 7
- Criminal Code, 1933
- Forced Labour Act, 1934 Cap 56:03 Volume 8
- Civil Marriage Act, 1938 Cap 41:02 Volume 7
- Muslim Marriage and Divorce Act, 1941 Cap 42:01 Volume 7
- Prisons Act, 1953 Cap 20:01 Volume 4

Trinidad and Tobago:<sup>94</sup>

- Administration of Estates Act, 1913
- Offences Against the Person Act, 1925
- Pension Act, 1934
- Widows and Orphans Pensions Act, 1934
- Wills and Probate Act, 1939

An important consequence of received law was the introduction of the present-day hierarchy of formal courts, in some instances extending to the Privy Council as the final Court of Appeal.

The introduction of received law under the former British Empire, however, did not preclude the new legislature from enacting constitutions or laws to address specific local situations, such as public health,

taxation, local markets, and schools. Early constitutions spelled out executive, legislative and judicial powers, including the participation of native actors, although overall enforcement and implementation of received and locally enacted laws were undertaken through an expatriate-led public service.<sup>95</sup> An example of how received law permeated the pre-colonial legal system of Malawi is presented in Box 2.4.1 below.

#### BOX 2.4.1:

#### An Overview of Legislative Reforms in Malawi During Colonial Times

The Africa Order-in-Council of 1889 gave the colonial administration, headed by a consul general, jurisdiction over British subjects and foreigners who voluntarily submitted themselves to British authority. English law applied to these British subjects and foreigners. This imposition of English law marked the beginning of the legal colonization of the country. Most importantly, it also meant that the protectorate had a dual legal system consisting of, first, received English law applicable to British subjects and foreigners and, secondly, native, or customary, law, applicable to Indigenous tribes. It is worth noting that an element of this duality has survived to this day in some branches of law, particularly in laws relating to family and marriage.

The reach of English law was extended by establishing new courts and by conferring on them civil and criminal jurisdiction in cases where Malawians were the only parties. This was achieved through the British Central Africa Order-in-Council (BCAOC) of 1902, which was the first written constitution for Malawi. The BCAOC applied to the protectorate the common law and statutes in force in England on 11 August 1902. Section 20 of the BCAOC contained the so-called repugnancy clause. It extended the application of customary law to all cases, both criminal and civil, to which Africans were parties “so far as it is practicable and not repugnant to justice and morality and is not inconsistent with any Order in Council or Ordinance or any regulation or rule made under any Order in Council or Ordinance”. Of particular importance to this discussion is the fact that the provision extended the application of customary law to criminal cases, so long as only Africans were party to them. Courts were mandated to decide cases “according to substantial justice without undue regard to technicalities of procedure and without undue delay.”

Source: Lewis Chezan Bande, *A History of Malawi's Criminal Justice System: From Pre-Colonial to Democratic Periods* (2020) 26(2) Fundamina 288-336, pp. 297-298.

Pre-existing traditional institutions, such as chieftancy and native courts, were also integrated into the system of local government, while customary and religious laws were permitted to co-exist with received law if they were not “contrary to public policy or repugnant to natural justice, equity and good conscience” (commonly known as the “repugnancy clause”).<sup>96</sup>

Furthermore, due to industrialization and the need for raw materials in Britain and other industrialized countries, customary land tenure systems of countries of the former British Empire were altered to ensure the continuous production of cash crops as well as the mining of minerals.

However, in matters of personal law (e.g., marriage, divorce, adoption, inheritance), legislation was introduced to provide individuals with the choice to elect the source of law under which they would prefer to be legally bound.<sup>97</sup> For example, monogamous marriages were solemnized and dissolved under various colonial

marriage laws and replicated across the Commonwealth with variations,<sup>98</sup> while on the other hand, polygamous marriages were regulated through uncoded customary and Islamic law.<sup>99</sup>

Another important factor in the shaping of legal systems of the Commonwealth was the confluence of one or more of other colonizing powers in the geographical spheres where the British wielded influence. This included the British and French in Cameroon, Canada, Mauritius and St Lucia; the British, Dutch and Germans in Namibia and South Africa; the British, French, Dutch and Spaniards in Trinidad and Tobago; and the British and Portuguese in Mozambique. The result has been an amalgamation of two or more systems of law, which converged into multilayered, plural legal systems in some countries.<sup>100</sup>

The following observation by Lee best describes the multifaceted nature of the legal systems of the former British Empire:

*“To speak of universality or uniformity of law in the former colonies of Britain seems, indeed, to assert what is contrary to fact. It is rather the astounding diversity of its laws that arrests attention. Even within the narrow compass of the British Isles you have four or five different systems in force. Going farther afield, you have Italian law in Malta, Dutch law in South Africa, French law in the Channel Islands, another brand of French law in Quebec and St. Lucia, yet another in Mauritius and Seychelles. You have the Common Law*

*of England transplanted under every variety of time and circumstance to every variety of latitude and longitude. You have in Asia and in Africa underlying the law thus imported a bedrock of native custom of immemorial antiquity. Lastly, up and down the Empire you have some eighty legislative bodies turning out Acts, Laws, Ordinances with unrelenting activity. Surely, it must be vain to look for uniformity in such diversity, for harmony in such dissonance.”<sup>101</sup>*

#### **BOX 2.4.2:**

#### **An Example of How Colonialism Impacted Pre-Colonial Customary Norms, With Special Reference to the Rules of Customary Land Tenure**

As elsewhere, the industrial era in Britain was a race for the supply of raw materials, from mining to cash crop production from the former British Empire. Prior to colonial rule, land was sacred communal property and not bought and sold by individuals or communities.

Often quoted by academia and judicial and legal practitioners to describe the legal and religious basis of land tenure in West Africa is the famous testimony of Chief Elesi of Odogbulu, a Nigerian traditional ruler, before the West African Lands Commission in 1908, in which he expounded on the traditional concept of land as follows: *“I conceive that land belongs to a vast family of which many are dead, few are living and countless members are still unborn.”*<sup>102</sup>

Providing an example from Southern Africa, Amoo argues that property relations, including the land tenure system, were determined by the customary law of the indigenous people, meaning that land was vested in the tribal communities of a particular area. A characteristic feature of this land tenure system was that the land was held in trust for the entire tribal community as the allodial title holder.<sup>103</sup>

In East Africa, similar communal arrangements were found. Nkambo (1966) cites examples of the Sukuma, Nyamwezi, Sambia and Gogo communal land tenure system in which land is vested in the chief as trustee for his people as well as those based on family or clan (blood) ownership, common among the Basoga in Uganda, the Kikuyu and Luo in Kenya, and the Kuria, Nyaturu (or Arimi) and Luguru in Tanganyika (present-day Tanzania).<sup>104</sup>

In Australia, Canada, New Zealand and across the Pacific, e.g. Fiji, Solomon Islands, and Vanuatu, Indigenous Peoples upheld the spiritual, ancestral and communal significance of their territories, lands, resources, and ecosystems.<sup>105</sup> In Fiji, lands were divested to the Crown, following the latter’s official takeover in 1874, and in 1905, legislation was introduced permitting natives to freely lease their lands with the consent of the Governor-in-Council.<sup>106</sup>

Commercial production of products such as bauxite, cocoa, coffee, cotton, gold, palm oil, rice, rubber, sugar, tea, tin, and tobacco resulted in profound changes in existing land tenure arrangements. Various sources demonstrate that cash crop economies introduced changes to the norms surrounding land tenure, in which large scale individualized land ownership became permissible under customary law, resulting in a new social class and stratification of native and settler landowners and cash crop growers and exporters.<sup>107</sup>

In occupied colonies in West Africa, the general practice was to designate specific parcels of land as “state/public lands” through legislation, for commercial, developmental purposes and for direct leasing by the State to corporations and individuals.<sup>108</sup> At the same time, chiefs and lineage heads retained allodial interests in lands under their customary jurisdiction and could allocate land through different forms of tenure arrangements, such as outright sales, usufructuary grants, gifts, short or long-term leaseholds, or sharecropping.<sup>109</sup>

In the Caribbean, a plantation system was introduced that was regulated purely by English law and based on legal freehold and primogeniture, which, in terms of inheritance, gave precedence to the male line – especially the eldest legitimate son, and from this “the elite planter classes were born.”<sup>110</sup> Amoo suggests that the current challenges associated with land distribution in Namibia originate from the declaration of the territory as a German protectorate in 1884, followed by the declaration of the Protectorate as a Crown Colony in 1890.

Cotton was grown in most of the British West Indies, including Barbados, which served as one of the greatest suppliers.<sup>111</sup> In the 1660s, Barbados was not only the leading West Indian sugar producer but also likely the world’s most productive economy until the 1750s, when Jamaica dominated global production.<sup>112</sup> Robinson and Shotwell (1922) find that in Australia, “The influence of the gold rush on future Australian development was very great. A peaceful, gradually evolving pastoral country, with an almost unalloyed British population, was inundated with new elements.”<sup>113</sup>

## 2.5 Modern-Day Constitutions

Building on the foundations of received law, the move toward self-rule opened space for countries to redefine their legal and political orders. The transition to independence among the colonies was marked by several developments that are linked to the legal status of women today. While Commonwealth countries faced their own unique experiences, upheavals, and challenges, common developments associated with independent status included the adoption of post-independence constitutions.

An analysis of UN Women’s [Global Gender Equality Constitutional Database](#) reveals that all Commonwealth countries have constitutions in place,<sup>114</sup> with several of them evolving from initial constitutional frameworks that were set in motion as a first step towards independence and republican status.<sup>115</sup> As noted above, the Commonwealth is open to all countries, including those which were not part of the British Empire. Its membership includes Gabon, Mozambique, Rwanda, and Togo, which were colonized by civil law countries. There are others, such as Cameroon, Canada, Mauritius, Mozambique, Namibia, Seychelles, South Africa, and countries of the Caribbean, with colonial ties to more

than one country. Each country’s unique history thus informs its constitutional development.

All Commonwealth countries except the UK and New Zealand have formal written constitutions in place. As described by LawWales:

*“The constitution of the United Kingdom is complex, and unusual in many respects. In most countries, laws which set out the constitution are superior to any other forms of law, whereas in the UK laws about the constitution are simply part of the ordinary law of the land and can be changed just like any other law. In addition to laws, the UK constitution also relies to a considerable degree on conventions and understandings about how the institutions of government should operate – many of which are designed to operate flexibly depending on the circumstances. Partly for this reason the constitution is also uncodified, meaning that while most of the laws, conventions and understandings relating to the constitution are written down, they cannot*



*be found conveniently written down all in one place. Furthermore, there are a number of different sources of law that apply to the people of the UK and a patchwork of different laws has developed in different ways and for different reasons.”<sup>116</sup>*

Among some of the oldest constitutions include those of Australia (1901), India (1949, amended over 100 times) and New Zealand (1840). Furthermore, at least 14 constitutions (25 percent) provide for the separation of state and religion, and/or the secular nature of the state. Other constitutions feature references to religious values (e.g., Bahamas, Kiribati, Papua New Guinea, Tuvalu), or declare a particular religion as state religion (e.g., Maldives, Pakistan, Samoa) while guaranteeing respect for other religions (e.g., Bangladesh, Malaysia, Sri Lanka). Nine (9) or 16 percent confer specific constitutional recognition to religious institutions, ranging from religious courts (e.g., Brunei Darussalam, The Gambia) to advisory bodies (e.g., Singapore).

In at least 12 constitutions (21 percent), customary law is considered an integral part of the national legal system. In most cases, however, customary practices are subject to the constitution and statutory law takes precedence in situations of conflict (e.g., Ghana, Kenya, and Uganda). Finally, 16 or 29 percent confer constitutional recognition on customary institutions and roles, ranging from advisory bodies (e.g., Botswana, Brunei, Namibia) to judicial bodies with limited mandates (e.g., Cyprus, Nigeria, Samoa).

The manner in which international treaties are integrated into domestic law is a critical feature of a country's legal system. The dualist approach, which applies to the majority of Commonwealth States, requires the legislature's formal approval of the treaty as well as the passage of specific legislation on the subject in question.

The source and rationale behind this policy position is not clear from archival records. The UK's policy position with regards to “International Agreements in the 21st Century” states that:

*“The UK is a dualist state, meaning that, in order for obligations entered into through treaties to have effect in UK law, domestic implementation is required. This is an important feature of the UK's constitutional system, ensuring that any changes to domestic law needed to implement treaties must be considered by Parliament. While treaties bind the UK as a matter of international law, they do not automatically have effect as a matter of domestic law. Often, provisions do not require new primary legislation to have effect in domestic law; delegated powers to make secondary legislation may be used, or only parts of agreements are presented to Parliament to consider as the remaining obligations can be met without legislating.”<sup>117</sup>*

An analysis of the constitutions of Commonwealth countries reveals five main tracks for integrating international treaties into domestic law:<sup>118</sup>

- The constitutions of three (3) States provide that an act of parliament is needed for an international treaty to be adopted into domestic law.<sup>119</sup>
- For fifteen (15) States, an act of parliament must precede parliamentary approval of the treaty.<sup>120</sup>
- Three (3) States adopt a monist approach, i.e., direct applicability and integration into domestic law.<sup>121</sup>
- Four (4) States adopt a combination of both approaches (see a case study on Rwanda in Box 2.5 below).<sup>122</sup>
- The remaining constitutions are silent on the State's approach.

### BOX 2.5:

#### The Integration of International Treaties into Domestic Law in Rwanda

Rwanda's legal system is hybrid in nature, comprising elements of civil law and common law. Rwanda therefore combines monist (peculiar to Belgium) and dualist (peculiar to Commonwealth countries) approaches in its adoption of international treaties, although the rationale behind the latter remains unclear. Article 169 of the Constitution provides that "upon publication in the Official Gazette, international treaties and agreements which have been duly ratified or approved have the force of law as national legislation in accordance with the hierarchy of laws provided for under the first paragraph of Article 95 of the Constitution." Article 95(1) of the Constitution outlines the hierarchy of laws in the country as follows: "(a) Constitution; (b) organic law; (c) international treaties and agreements ratified by Rwanda; (d) ordinary law; (e) orders and regulations provided for by a law. (2) A law cannot contradict another law that is higher in hierarchy. (3) Organic laws are those designated as such and empowered by this Constitution to regulate other key matters in the place of the Constitution."

The importance of organic laws may be appreciated in the context of their adoption. According to Article 91 of the Constitution, ordinary laws are passed by an absolute majority vote of Deputies or Senators present at the sitting of the Plenary Assembly, whereas organic laws require a three-fifths majority vote of Deputies or Senators present at the sitting of the Plenary Assembly. According to the Constitution, "Organic laws establish fundamental aspects of the constitutional order, including establishing institutions like the courts or legislature, and in some jurisdictions are accorded similar status to the constitution itself. They sometimes require a higher standard for approval than ordinary law."

Therefore, in accordance with its Constitution, international treaties ratified by Rwanda and published in the Official Gazette have the force of national law and acquire a higher status than ordinary laws. The Constitution and organic laws, however, do not fall within the class of "ordinary laws," and therefore take precedence over international treaties ratified by Rwanda.

Source: Legal Aid Forum, Rwanda and UN Women. 2025. "Equality Before the Law in Rwanda. Gains, Gaps and Future Reforms."

To date, only the constitutions of Ghana and The Gambia embody provisions which point to the plural legal nature of the legal system of their respective countries, taking into account the pre-colonial, colonial and post-colonial legal experience. These provisions are presented below:

#### Articles 11 and 75 of the 1992 Constitution of Ghana:

##### *Article 11*

1. The laws of Ghana shall comprise-
  - (a) this Constitution;
  - (b) enactments made by or under the authority of the Parliament established by this Constitution;
  - (c) any Orders, Rules and Regulations made by any person or authority under a power conferred by this Constitution;
  - (d) the existing law; and
  - (e) the common law.
2. The common law of Ghana shall comprise the rules of law generally known as the common law, the rules generally known as the doctrines of equity and the rules of customary law, including those determined by the Superior Court of Judicature.
3. For the purposes of this article, "customary law" means the rules of law which by custom are applicable to particular communities in Ghana.
4. The existing law shall, except as otherwise provided in clause (1) of this article, comprise the written and unwritten laws of Ghana as they existed immediately before the coming into force of this Constitution, and any Act, Decree, Law or statutory

instrument issued or made before that date, which is to come into force on or after that date.

5. Subject to the provisions of this Constitution, the existing law shall not be affected by the coming into force of this Constitution.
6. The existing law shall be construed with any modifications, adaptations, qualifications and exceptions necessary to bring it into conformity with the provisions of this Constitution, or otherwise to give effect to, or enable effect to be given to, any changes effected by this Constitution.
7. Any Order, Rule or Regulation made by a person or authority under a power conferred by this Constitution or any other law shall-
  - (a) be laid before Parliament;
  - (b) be published in the Gazette on the day it is laid before Parliament; and
  - (c) come into force at the expiration of twenty-one sitting days after being so laid unless Parliament, before the expiration of the twenty-one days, annuls the Order, Rule or Regulation by the votes of not less than two-thirds of all the members of Parliament.

#### *Article 75*

1. The President may execute or cause to be executed treaties, agreements or conventions in the name of Ghana.
2. A treaty, agreement or convention executed by or under the authority of the President shall be subject to ratification by-
  - (a) Act of Parliament; or
  - (b) a resolution of Parliament supported by the votes of more than one-half of all the members of Parliament.

#### Section 10 of the 1997 Constitution of The Gambia, as amended in 2020:

1. In addition to this Constitution, the laws of The Gambia consist of-
  - (a) Acts of the National Assembly made under this Constitution and subsidiary legislation made under this Constitution and such Acts;
  - (b) the existing laws;
    - (a) the common law and principles of equity;
    - (a) customary law so far as concerns members of the communities to which it applies; and
    - (a) the Shari'ah as regards matters of marriage, divorce, inheritance and endowment (waqf) among members of the communities to which it applies.
2. Subject to subsection (3), a treaty to which The Gambia is a party shall not form part of the laws of The Gambia unless it is incorporated in an Act of the National Assembly.
3. The courts may have due regard to international treaties on human rights to which The Gambia is a party where it considers it necessary to aid its interpretation or application of a provision of this Constitution with respect to any right or freedom.

Principles of State Policy are also present in the constitutions of several Commonwealth countries. These are non-justiciable provisions which reflect priority areas of policy on issues related to sustainable development. While the origins of these provisions are not clear from the literature, they are found in the constitutions of Bangladesh, Eswatini, The Gambia, Ghana, Guyana, India, Lesotho, Malawi, Malta, Namibia, Nigeria, Pakistan, Papua New Guinea, Rwanda, Sierra Leone, Sri Lanka, Uganda and Tanzania.

Building on this historical overview, Chapter 3 explores how global and regional human rights obligations have redefined the legal responsibilities of Commonwealth states in advancing gender equality.





# 3

## CHAPTER 3: HUMAN RIGHTS OBLIGATIONS OF COMMONWEALTH STATES



**Key Messages:** Global and regional human rights treaties create obligations on State Parties and other duty bearers to respect, protect and fulfil the human rights of the rights holders for whom the treaties are designed. Each treaty has a monitoring body that is assigned the responsibility of ensuring its effective implementation. The human rights system is also endowed with a number of Special Procedures that are assigned either thematic or country-specific monitoring and reporting responsibilities. Practitioners and advocates must be aware of these legal and institutional frameworks to determine how they can be leveraged for the effective realization of women's rights and gender equality in their respective countries.

**Uses:** This Chapter can be used for holding Commonwealth Member States accountable to women and girls through, e.g., lawmaking, policy reform, institutional reform, advocacy, public interest litigation, and judicial activism. Practitioners and advocates can also check whether their respective countries have ratified the relevant instruments or where they have ratified the instruments with reservations in order to advocate for ratification or the removal of reservations.

## 3.1 Introduction

The previous Chapter notes that the transition to independence among the colonies was marked by several developments, which are linked to the legal status of women today. In addition to constitutional design, independent States acquired membership in regional and global international bodies and acceded to

binding human rights treaties. This Chapter elaborates on key normative developments that impacted on the legal status of women in the Commonwealth and the consequential obligations placed on States to protect, fulfill, and respect the rights of women and girls.

## 3.2 International Treaties

The Preamble to the Charter of the United Nations (UN Charter) sets out as one of the Organization's central goals the reaffirmation of "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women." Article 1 proclaims that one of the purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to, inter alia, sex. By the terms of the Charter, the first international instrument to refer specifically to human rights and to the equal rights of men and women, all members of the United Nations are legally bound to strive towards the full realization of all human rights and fundamental freedoms. The status of human rights, including the goal of equality between women and men, is thereby elevated: a matter of ethics becomes a contractual obligation of all governments and of the UN.

The Universal Declaration of Human Rights (UDHR) proclaims the entitlement of everyone to equality before the law and to the enjoyment of human rights and fundamental freedoms without distinction of any kind and proceeds to include sex among the grounds of such impermissible distinction.

Both the UN Charter (1945) and UDHR (1948) were conceived at a time when several countries were still under colonial domination. However, the participation of several colonies in the First and Second World Wars engendered demands for freedom and independence in the 1950s and 1960s.

In 1966, the UN passed resolutions on the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) to translate the principles of the Declaration into legally binding instruments. They



each provide that the rights set forth are applicable to all persons without distinction of any kind and, again, identify sex as a ground of impermissible distinction. They furthermore oblige States to ensure that women and men have equal rights to the enjoyment of all the rights they establish.

The UDHR, ICESCR and ICCPR collectively form the International Bill of Human Rights, foundational instruments for the growth of human rights law. Together with seven other human rights instruments, ICESCR and ICCPR form what is termed “the nine core international human rights instruments,” of which CEDAW, the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD) form a part.<sup>123</sup>

Of the nine core treaties, CEDAW assumes an important place by elevating the legal status of women. As the two world wars demonstrated, women are equally capable as men to contribute to nation building, regardless of their nationality, ethnicity, marital or maternal status. The preamble to CEDAW presents the shift in the maternal role of women:

*“Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole. Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women.” (Preamble).*

Of its 30 Articles, 1-5 are devoted to defining discrimination against women (see Box 3.2) and the steps that must be taken to achieve gender equality; 6-16 relate to specific substantive rights; 17 relates to the establishment of the CEDAW Committee, which is the body tasked with monitoring the implementation of the Convention; 18 focuses on submission of State Party Reports; and 19-30 describe the Committee’s rules of procedure, the ratification process and reservations.<sup>124</sup>

### **BOX 3.2:**

### **Definition of Discrimination Against Women in CEDAW**

#### **Article 1**

For the purposes of the present Convention, the term “discrimination against women” shall mean 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.

#### **Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;



- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

### Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

### Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

### Article 5

States Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

CEDAW is therefore the global charter on women's rights and is the key to undoing histories of *de jure* inequalities globally. All Commonwealth countries, with the exception of Tonga, have ratified CEDAW, and have also submitted at least one State Party Report to the Committee, using the themes and sub-themes of the Committee's reporting guidelines.<sup>125</sup>

Despite the almost universal ratification of CEDAW, 14 Commonwealth countries (25 percent), have entered one or more reservations and/or declarations to the Convention. The vast majority of these reservations are in relation to Article 1 (the definition of discrimination);

Article 2 (pursuing a policy of eliminating discrimination against women); Article 9 (equal nationality rights); and Article 16 (marriage and family life). The minority are in relation to Articles 11 (employment) and 13 (family benefits, bank services, sports and cultural life).

The CEDAW Committee regards reservations as contrary to the object and purpose of the Convention and therefore impermissible under Article 28 as well as Article 19(c) of the Vienna Convention on the Law of Treaties. The Committee therefore urges countries to denounce reservations that they have entered into to ensure the holistic and effective implementation of CEDAW.<sup>126</sup>

### 3.3 Other Relevant Human Rights Treaties for the Commonwealth

Other human rights treaties of relevance to the evolution of the status of women in the post-colonial era include the CRC, other core human rights treaties and their respective Optional Protocols;<sup>127</sup> Conventions of the International Labour Organization (ILO); the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (the Maputo Protocol); the African Union Convention on Ending Violence Against Women and Girls; the African Charter on the Rights and Welfare of the Child; the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention); the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention); the Budapest Convention on Cybercrime; the Council of Europe (2007) and the Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention).

These treaties and conventions explicitly define discrimination or provide guiding principles that shape how

states should understand and address it. For example, the ICCPR, ICESCR, and CRC prohibit discrimination on grounds including sex. While CEDAW provides the most detailed definition, regional instruments such as the Belém do Pará Convention, the Maputo Protocol, and others reinforce this. These definitions are significant because they expand the scope of state responsibility, requiring not only the elimination of overtly discriminatory laws, but also the transformation of structural and social norms that perpetuate inequality.

Ultimately, the instruments establish binding international standards that promote equality and prohibit discrimination, including on the basis of sex and gender. They address issues such as violence against women, harmful practices, labor rights, access to justice, and protections for children, all of which directly affect women's status in society. By setting norms against discrimination and requiring states to reform laws and policies that perpetuate inequality, they are central to advancing women's rights and challenging legal frameworks that reinforce gender-based discrimination.



#### Tips:

All human rights treaties call on State Parties to undertake legislative, policy, and budgetary reforms as first steps towards their implementation and full realization. The Maputo Protocol and CEDAW also include the need to address harmful social norms. See below an example from the Maputo Protocol:

#### Maputo Protocol, Article 2:

- 1. States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall: a) include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application; b) enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women; c) integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life; d) take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist; e) support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.*
- 2. States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.*

### 3.4 Treaty Monitoring Bodies

The implementation of core global and regional human rights treaties is monitored by committees, which are established under the treaties themselves. Other bodies that play a monitoring role in the implementation of human rights standards include the Human Rights Council, the Universal Periodic Review, and the Committee of Experts on the Application of ILO Conventions and Recommendations. Below are examples of how the CEDAW Committee and the group of experts on action against violence against women and domestic violence of the Istanbul Convention are expected to monitor their respective conventions:

#### CEDAW:

- For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems. (Article 17)
- States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect: (a) Within one year after the entry into force for the State concerned; (b) Thereafter at least every four years and further whenever the Committee so requests. 2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention. (Article 18)

NOTE: The Committee's rules of procedure allow for the submission of confidential reports from non-State actors. The Committee issues Concluding Observations

and Recommendations to State Parties upon submission of the latter's State Party Reports.

#### The Istanbul Convention:

- The Group of Experts on action against violence against women and domestic violence (hereinafter referred to as "GREVIO") shall monitor the implementation of this Convention by the Parties.
- GREVIO shall be composed of a minimum of 10 members and a maximum of 15 members, taking into account a gender and geographical balance, as well as multidisciplinary expertise. Its members shall be elected by the Committee of the Parties from among candidates nominated by the Parties for a term of office of four years, renewable once, and chosen from among nationals of the Parties. (Article 67)
- Parties shall submit to the Secretary General of the Council of Europe, based on a questionnaire prepared by GREVIO, a report on legislative and other measures giving effect to the provisions of this Convention, for consideration by GREVIO.
- GREVIO shall consider the report submitted in accordance with paragraph 1 with the representatives of the Party concerned.
- Subsequent evaluation procedures shall be divided into rounds, the length of which is determined by GREVIO. At the beginning of each round GREVIO shall select the specific provisions on which the evaluation procedure shall be based and send out a questionnaire.
- GREVIO shall define the appropriate means to carry out this monitoring procedure. It may in particular adopt a questionnaire for each evaluation round, which shall serve as a basis for the evaluation procedure of the implementation by the Parties. This questionnaire shall be addressed to all Parties. Parties shall respond to this questionnaire, as well as to any other request of information from GREVIO.
- GREVIO may receive information on the implementation of the Convention from NGOs, and civil society, as well as from national institutions for the protection of human rights.
- GREVIO shall take due consideration of the existing information available from other regional and international instruments and bodies in areas falling within the scope of this Convention.



- When adopting a questionnaire for each evaluation round, GREVIO shall take due consideration of the existing data collection and research in the Parties as referred to in Article 11 of this Convention.
- GREVIO may receive information on the implementation of the Convention from the Council of Europe Commissioner for Human Rights, the Parliamentary Assembly and relevant specialised bodies of the Council of Europe, as well as those established under other international instruments. Complaints presented to these bodies and their outcome will be made available to GREVIO.
- GREVIO may subsidiarily organise, in co-operation with the national authorities and with the assistance of independent national experts, country visits, if the information gained is insufficient or in cases provided for in paragraph 14. During these visits, GREVIO may be assisted by specialists in specific fields.
- GREVIO shall prepare a draft report containing its analysis concerning the implementation of the provisions on which the evaluation is based, as well as its suggestions and proposals concerning the way in which the Party concerned may deal with the problems which have been identified. The draft report shall be transmitted for comments to the Party which undergoes the evaluation. Its comments shall be taken into account by GREVIO when adopting its report. (Article 68)



### Tips:

#### How to Successfully Engage with CEDAW

To turn CEDAW into a practical lever for progress, treat engagement not as a box-ticking exercise but as a sustained advocacy opportunity.

##### 1. Use the State report cycle to push for legal reform

When preparing the periodic State Party report under Article 18, governments can foreground the status of discriminatory laws and commit to time-bound reform. The CEDAW Committee's concluding observations often contain detailed recommendations on discriminatory laws, which governments can then adopt as reform agendas.

##### 2. Build coalitions and collaborate with NHRIs

Commonwealth countries with strong national human rights institutions (NHRIs) should embed those bodies in the reporting and follow-up process. NHRIs can help convene civil society, offer technical support on drafting, monitor implementation of CEDAW's recommendations, and engage directly with the Committee. When NGOs and NHRIs coordinate, their inputs carry more weight and reduce duplication.

##### 3. Hold your government accountable post-Concluding Observations

Once the Committee issues its Concluding Observations, monitor whether the recommendations are included in subsequent reports, national budgets, or legal reform plans.

##### 4. Use the CEDAW process to generate media attention

The CEDAW review process can be a powerful public spotlight. Publicizing identified discriminatory laws and the Committee's demand for reform can raise political costs for inaction.

##### 5. Embed the process in a longer-term strategy

Working with CEDAW can be part of a broader strategy: link it with domestic legal and constitutional challenges, parliamentary advocacy, strategic litigation, and efforts under other human rights instruments (e.g. intersection with CRC and ILO conventions). Over time, repeated cycles can help shift norms, strengthen judicial interpretation, and make non-discrimination a more firmly internalized principle in lawmaking.

### 3.5 General Recommendations of the CEDAW Committee

The CEDAW Committee publishes general recommendations on emerging or essential issues affecting women to which it believes the States Parties should devote more attention. The recommendations provide guidance to States parties on their obligations to eliminate discrimination and achieve substantive equality for women.

By the end of 2024, the Committee had adopted 40 general recommendations to guide Member States on how to address such issues. The full list of final general recommendations are available in the box below and the [database](#) of the Office of the High Commissioner for Human Rights (OHCHR).

#### BOX 3.6:

#### General Recommendations of the CEDAW Committee

1. Reporting by States parties (1986)
2. Reporting guidelines (1987)
3. Education and public information programmes (1987)
4. Reservations (1987)
5. Temporary special measures (1988)
6. Effective national machinery and publicity (1988)
7. Resources (1988)
8. Implementation of Article 8 of the Convention (1988)
9. Statistical data (1989)
10. Tenth anniversary of the adoption of CEDAW (1989)
11. Technical advisory services for reporting obligations (1989)
12. Violence against women (1989)
13. Equal remuneration for work of equal value (1989)
14. Female circumcision (1990)
15. Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS) (1990)
16. Unpaid women workers in rural and urban family enterprises (1991)
17. Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product (1991)
18. Disabled women (1991)
19. Violence against women (1992)
20. Reservations to the Convention (1992)
21. Equality in marriage and family relations (1994)
22. Amending Article 20 of the Convention (1995)
23. Political and public life (1997)
24. Article 12 of the Convention (women and health) (1999)
25. Article 4, paragraph 1, of the Convention, on temporary special measures (2004)
26. Women migrant workers (2008)
27. Older women and protection of their human rights (2010)
28. Core obligations of States parties under article 2 of the Convention (2010)
29. Article 16 – Economic consequences of marriage, family relations and their dissolution (2013)
30. Women in conflict prevention, conflict and post-conflict situations (2013)
31. Harmful practices (joint General Recommendation/General Comment with Committee on the Rights of the Child) (2014)
32. Gender-related dimensions of refugee status, asylum, nationality and statelessness of women (2014)
33. Women's access to justice (2015)
34. Rights of rural women (2016)
35. Gender-based violence against women, updating general recommendation No. 19 (2017)
36. Right of girls and women to education (2017)
37. Gender-related dimensions of disaster risk reduction in the context of climate change (2018)
38. Trafficking in women and girls in the context of global migration (2020)
39. Rights of Indigenous women and girls (2022)
40. Equal and inclusive representation of women in decision-making systems (2024)

### 3.6 Communications/Complaint Procedures

Eight out of the nine core international human rights instruments are complemented by Optional Protocols, which permit their respective monitoring bodies to consider complaints (or communications) of violations of rights that are protected under the specific instrument. As a basic condition for setting such a process in motion, the Optional Protocol in question must have been ratified by the State concerned and domestic channels and remedies must have been explored and

exhausted. The full preconditions for setting the CEDAW Committee's Communications Procedure in motion are listed in Articles 1-4 of the Optional Protocol to CEDAW.<sup>128</sup>

To date, individual communications have been submitted against the governments of Australia, Canada, Sri Lanka, Tanzania (see example in Box 3.7 below), and the United Kingdom.<sup>129</sup>

#### BOX 3.7:

#### Women-Led Organizations in Tanzania Initiate Action on Discriminatory Inheritance Laws, Using the Communications Procedure of CEDAW

Following extensive legal proceedings, the Women's Legal Aid Centre (a non-profit organization in Dar es Salaam, Tanzania) and the International Women's Human Rights Clinic (Georgetown University Law Center, United States) submitted a communication under the Optional Protocol to CEDAW. The case concerned two widows in Tanzania (E.S. and S.C.) who, under Tanzania's customary inheritance law, were denied the right to inherit or administer the estates of their late husbands. Thereafter, they, along with their minor children, were evicted from their homes by their in-laws. The submission alleged that millions of other women in Tanzania remain governed by discriminatory customary laws and experience the same violations encountered by the two women in this case.

In its decision, the Committee criticized the patrilineal inheritance law (inheritance by persons related through male kin) that left E.S. and S.C. "economically vulnerable, with no property, no home to live in with their children and no form of financial support." It was noted that such a state of vulnerability has restricted the economic autonomy of the two women, preventing them from enjoying equal economic opportunities. The Committee emphasized that women's equal rights to own, administer and enjoy property is "central to their financial independence and may be critical to their ability to earn a livelihood and to provide adequate housing and nutrition for themselves and for their children, especially in the event of the death of their spouse."

The Committee held that Tanzania, by condoning legal restraints on inheritance and property rights that discriminate against women, had violated several articles under CEDAW, including, among others, provisions pertaining to equality before the law [15 (1), 15 (2)], the right to bank loans, mortgages and other forms of financial credit [13 (b)], and the same rights for both spouses in respect of the ownership, management, administration and enjoyment of property [16(1)(h)]. In reaching its conclusion, the Committee also considered a number of its general recommendations, particularly No. 29, which explicitly prohibits disinheritance of the surviving spouse.

The Committee finally called on Tanzania to grant E.S. and S.C. appropriate reparation and adequate compensation, commensurate with the seriousness of the violations of their rights. Moreover, the Committee urged Tanzania to repeal or amend its customary laws, including on inheritance, to bring them into full compliance with CEDAW requirements.

Source: E.S. & S.C. v. United Republic of Tanzania, CEDAW/C/60/D/48/2013 Communication No. 48/2013 - ESCR-Net



### 3.7 Regional Complaint Mechanisms

- Communication procedures of the African Commission on Human and Peoples' Rights in relation to the African Charter on Human and Peoples' Rights. See the Commission's [jurisprudence](#).
- Application procedure of the European Court of Human Rights, which rules on individual or State applications alleging violations of the civil and political rights set out in the European Convention on Human Rights. See the Commission's [judgments and decisions](#).
- The petition system of the Inter-American Commission on Human Rights in relation to the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and other inter-American human rights treaties. See the Commission's [jurisprudence](#).

### 3.8 Special Procedures

The special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective.<sup>130</sup> Of relevance to addressing *de jure* discrimination in the Commonwealth are the 46 thematic mandates currently in place. These include:

- Working Group of Experts on People of African Descent
- Special Rapporteur on the promotion and protection of human rights in the context of climate change
- Special Rapporteur in the field of cultural rights
- Special Rapporteur on the right to development
- Special Rapporteur on the rights of persons with disabilities
- Special Rapporteur on the right to education
- Special Rapporteur on the right to a clean, healthy and sustainable environment
- Special Rapporteur on the right to food
- Special Rapporteur on trafficking in persons, especially women and children
- Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity
- Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health
- Special Rapporteur on the rights of indigenous peoples
- Special Rapporteur on minority issues
- Special Rapporteur on extreme poverty and human rights
- Special Rapporteur on violence against women and girls, its causes and consequences
- Working Group on discrimination against women and girls

Also of relevance to the Commonwealth are the mandated Special Procedures of the Inter-American Commission on Human Rights<sup>131</sup> (e.g., women, children, indigenous peoples, the rights of Afro-descendants against racial discrimination, lesbian, gay, trans, bisexual, intersex) as well as those of the African Commission on Human and Peoples Rights<sup>132</sup> (e.g., Special Rapporteur on the Rights of Women in Africa; Working Group on Indigenous Populations/Communities and Minorities in Africa).

These Special Procedures undertake country visits, at the invitation of governments, to assess specific human rights situations related to their mandates. For example, Malta, the Maldives and Samoa are among the 25 countries that the Working Group on discrimination against women and girls has visited since it was formed in 2012. It made the following observations to the Government of Malta following its visit in 2023:

*The Working Group's visit came at a critical juncture, amidst a vibrant debate surrounding gender equality, particularly the crucial issue of women's sexual and reproductive health rights. While Malta has made significant strides in several aspects of gender equality, especially women's economic participation as well as educational attainment, it still faces considerable challenges. These shortcomings encompass various dimensions, including deep-rooted gender stereotypes, the persistent underrepresentation of women in leadership positions, the need for improved work-life balance, the prevalence of violence against women, and the existence of a gender and pension pay gap.*

*Malta stands at a unique moment, offering an opportunity to accelerate progress on gender equality and women's and girls' human rights while simultaneously*

*strengthening the economy. It is imperative to prioritize the full and equal participation of women and girls in shaping the country's future. Achieving this goal, however, hinges on dismantling existing gender stereotypes that currently restrict opportunities for both women and men*

*in all their diversity. By challenging and transcending harmful traditional gender roles and expectations, Malta can unlock the potential of all persons and create a society where equality thrives.<sup>133</sup>*



**Tip:**

Country visits of Special Procedures are always at the instance of Member States. Where you see a need for a visit by a particular Special Procedure due to specific women's rights-related violations taking place, work with partners to lobby relevant government ministries and agencies to request and facilitate such a visit, providing reasons that are linked to the national interest.

### 3.9 The Women, Peace and Security Agenda

While the Commonwealth has been and remains relatively peaceful, it is still critical for practitioners and advocates to be aware of the global norms and standards that govern the international peace and security agenda. These consist of the following:

**International humanitarian law:** Accountability for grave violations of human rights is well established under the four Geneva Conventions and their additional protocols, as well as the Rome Statute, which establishes the International Criminal Court (ICC). This regime of international law protects persons who are not, or no longer, directly or actively participating in hostilities, and imposes limits on the modalities of war.<sup>134</sup> The Rome Statute identifies rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence as also constituting a grave breach of the Geneva Conventions if “committed as part of a plan or policy or as part of a large-scale commission of such crimes.”<sup>135</sup>

**UN Security Council Resolutions:** The UN Security Council (UNSC) has issued a host of resolutions related

to the international peace and security agenda. UNSC Resolution 1325 of 2000 on Women, Peace and Security (WPS), was, however, the first to link women to this sphere of concern, acknowledging that armed conflicts impact women and girls differently than men and boys, as well as the need for women's active and effective participation in peacemaking, including peace processes and peacebuilding.<sup>136</sup> The UNSC has adopted nine additional resolutions on WPS since 2000.<sup>137</sup> The 10 resolutions may be categorized into two broad groups, namely, those that promote women's active and effective participation in peacemaking and peacebuilding and those that aim to prevent and address conflict-related sexual violence. These are presented below in Box 3.4.

While focused on peacekeeping, UNSC Resolution 2538 requires Member States, the UN Secretariat and regional organizations to strengthen their collective efforts to promote the full, effective, and meaningful participation of uniformed and civilian women in peacekeeping operations at all levels and in all positions, including in senior leadership positions.<sup>138</sup>

**BOX 3.4:****The Nexus Between Gender Equality and the International Peace and Security Agenda****Resolutions on Women's Active and Effective Participation in Peacemaking and Peacebuilding**

1. Resolution 1325 (2000) recognizes the critical role of women in peacebuilding, conflict prevention, and resolution. It emphasizes the need to include women in decision-making processes related to peace and security.
2. Resolution 1889 (2009) emphasizes the importance of women's participation in peacebuilding and conflict resolution efforts. It calls for increased representation of women in decision-making bodies.
3. Resolution 2122 (2013) focuses on conflict prevention and calls for integrating gender perspectives into early warning systems and conflict analysis. It also emphasizes women's role in preventing conflicts.
4. Resolution 2242 (2015) highlights the importance of women's leadership in peace and security efforts. It encourages member states to increase women's participation in security institutions.
5. Resolution 2493 (2019) underscores the need to protect women human rights defenders and promote their safety. It recognizes the risks faced by women advocating for peace and security.

**Resolutions on Prevention and Response to Conflict-related Sexual Violence**

1. Resolution 1820 (2008) addresses the issue of sexual violence during armed conflicts. It condemns sexual violence as a tactic of war and calls for accountability for perpetrators.
2. Resolution 1888 (2008): builds upon Resolution 1820, focusing on preventing and responding to sexual violence in conflict situations. It establishes mechanisms to enhance protection for women and girls.
3. Resolution 1960 (2010) addresses the issue of impunity and highlights the need to hold perpetrators accountable for sexual violence committed during conflicts. It also emphasizes support for survivors.
4. Resolution 2106 (2013) reaffirms the commitment to women's participation in peace processes and emphasizes the importance of gender-sensitive approaches to peacebuilding.
5. Resolution 2467 (2019) addresses the issue of sexual violence in conflict, emphasizing comprehensive survivor-centered responses, including access to sexual and reproductive health services.

**Tip:**

Locate your government's national action plan on Women, Peace and Security to determine entry points and opportunities for engagement, advocacy, policy and legal reforms.

To date, 12 Commonwealth countries have produced national action plans on Women, Peace and Security in line with UNSCR 1325.<sup>139</sup>



### 3.10 Key Actors in Legislative Change in the Commonwealth

A wide range of stakeholders from across sectors and ministries/agencies have key roles to play in legislative reform and advocacy processes and can contribute to

promoting change. Table 3.10 highlights examples of key actors and their roles and responsibilities.

**TABLE 3.10:**  
**Roles and Responsibilities of Key Stakeholders in Legislative Reform**

Stakeholders	Roles and responsibilities
<b>Parliamentarians and legislators</b>	Play a leadership role in establishing and implementing legal and policy frameworks and ensure their effective enforcement by relevant stakeholders and institutions. Parliamentarians are typically responsible for drafting and introducing laws and debating such laws on the floor of parliaments or assemblies.
<b>Civil society organizations, including women's rights organizations, youth networks, and activists</b>	Play an important role in legislative reform processes through direct advocacy and lobbying of policymakers and decision makers; holding governments accountable to human rights commitments made at global and regional levels; public interest litigation; training key stakeholders, including law enforcement, judicial officials and registrars on legal provisions and their implementation; and implementing programmatic and legal provisions, including support services and legal advocacy.
<b>Judicial court system</b>	Responsible for the administration of justice and may use child-friendly and gender-sensitive legal procedures. They also interpret laws passed by the legislative branch and enforced by the executive branch.
<b>Ministries of education</b>	Design, implement, monitor and evaluate educational policies and programmes and ensure that all children have access to free and compulsory primary education and can equally access secondary education without discrimination. Design human rights education programmes for transforming behaviors and attitudes for advancing gender equality.
<b>Ministries of health and social welfare</b>	Protect and promote public health, including sexual and reproductive health rights and social welfare. The health sector is also responsible for the design, implementation, monitoring and evaluation of health policies and social protection, programmes and guidelines.
<b>National human rights institutions</b>	Ensure compliance and reporting on the implementation of human rights treaty obligations of State Parties.

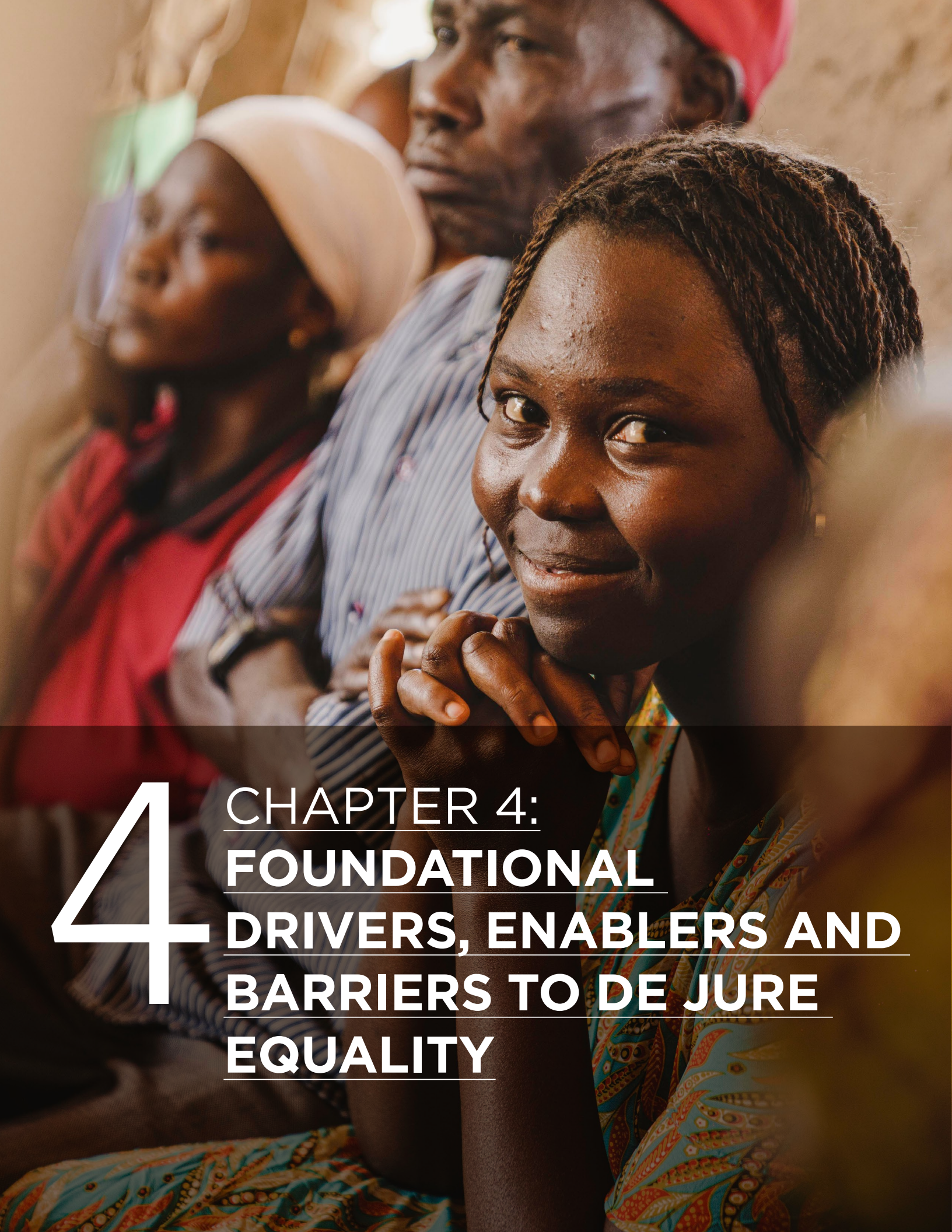
<b>Representatives of customary and religious law and justice systems, local chiefs, and traditional authorities</b>	Serve as advocates for the implementation of gender equality laws and the elimination of harmful practices and social norms.
<b>Other stakeholders</b>	Play roles and have responsibilities in legislative reform processes. These stakeholders include police; administrative institutions; ministries of finance (allocation of budgets for the design and implementation of laws); ministries of community development and traditional affairs; ministries of local government; the UN system; and the private sector.
<b>National gender machineries</b>	Coordinate all of the above institutions and the overall agenda on gender equality.

Source: Modified from UNFPA and UNICEF (2020). *Child Marriage and the Law: Technical Note for the Global Programme to End Child Marriage*.

While these international frameworks create important standards, Chapter 4 examines how domestic legal traditions, constitutional structures, and political contexts act as drivers or barriers to realizing equality in practice.





A photograph of a group of people, likely in a community setting. In the foreground, a woman with dark skin and braided hair is looking towards the left with a slight smile, her hands clasped together. Behind her, a man in a blue and white striped shirt and a woman in a red top and white headscarf are also looking in the same direction. The background is slightly blurred, showing more people and a warm, indoor environment.

# 4

CHAPTER 4:  
FOUNDATIONAL  
DRIVERS, ENABLERS AND  
BARRIERS TO DE JURE  
EQUALITY





**Key Messages:** The Commonwealth has made key strides in gender equality legislative reforms to ensure compliance with its obligations under international law. Yet still more work needs to be done to address and leverage the direct and indirect ways in which pre-colonial, colonial and post-colonial policies, legal frameworks, and institutions have either hindered or accelerated the achievement of *de jure* equality. Among the key issues to be highlighted in this Chapter are some enduring features of colonial views of women's rights, the impacts of legal systems, the role of constitutions, and the approaches being used to integrate international treaties into domestic law.

**Uses:** This Chapter can be used for identifying some of the root causes and structural barriers to the design of gender equality legislation.

## 4.1 Introduction

Having mapped the treaty frameworks and monitoring mechanisms, this chapter examines the domestic drivers, enablers, and barriers that determine how global standards are incorporated into national laws.

It places a gender lens on foundational issues already discussed in previous sections and aims to provide a deeper understanding of how legal systems, received law, religious law, customary law, statutory law and

international human rights law have impacted women's legal rights. It also elaborates on how measurement frameworks of the 2030 Agenda for Sustainable Development and the World Bank Group's *Women, Business and the Law* have contributed to a greater appreciation of women's legal rights across different thematic areas over time.

## 4.2 Received Law

The received law from Britain into the former British Empire was broad, covering all sectors. This subsection is limited to those areas which impact the socioeconomic, civil, and political rights of women, especially in the context of marriage, family, and employment relations.

### *The Common Law Doctrine of Coverture*

For a major part of women's lives, British law and policy were overtly discriminatory towards women across the life cycle in several ways. An example was the introduction of the common law doctrine of coverture, which defined the legal status of a married woman in relation to her husband.<sup>140</sup> In a famous passage from the first volume of his 1765 Commentaries, Sir William Blackstone<sup>141</sup> described the doctrine in the following way:

*"By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and*

*consolidated into that of the husband: under whose wing, protection, and cover, she performs everything; and is therefore called in our law-French a feme-covert .... A wife was not a full juridical being in the eyes of the common law, and she possessed only a limited set of legal rights. A married woman could not sue or be sued; she could not form contracts or buy and sell property apart from her husband. Moreover, once a woman was married, any property that the woman brought to the marriage came under the control of her husband. The common law courts prioritized the rights of the husband as the head of the household over those of the woman who was "covered."*

Inherent in the doctrine of coverture was the marital rape exemption, which was enunciated by Sir Matthew Hale in his History of the Pleas of the Crown (1736) as follows:



*“But the husband cannot be guilty of rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given herself up in this kind unto her husband which she cannot retract.”*

Although it was not consistently applied, the doctrine affected women’s property rights and their ability to sue and enter into contracts independently of their husbands.<sup>142</sup> It was partially eroded through various Married Women’s Property Acts of 1870, 1882, 1893, 1907, and 1964. Coupled with these reforms were the Law Reform (Married Women and Tortfeasors) Act 1935, the Married Women (Restraint upon Anticipation) Act 1949, and the Married Women (Restraint Upon Anticipation) Act (Northern Ireland) 1952.<sup>143</sup> The doctrine of coverture continued to underpin the marital exemption until it was abolished through a judicial decision in 1991.

#### *The Marriage Bar*

In addition to the laws on marriage and divorce, employment policy was aimed at safeguarding reproduction and the family.<sup>144</sup> Therefore, women faced employment segregation, lower wages than men for the same work and limited opportunities for promotion, and married women were worse off than their unmarried counterparts.<sup>145</sup> The UK Government’s “Marriage Bar” was the practice of restricting the employment of married women in the public service, affecting women’s ability to enter the government-based work force, such as the post office,<sup>146</sup> until it was abolished in 1946. It is also notable that the desk review did not reveal the participation of women in the colonization process, including as governors of any of the colonies, nor is there evidence that they were involved in the executive, legislative or judicial affairs of the State, including at the traditional level. Therefore, the culture of exclusion of women participating in governance and administration in the UK was carried into the management of the former British Empire as a whole.

The First and Second World Wars, however, brought about shifts in gender relations in Britain: the legal position of the suspension of a woman’s identity on marriage was itself suspended with the deployment of husbands and sons to the war. According to official labour statistics, men between the ages of 18 and 41

were drafted into these wars. The male labor force within Britain fell sharply, with more than one third of men deceased, leading to families losing economic support. In Britain, women assumed the socially assigned roles of husbands and fathers within the household and labour force.<sup>147</sup> As a consequence, by July 1914, the number of employed women in the UK had reached 5,020,000, increasing sharply to 5,490,000 by mid-April 1916, which was about five times normal peacetime increases.<sup>148</sup> Out of an estimated 17 million women between the ages of 14 years and 64 years at the time, over 7.5 million were deployed in industry, civil defense and the armed forces, to the extent that the proportion of women doubled that of the peak year of 1918 by 1944.<sup>149</sup>

In engineering, the percentage of women in the total labor force rose from 16 to 35 percent between 1940 and 1943.<sup>150</sup> Significant increases were also observed in the aircraft industry, in which by 1943 women constituted 40 percent of the labour force, compared to 12 percent in 1940.<sup>151</sup> Women were also “running fire stations, driving ambulances, and chopping down trees for the forestry commission, they proved that they could do it, and—more than that—they proved that they had the brains, the strength, and the resourcefulness to do it on their own.”<sup>152</sup>

Another source suggests that the Women’s Auxiliary Air Force established in 1939 attracted a quarter of a million women in over 110 different civilian trades, supporting operations around the world.<sup>153</sup> In education, young women filled spaces left by men in universities, studying sciences, medicine, and law, including the UK’s first female Prime Minister, Margaret Thatcher, who studied chemistry at Oxford during the war.<sup>154</sup>

In the UK, women experienced a rollback on their rights after each war ended, as post war years created a new demand for population growth and additional teachers, social workers, and health workers.<sup>155</sup> After the second World War, for example, a Royal Commission was formed to inquire into the causes of declining birth rates.<sup>156</sup> The link between women’s employment and the care economy therefore manifested again.<sup>157</sup> Furthermore, trade unions were resistant to changes in the existing remuneration structure – their object being “to keep women’s wages at a reasonable level in order to protect the men.”<sup>158</sup> Furthermore, a 1942 survey

revealed that over a third of women – war workers and prewar workers together – reported giving up industrial work after the war.<sup>159</sup>

#### *Legal Frameworks on Marriage and Divorce*

Laws in relation to marriage and divorce (matrimonial causes) formed another important aspect of received law. Early legislation discriminated against women who sought to divorce their husbands through a rigorous fault-based system which did not exist for men. Box 4.2 highlights how such laws have evolved over time.

#### **BOX 4.2:**

#### **Key Milestones in Marriage and Divorce Legislation**

**Before 1857:** Divorce was rare.

**Matrimonial Causes Act, 1857:** This law provided that a husband could divorce his wife on the basis of adultery alone, while a wife needed to prove adultery and other faults such as incest, bigamy, rape, sodomy, bestiality or cruelty.

**Matrimonial Causes Act, 1923:** This Act granted women the right to divorce their husbands for adultery.

**Divorce Reform Act, 1969:** This law provided for partial no-fault divorce, under which “irretrievable breakdown” of the marriage became the sole ground for divorce. Factors to provide this included adultery, unreasonable behaviour, desertion, two years’ separation with the consent of both parties, or five years separation if only one party consented to the divorce.

**Matrimonial Causes Act, 1973:** This Act consolidates certain enactments relating to matrimonial proceedings, maintenance agreements, declarations of legitimacy, validity of marriage, and British nationality. The law lacked precise provisions on how marital property should be divided, leaving it to the discretion of the judge, and was therefore unpredictable.

**Divorce Dissolution and Separation Act, 2020:** This law abolished the fault-based system of divorce by limiting the sole ground for divorce to one or both of the parties believing that the marriage has irretrievably broken down, without needing to provide evidence of the breakdown of the marriage.

Sources: A Very Short History of Divorce Law in England - SE Solicitors; 100 Years: Matrimonial Causes Act of 1923 | British Online Archives; Changes in divorce: the 20th century - UK Parliament and Matrimonial Causes Act 1973.

## **4.3 Legal Systems Across the Commonwealth and their Impact on Women’s Rights**

Chapter 2 of the Handbook examined key ingredients that influence a country’s legal system. For the Commonwealth, these are customary laws, religious laws, and received laws from one or more colonizing countries. With the exception of countries that were not colonized by Britain (Gabon, Mozambique, Togo, and Rwanda), the English Common law, the doctrines of equity and statutes of general application (received law) are the most common features of the legal systems of

Commonwealth countries because they were officially introduced to all parts of the British Empire through Acts of Parliament. It must also be recalled from Chapter 2 that some Commonwealth countries were influenced by Roman-Dutch Law and civil law from Germany, France, and Spain. The legal systems of countries of the Commonwealth can therefore be generally described as “plural” or “mixed” legal systems, by virtue of the different sources of law that govern and influence legislative

design, as well as the institutions and modalities for domesticating international treaties. The implications of plural/mixed legal systems on women's rights must therefore be studied by practitioners and advocates as a basis for effective law reforms in favour of women and girls. The following highlight the implications of customary laws, religious laws, statutory laws, and the domestic law integration process on women's rights.

#### Customary laws:

As discussed in Chapter 2, it is not possible to describe the customary laws of one country, let alone a whole community of nations such as the Commonwealth. This is because customary laws differ by community and sometimes by lineage. The challenge of condensing the legal histories of women of countries which presently constitute the Commonwealth has been underscored in the Introduction. While the legal status of women in the pre-colonial era was not linear, kinship systems served as a common tool for ascertaining rights and duties of individuals in society.<sup>160</sup>

One of the means by which some societies prescribe rights and duties has been through the matrilineal and patrilineal kinship system.<sup>161</sup> Patrilineal systems generally accord rights of succession to property and leadership to a man's sons and brothers, whereas in matrilineal systems this is accorded to his sister's male and female children.<sup>162</sup>

For example, in India, female-headed households and matrilineal inheritance patterns existed among various castes and tribes along the Malabar coast in southern India.<sup>163</sup> Similarly, Besson observes that "Throughout the English-speaking Caribbean the management of family land is vested in kin groups and family land trustees, who may be of either gender and frequently are women."<sup>164</sup> Most significantly, he asserts that Caribbean unofficial tenures, based on cognatic descent traced through both women and men, have overturned Eurocentric and androcentric (male-biased) plantation primogeniture.<sup>165</sup> Duncan asserts that in matrilineal societies, unmarried women had equal usufructuary rights, with their brothers, to family and community land, as long as they demonstrated the capacity to develop it.<sup>166</sup> If she grew tree crops, it was automatically converted into a proprietary interest in land. If she married someone outside of her community, she could still keep her land

in perpetuity and pass it on to her children.<sup>167</sup> However, women who grew only food crops stood the risk of forfeiting their land on marriage because it lacked proprietary protection.<sup>168</sup> Amanor provides examples of matrilineal women who intentionally gifted or bequeathed land to their daughters in their lifetime to maintain the land in the female line.<sup>169</sup>

In contrast, wives and daughters in patrilineal systems are treated as strangers at each stage of the life cycle by their families, communities, as well as in marriage. Prior to marriage, their families treat them as strangers because it is anticipated that they will eventually leave through marriage.<sup>170</sup> Upon marriage, patrilineal women continue to be treated as strangers because they are deemed to belong to another family. Therefore, women in these societies are generally not permitted to grow tree crops on family land or the land belonging to their husbands, and land devolves strictly through the male line to ensure that it remains in the family.<sup>171</sup> The folklore behind these norms lies in the perception that women are "gossips" and may divulge family secrets to the clan or lineage of her husband.<sup>172</sup>

There is also evidence to suggest that the doctrine of coverture did not apply in pre-colonial Ghana, where Opoku (1976) suggests that "In marriage, customary law recognized the separate identities of the parties in addition to their rights to acquire property independently of each other." Women could also sue and be sued, including actions against a husband in civil proceedings such as tort.<sup>173</sup>

Furthermore, during colonial times, judicial precedent emerging from the courts raised concerns among the Parsi community concerning the potential influence of the English law of primogeniture (under which the eldest son inherits the whole property), a principle that was alien to Parsi customs. Therefore, the community successfully negotiated the enactment of the Parsees Immovable Property Act of 1837, which exempted them from the English rule of primogeniture and in its place granted Parsi widows a share of the property, with inheritance divided equally amongst the children and their descendants.<sup>174</sup>

Various sources suggest that in many parts of Africa, women also wielded significant authority as traditional leaders, whether as rulers, co-rulers with male

relatives, religious titleholders, or market queens.<sup>175</sup> Many appointed chiefs and kings, arbitrated disputes, and distributed resources. A few notable women also led their communities in the resistance to colonial rule.

A number of feminists have propounded the theory of “retrograde steps” to underscore how colonialism and its modern form, neo-colonialism, resulted in a divesting of women of their “former rights.”<sup>176</sup> While many of these powers were diminished under colonial rule, the authority that they are perceived to wield remains a paradox. For example, writing about the land tenure system of South Africa, Jacobs recounts that “the power of traditional authorities, even tempered by an African land ethic, presents complexities and ambiguities for women.”<sup>177</sup> While matrilineal queen mothers play a central role in the election and enstoolment of chiefs in Ghana, Aidoo emphasizes that the position of the queen mother has been “very often eclipsed and overwhelmed by the numerically superior male actors in the political arena.”<sup>178</sup> In reference to the patrilineal Ewe, Kludze (2000) points out that queen mothers do not have any role to play in the election of chiefs, let alone warfare.<sup>179</sup> In an earlier publication, he asserts that chieftaincy tribunals form the nuclei of Ewe customary law development and that only adult male citizens had rights of active participation.<sup>180</sup>

Customary norms also developed around the division of labour between women and men in the family and community. In the early days of state formation, the primary role of men was to protect the family, hunt for food and engage in territorial expansion.<sup>181</sup> The terrain of newly acquired land was often dangerous and populated by dense forest and animals. Conquest was therefore largely dependent on the ability of the invader to clear land and occupy it. This state of affairs provided men with a unique advantage over women due to the sheer physical exertion needed to acquire land through conquest, which paved the way for predominantly male ownership, control and leadership over communities.<sup>182</sup>

#### Religious laws:

Religious norms are also immensely diverse and cannot be reduced to a monolithic value system. As noted in Chapter 2, Christianity, Islam, and Hinduism form the

three most dominant religions of the Commonwealth. Feminist literature and activism are replete with analysis and insights into the impact of various religions on the achievement of gender equality and the empowerment of women.

A foundational observation is that patriarchy is reinforced by a constellation of forces. Therefore, feminists look beyond the letter of the law and examine the cultural, social, religious, and economic forces behind women’s oppression.<sup>183</sup> Padilla and Winrich (1991) argue that religion shapes societal values and norms and is similarly shaped by societal beliefs and priorities. The historical consequence of this interaction is that religion plays a role in “being shaped by and in sacralizing the social patterns of sexism.”<sup>184</sup> For example, Ecclesiastical Courts, which existed in England in the 16<sup>th</sup> and 17<sup>th</sup> centuries, were known to strictly apply the doctrine of coverture as discussed in Chapter 3. The theory that on marriage a wife gave her body to her husband was accepted, as decided in the case of *Popkin v. Popkin*, in which the court held that “The husband has a right to the person of his wife,” unless “her health is endangered.”<sup>185</sup>

#### Statutory laws:

After ratifying several of the regional and global norms and standards discussed in Chapter 3, States must appreciate that women and girls look to them for protection against discrimination in law. Regrettably, modern day legislation is not devoid of discrimination towards women. Furthermore, men form over 70 percent of lawmakers around the world. It is therefore appropriate to state that “In the beginning, law was male. Law was made by men, though it was enforced against women as well as men and it was practiced only by men until relatively recently in human history.”<sup>186</sup> CEDAW and other global and regional instruments are very clear on the need for State Parties to address legal inequality through appropriate statutory measures. For CEDAW specifically, this means States Parties must enshrine equality between men and women in their constitutions or legislation, prohibit and sanction discrimination, establish effective legal protection, and repeal or reform discriminatory laws, customs, and practices to ensure women’s full enjoyment of human rights and fundamental freedoms.



## 4.4 Dualist and Monist Approaches to the Integration of CEDAW into Domestic Law

Chapter 2 elaborates on the different policy entry points being used by Commonwealth countries in their pursuit of integrating international treaties into domestic law. It highlights that the dualist approach, by which an Act of Parliament is required as a precondition to the adoption of treaties, is the most common approach in the Commonwealth. This means that treaties which have been ratified by Member States do not have direct application.

The CEDAW Committee has generally signaled to Commonwealth countries that direct and timely incorporation of the Convention into domestic law is the best approach to achieving *de jure* equality, regardless of the policy approach adopted by the country concerned. This “soft law” being applied by the Committee calls for change in the status quo. Below are examples of how the Committee has recommended the adoption of the Convention to Cameroon, Sierra Leone, Togo, Lesotho, Malta, and Papua New Guinea, based on their methods of incorporation of international treaties:

### *Recommendations to monist States*

#### Cameroon

The Committee is concerned that the supremacy of international conventions over national legislation, foreseen in article 45 of the Constitution, is not efficiently implemented given the many discriminatory provisions contained in the legal system and its coexistence with common law, statutory law, customs and traditions.<sup>187</sup>

#### Togo

While recalling that the Convention forms an integral part of the domestic law of the State party and is at the same level as other international conventions, the Committee is concerned that, in legal practice, the application of the Convention has been limited and the Convention has not been given sufficient visibility as the legal basis for measures, including legislation and policy measures, for the elimination of all forms of discrimination against women and the promotion of gender equality in the State party.<sup>188</sup>

### *Recommendations to dualist States*

#### Sierra Leone

The Committee is concerned that, despite its ratification by the State party in 1988, the Convention has yet to be incorporated into the Sierra Leonean domestic legal system and is therefore not directly applicable in the courts.<sup>189</sup>

#### Malta

The Committee is concerned that the Convention has not received the same degree of visibility and importance as regional legal instruments, particularly the European Convention on Human Rights and Fundamental Freedoms and European Union directives, and is therefore not regularly used as the legal basis for measures, including legislation, aimed at the elimination of discrimination against women and the promotion of gender equality in the State party.

#### Lesotho

The Committee is concerned that although the Convention was ratified in 1995, it has not yet been incorporated into the domestic law of the State party, and as such, has no direct domestic application. The Committee urges the State party to give high priority to the process of fully incorporating the Convention into its domestic legal system in order to give central importance to the Convention as the basis for the elimination of all forms of discrimination against women.<sup>190</sup>

#### Papua New Guinea

The Committee is concerned that, although the Convention was ratified in 1995, it has not yet been accorded the status of domestic law under the Constitution or an Act of Parliament and does not form part of the domestic law of Papua New Guinea, hence having no direct domestic effect. The Committee urges the State party to proceed without delay with the full incorporation of the Convention into its domestic legal system in order to give central importance to the Convention as the basis for the elimination of all forms of discrimination against women and the achievement of gender equality.<sup>191</sup>

## 4.5 The 2030 Agenda for Sustainable Development

As stated above, drawing on the international human rights framework, SDG 5 aims to “achieve gender equality and empower all women and girls” through global measurements defined by Target 5.1: “End all forms of discrimination against women and girls everywhere,” and, in particular, the following three SDG 5 indicators which relate to the elimination of discrimination in law:

- **SDG indicator 5.1.1**, “whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex”. The methodology for data collection was designed by UN Women, the World Bank Group, and the OECD Development Centre. The indicator is monitored using a list of 42 questions falling under four areas, namely:
  - Area 1: overarching legal frameworks and public life
  - Area 2: violence against women
  - Area 3: employment and economic benefits
  - Area 4: marriage and family
- **SDG indicator 5.6.2**, “Number of countries with laws and regulations that guarantee full and equal access to women and men aged 15 years and older to sexual and reproductive health care, information and education.” The methodology for data collection was designed by the UNFPA.
- **SDG indicator 5.a.2**, “The proportion of countries where the legal framework (including customary law) guarantees women’s equal rights to land ownership and/or control.” The methodology for data collection was designed by FAO.

See Annex II for the scope of these indicators and the results of data collection to date.

SDG Indicator 5.1.1. data is available for 36 of the 56 Commonwealth Member States (64 percent), indicating a need to leverage the benefits of this indicator by improving data collection and monitoring across the Commonwealth. This will allow for a better understanding of whether Member States are fulfilling their SDG 5 obligations and will help identify trends and areas where targeted interventions are required to drive further progress.

From the available data, the analysis demonstrates that no country scores the maximum of 100 under Area 1 (overarching legal frameworks and public life), six countries (Australia, Solomon Islands, Fiji, Malta, Mauritius, and UK) score 100 under Area 2 (violence against women); five countries (Australia, Mauritius, New Zealand, Sierra Leone and UK) score 100 under Area 3 (employment and economic benefits) and four countries (Fiji, India, Sierra Leone and UK) score 100 under Area 4 (marriage and family).

The countries listed tend to perform well across all areas, indicating that these countries have invested in comprehensive reforms, although more needs to be done as legal gaps remain.

The data on SDG Indicator 5.6.2 was collected in 2019 from 107 countries, representing 75 percent of the global population. However, only 31, or 55 percent, of the 56 Commonwealth countries were included in this analysis. SDG indicator 5.6.2 measures 13 components across four sections as detailed in Table 4.5 below:

**TABLE 4.5:**  
**Components of SDG Indicator 5.6.2**

Maternity Care	Contraception and Family Planning	Comprehensive Sexuality Education (CSE) and Information	Sexual Health and Well-being
Maternity Care	Contraception	CSE Law	HIV Testing and Counselling
Life-saving Commodities	Consent for Contraceptive Services	CSE Curriculum	HIV Treatment and Care
Legal Status of Abortion Post-Abortion Care	Emergency Contraception		Confidentiality of Health Status of Men and Women Living with HIV
			HPV Vaccine

Source: Adapted from United Nations Population Fund, *Ensure universal access to sexual and reproductive health and reproductive rights*, Measuring SDG Target 5.6 (February 2020).

Namibia is the highest performer, scoring 96 percent for SDG indicator 5.6.2, followed closely by South Africa (95 percent), New Zealand, and Mozambique (94 percent each), UK (92 percent) and Zambia (91 percent). These countries generally score 100 percent across each of the sub areas highlighted in Table 4.5, and therefore demonstrate a comprehensive approach to women's sexual and reproductive health care services. On a related note, currently, 19 (34 percent) of the 56 Commonwealth countries have liberal laws on abortion in place.<sup>192</sup> The CEDAW Committee tends to issue recommendations to States Parties to the Convention on the issue of abortion with emphasis on decriminalizing and making it safe and accessible.

Data for SDG indicator 5.a.2 highlights significant variation in progress among Commonwealth countries. Scores range from a low of 1, shared by Belize, Ghana, Saint Lucia, and Sierra Leone, to a perfect score of 6 achieved by Rwanda, signifying that the target has been fully met. However, with data available for only 14 countries, it is challenging to draw broader conclusions for the Commonwealth as a whole.

Complementary to its work with UN Women and the OECD Development Centre, the World Bank Group's *Women, Business and the Law* annual reports rank 190 economies based on the extent to which they provide

an enabling environment for women's economic opportunity.<sup>193</sup> The findings of the WBL 2024 report (the most current), revolve on WBL 1.0 and WBL 2.0 indicators. WBL 1.0 focuses on only *de jure* equality, using eight indicators structured around women's interactions with the law as they begin, progress through, and end their careers: mobility, workplace, pay, marriage, parenthood, entrepreneurship, assets, and pension.<sup>194</sup> WBL 2.0 is an expanded version of WBL 1.0 and revolves on three dimensions: legal frameworks, supportive frameworks, and expert opinions. It introduces two new indicators to those of WBL 1.0: safety, measuring frameworks addressing violence against women, and childcare, measuring frameworks for the availability, affordability and quality of childcare.<sup>195</sup>

Datasets on WBL 1.0 are available for the period from 1971 to 2024 (calendar years 1970 to 2023) and can be used to study trends across Commonwealth countries over time.<sup>196</sup> In the case of WBL 1.0, 35 aspects of the law are scored across the above eight indicators, using four or five binary questions. Indicator-level scores are obtained by calculating the unweighted average of the questions within that indicator and scaling the result to 100. Overall scores are then calculated by taking the average of each indicator, with 100 representing the highest possible score.<sup>197</sup>

WBL 1.0 data from 1970 to 2023 shows progress across all Commonwealth countries in improving the legal status of women. The difference across countries lies

in the extent of such differences. Examples of such progress are highlighted below.

**TABLE 4.5.1:**  
**Examples of Women, Business and the Law Reform Progress in Commonwealth Countries, 1970-2023**

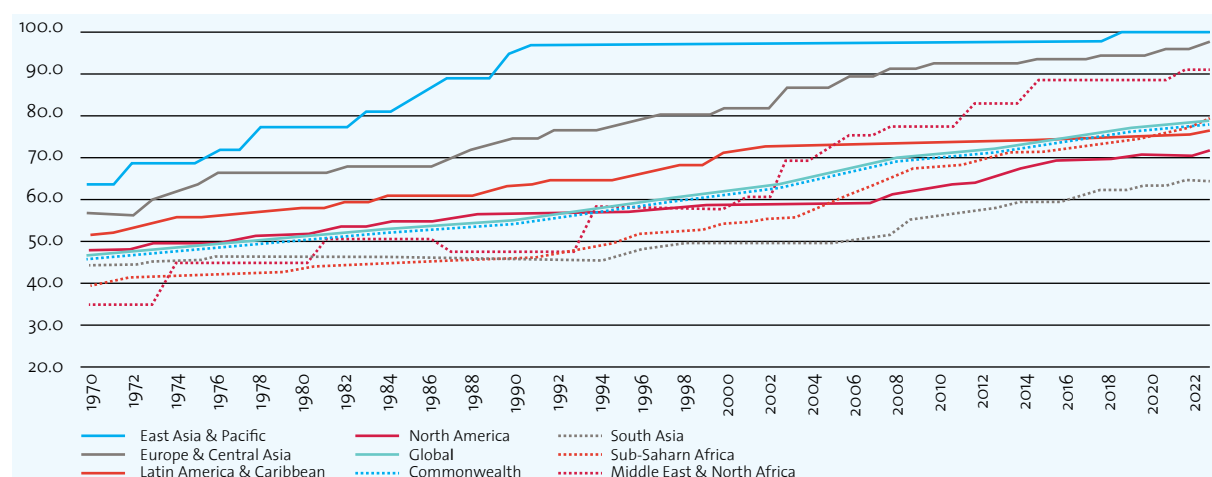
Country	WBL 1.0 1970 Index	WBL 1.0 2023 Index
Antigua and Barbuda	51.9	68.8
Australia	54.4	96.9
Barbados	60.0	80.0
Canada	63.8	100
Dominica	45.6	62.5
Gabon	43.1	95.0
Kiribati	46.3	76.3

Source: Women, Business and the Law database, available at <https://wbl.worldbank.org/en/all-topics>.

Furthermore, using WBL historical data from 1970 to 2023, figure 4.5 presents a regional overview of scores over time in comparison with global and Commonwealth scores, while figure 4.5.1 presents 2023 indices for all

Commonwealth countries by region. Figure 4.5 demonstrates progress in reforms over time across all regions and countries, albeit to varying degrees.

**FIGURE 4.5**  
**WBL Index Over Time (1970-2023), with Commonwealth Countries Grouped by Region**

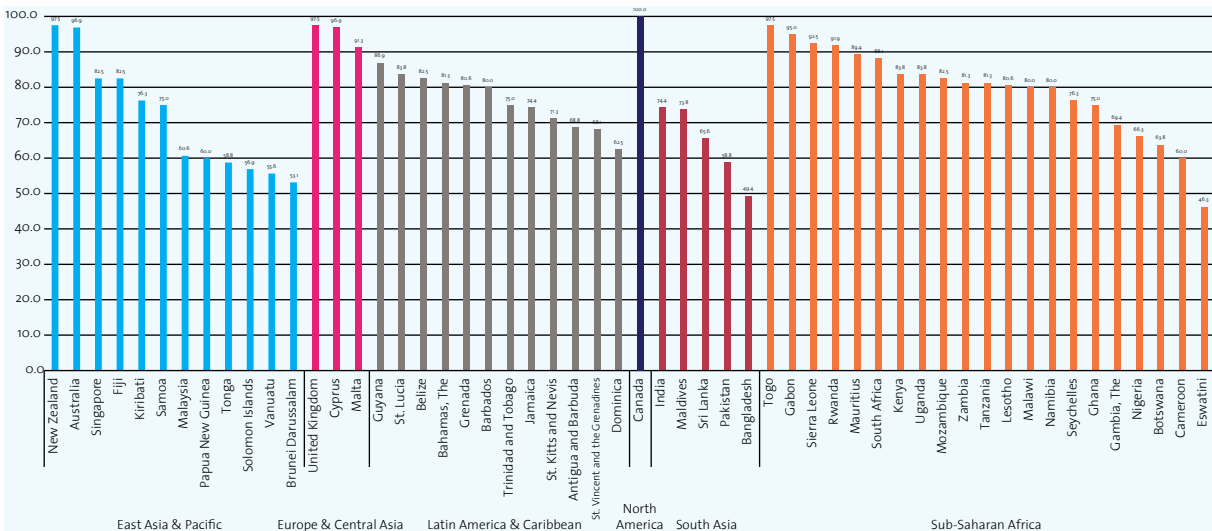


Source: WBL Historical Datasets, available at <https://wbl.worldbank.org/en/all-topics>.

Note: Data is not available for Nauru or Tuvalu.



**FIGURE 4.5.1**  
**WBL Index for 2023, by Country and Region**



Source: WBL Historical Datasets, available at <https://wbl.worldbank.org/en/all-topics>.

Note: Data is not available for Nauru or Tuvalu.

## 4.6 Women's Rights in Constitutions<sup>198</sup>

Building on the subject of “Modern Constitutions” in Chapter 2 of the Handbook, this subsection presents an analysis of Commonwealth constitutions from a gender perspective using UN Women’s [Global Gender Equality Constitutional Database](#) (database).<sup>199</sup>

An analysis of the database reveals that 55 countries (98 percent) embody equality and/or non-discrimination provisions in their Constitutions. Forty-seven (84 percent) mention ‘sex’ as a prohibited ground for discrimination, while 10 (18 percent) mention ‘gender’ in a similar fashion. In addition, Fiji, Malta, New Zealand, South Africa and the UK mention ‘sexual orientation’ as a prohibited category, while Fiji and Malta also include ‘gender identity.’

Nevertheless, 22 countries (39 percent) retain clawback provisions that provide an exception to existing provisions on equality and non-discrimination. In most cases, the clawback relates to issues of adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law.

The CEDAW Committee views clawback clauses as a violation of women’s human rights guarantees and recommends the repeal of such provisions from all

constitutions, as seen from its concluding observations and recommendations to The Gambia, Sierra Leone and Zambia.

### The Gambia:

The Committee notes with concern (c) Section 33 (5) of the 1997 Constitution, which permits discrimination against women in matters of adoption, marriage, divorce, burial and devolution of property on death, and section 45 of the Women’s Act, which subjects its provisions on inheritance to customary and religious laws, resulting in mainly discriminatory outcomes for women.<sup>200</sup>

### Sierra Leone:

The Committee notes the efforts to review the Constitution and national laws to identify provisions that discriminate against women. The Committee, however, is concerned at the very slow pace of the constitutional review that has been ongoing since the last constructive dialogue, in 2007. The Committee is particularly concerned that the highly debated section 27(d)(4) of the Constitution, which provides that the prohibition of discrimination does not apply to adoption, marriage, divorce, burial, devolution of property on death and to other matters of personal law, not only discriminates

against women, but also prevails over the Registration of Customary Marriage and Divorce Act, the Domestic Violence Act and the Devolution of Estates Act, thus defeating the efforts of the State party to comply with the Convention.<sup>201</sup>

#### Zambia:

The Committee is concerned that, despite the recommendations in previous concluding observations, the contradiction in the Constitution has not been amended in that while article 11 guarantees the equal status of women, article 23, paragraph 4, permits discriminatory

laws and practices in the area of personal and customary laws, namely, early marriage, payment of dowry (lobola), the practice of property division after the death of a husband (property-grabbing), sexual cleansing, and polygamy.<sup>202</sup>

Among the 43 countries that have constitutional provisions on principles of state policy (see initial discussion in Chapter 2), that of Malawi is noted for its stand-alone state principle on ‘gender equality.’ This unique feature of the Malawian Constitution is reflected in Box 4.6 below.

#### **BOX 4.6:**

#### **Gender-Sensitive Provisions in Principles of State Policy of the 1994 Constitution of Malawi**

The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the following goals—

##### **a. Gender Equality**

To obtain gender equality through

- (i) The full participation of women in all spheres of Malawian society on the basis of equal opportunities with men
- (ii) The implementation of the principles of nondiscrimination and such other measures as may be required; and
- (iii) The implementation of policies to address social issues such as domestic violence, security of the person, lack of maternity benefits, economic exploitation and rights to property. (Article 13)

Of the 34 constitutions that contain standalone clauses on women’s rights globally, Eswatini, Gambia, Ghana, Guyana, Malawi, Mozambique, Namibia, and Uganda constitute the 24 percent of Commonwealth constitutions with such provisions.<sup>203</sup> Furthermore, of

the nine constitutions which confer constitutional status on national gender machineries, four (Guyana, Rwanda, South Africa, and Zambia) are members of the Commonwealth.

## **4.7 Women with Intersecting Forms of Discrimination in the Commonwealth**

The CEDAW Committee and other human rights treaty bodies have continuously highlighted the need for State Parties to address persisting discrimination and violence against specific groups of women. These have included those of indigenous and minority (national, ethnic, religious and linguistic) background, Scheduled

Castes, Scheduled Tribes, women with disabilities, albino women, sex workers, asylum seekers, migrants, Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ) women, and children born out of wedlock and their mothers.

Various studies have been conducted across Commonwealth countries to ascertain the status of Indigenous women and girls. Included are studies on Canada and Australia's missing women and girls, prompting diverse legislative interventions. For example, in Canada, as of June 2023, missing persons legislation has been enacted in Saskatchewan, Alberta, Nova Scotia, New Brunswick, Manitoba, British Columbia, Newfoundland, Northwest Territories, and Ontario. All Commonwealth countries have endorsed the UN

Declaration on the Rights of Indigenous Peoples as well as the UN Declaration on the Rights of Minorities. This includes global processes and mechanisms of the Special Rapporteur on the rights of Indigenous peoples, the expert mechanism on the rights of Indigenous peoples, the Independent Expert on the Rights of Minorities and the Minorities Forum, and the UN Permanent Forum on the Rights of Indigenous Peoples, all of which integrate a gender perspective in their mandates.

## 4.8 The Role of the Feminist Movement in Advancing De Jure Equality

Civil society movements have played a key role in demanding change in women's legal status across the three historical phases of the former British Empire. For example, in the UK, the National Union of Women's Suffrage Societies, founded in 1897, secured women's right to vote on the same terms as men through peaceful and lawful campaigns.<sup>204</sup> They organized petitions, marches including the 1907 "Mud March", and lobbied members of parliament.<sup>205</sup> In doing so, they contributed in laying the groundwork for the Representation of the People Act 1918, which granted the vote to women over 30 who met property qualifications.<sup>206</sup>

In present times, similar roles are being played by women's organizations at global, regional and national levels. Examples include the International Association

of Women Judges, Federations of International Women Lawyers, the African Women's Development and Communications Network, Equality Now, and the Global Campaign for Equal Nationality Rights.

Public interest litigation spearheaded by women-led organizations at national, regional and global levels has also been instrumental in drawing attention to and addressing violence against women and its impacts. For example, in Tanzania, civil society organizations filed suit in the High Court of Tanzania for a declaration that Sections 13 and 17 of the Tanzania Law of Marriage Act violate the Constitution. These provisions legalized child marriage at the age of 15 years with parental permission and at 14 years with judicial authorization. The outcome of the case is highlighted in Box 4.8 below.

**BOX 4.8:****Public Interest Litigation in Tanzania to Eliminate Child Marriage**

“This case was a significant step forward in the country’s efforts to end child marriage. It was held that these provisions violate young girls’ fundamental rights, including the right to dignity, equality, and access to education. The provisions contradicted the Law of the Child Act of Tanzania, which regarded a person below the age of 18 as a child. In arriving at a decision, the Court pointed out that while the Law might have been enacted with fine objectives in 1971, those objectives were no longer relevant because the current legislation was biased against girls, as it denied them significant opportunities. The Attorney General was given a year from the date of the decision to prepare a modification of that law and make 18 the minimum age for everyone to enter into the contract of marriage.”

The High Court held that the Maputo Protocol encourages State parties to enact legislative measures to ensure that no marriage takes place without the free will and full consent of both parties and that the minimum age of marriage for women should be 18 years. “Tanzania having ratified the said Regional Instrument, it is high time that it takes the appropriate legislative measures to ensure that all realize the rights guaranteed under Article 21(2) of the Constitution.” The decision was upheld by a Court of Appeal decision in October 2019, but the Law of Marriage Act has yet to be reviewed by the responsible ministry.

Sources: Attorney General vs Rebeca Z. Gyumi (Civil Appeal No.204 of 2017) [2019] TZCA 348; (23 October 2019, NH Msuya, Challenges Surrounding the Adjudication of Women’s Rights in Relation to Customary Law and Practices in Tanzania (scielo.org.za). Extracted from Analysis of the Laws of Tanzania Mainland and Zanzibar from a Gender Perspective | Publications | UN Women – Africa, p51.







# 5

## CHAPTER 5 GAINS, GAPS & THE WORK AHEAD





**Key Messages:** Despite legislative advances, more work needs to be done in Commonwealth countries to repeal outstanding colonial legislation, as well as post-independence statutory and constitutional provisions that discriminate against women and girls. This has largely arisen from the multidimensional nature of legal systems, which continue to experience tensions between common law, customary law, religious law and statutory provisions. The CEDAW Committee has played a significant role in identifying and highlighting gaps in the law to Member States through its treaty-based monitoring and reporting mechanisms.

**Uses:** This Chapter can be used for determining potential gaps in legislative reforms in a particular country. The case studies can be used as comparative references for promising practices, lessons learned, and forward-looking law reform strategies. Using the periodicity of the pre-colonial, colonial, and post-colonial experiences of Commonwealth States helps in shaping and justifying the policy and legislative agenda.

## 5.1 Introduction

Against this backdrop of structural influences, this chapter assesses where progress has been made in women's legal rights across the Commonwealth, and where significant gaps remain. It revolves on themes that have been commonly raised by the CEDAW Committee in its interaction with State Parties as areas

to address to achieve gender equality. The areas cover, but are not limited to, discrimination; violence against women and girls; nationality rights; family, marriage and property rights; employment and labour rights; and participation in public life.

## 5.2 The Elimination of Discrimination against Women and Girls

The CEDAW Committee views the elimination of legal discrimination as key to gender equality across all sectors. It articulates this in six broad ways, namely, 1) ensuring language on equality and non-discrimination on the basis of sex is present in relevant constitutional and legislative language; 2) ensuring the integration of its definition of discrimination into domestic law; 3) enacting anti-discrimination laws; 4) ensuring that protection from discrimination is unconditional; 5) eliminating discriminatory legislation; and 6) eliminating patriarchy and stereotypical attitudes towards women. In making

this recommendation, the Committee has included the need for States Parties to address patriarchy, direct and indirect forms of discrimination, as well as intersecting and multiple forms of discrimination faced by different categories of women, e.g., Indigenous, minorities, asylum seekers, migrants, those affected by HIV/AIDS and LGBTIQ individuals. The Committee has commended the enactment by some countries of gender equality acts (e.g., The Gambia, Maldives, Malta) but generally finds that these are not comprehensive enough to address all forms of discrimination against women.

## 5.3 Violence against Women and Girls

Violence against women – particularly intimate partner violence and sexual violence – is a major public health concern and a violation of women’s human rights, with wide ranging physical, mental, sexual, and reproductive health consequences.<sup>207</sup> The World Health Organization (2024) estimates 1 in 3 (30 percent) women worldwide have been subjected to either physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime.<sup>208</sup> Similar estimates are specifically found among women aged 15-49 years who report that they have been subjected to physical and/or sexual violence by their intimate partner.<sup>209</sup>

The CEDAW Committee has had occasion to recommend the elimination of various kinds of harmful practices against women and girls. The most common issues that have been brought to its attention through State Party and confidential reporting include: forced and early marriage; marital rape; femicide; female genital mutilation; breast ironing; widowhood rites; kidnapping of children, especially young girls, for the sale of organs or magic/religious practices; virginity testing; polygamy; pre-marriage, forced and early marriage; levirate marriage; sororate marriage; bondage; denial of inheritance rights; enslavement to voodoo convents and violence against children and old women believed to be witches; the practice of prescribing sex with girls or women with albinism as a cure for HIV; ritual killings and attacks on women and girls with albinism, including the use of their body parts for purposes of witchcraft; stigma and social exclusion suffered by mothers of children with albinism; cyber/digital violence; technology-related violence; trafficking and exploitation of prostitution.<sup>210</sup>

While the Commonwealth constitutes a third of countries where female genital mutilation and child marriage are concentrated,<sup>211</sup> the actual numbers of women and girls affected by these harmful practices as a proportion to global estimates are staggering. For example, the Commonwealth Lawyers Association estimates that almost 60 percent of all child marriages globally occur within the Commonwealth due to discriminatory social norms and weak laws.<sup>212</sup>

Article 16 (2) of CEDAW provides that “The betrothal and the marriage of a child shall have no legal effect,

and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”

Similar provisions are provided in the Maputo Protocol and the African Charter on the Rights and Welfare of the Child.<sup>213</sup> In 2014, a landmark resolution calling for a ban on child marriage was agreed on during the 69th session of the UN General Assembly. The passing of the UN Resolution on Child, Early and Forced Marriage<sup>214</sup> marked the first time that States Parties had agreed on substantive recommendations for the steps that governments, international organizations and NGOs must take to address the problem of child, early and forced marriage. It calls on States Parties to develop and implement holistic, comprehensive, and coordinated responses and strategies to eliminate child, early and forced marriage. The resolution recommends 18 years as the age of marriage and also calls on relevant stakeholders to support already married girls, including through strengthening child protection systems, protection mechanisms (e.g., safe shelters), access to justice and the sharing of best practices across borders. This resolution marked a breakthrough in the campaign to end child marriage.<sup>215</sup>

In 2016 and 2018, the United Nations General Assembly adopted second and third resolutions on child, early and forced marriage,<sup>216</sup> reaffirming previous commitments and expanding existing language, as well as recognizing gender inequality as a root cause of child marriage, and child marriage as a harmful abuse of human rights. The resolutions also recognized the contexts that exacerbate child marriage, including poverty and insecurity, and the risk of child marriage in armed conflict and humanitarian emergencies. They set out the roles and responsibilities of States Parties to end child, early and forced marriage, particularly through legal and policy reforms, strengthening systems, providing services and working with families, communities and girls to change social norms.<sup>217</sup>

The fourth resolution of 2020 had broad cross-regional engagement and called on States Parties to implement, strengthen and accelerate actions to end child, early

and forced marriage during the ‘Decade of Action’ for achieving the SDGs.<sup>218</sup> The Human Rights Council’s work on this is also reflected in its resolution on child, early and forced marriage in humanitarian settings (2017);<sup>219</sup> the resolution on consequences of child, early and forced marriage (2019);<sup>220</sup> and the resolution on child, early and forced marriage, with emphasis on respect for the sexual and reproductive health and rights of girls, including bodily autonomy, comprehensive sexuality education and participation in decision making (2021).<sup>221</sup> The more recent 6th General Assembly resolution on ending child marriage of 2024 focuses on strengthening global efforts to eliminate child marriage and protecting the rights of children through education, health, and legal protections for children.<sup>222</sup>

The Committee recommends equal minimum ages of marriage for both sexes, with a call for the age of marriage not to fall below 18 years in line with joint General Recommendation No. 31 of the CEDAW Committee/General Comment No. 18 of the Committee on the Rights of the Child on harmful practices (2014). Although the laws of the majority of Commonwealth countries stipulate 18 years as the minimum age of marriage without exception, in a few countries, marriage age requirements discriminate against women.<sup>223</sup> The countries and contexts concerned are as follows:

- Six (6) countries – Cameroon, Gabon, Nigeria, Papua New Guinea, Tanzania, and Tonga – allow girls to legally marry below 18 years.
- Four (4) countries – Bangladesh, India, Pakistan and Samoa – have lower marriageable ages for girls than boys.
- One (1) country – Brunei-Darussalam – does not provide for a legally defined marriageable age for either girls or boys.

Below is an overview of experiences and lessons from reforming the law on the minimum age of marriage in Malawi, Mozambique and Pakistan.

#### Malawi:

In 2015, Parliament voted unanimously to pass the Marriage, Divorce and Family Relations Bill, which the President signed into law.<sup>224</sup> The law bans child marriage, raises the minimum age for marriage (MAM) from 15 to 18 years, and imposes a 10-year prison sentence on

those who defy the ban.<sup>225</sup> Nevertheless, a loophole limited this law from fully eradicating child marriage by allowing children as young as 15 years to marry with their parents’ consent.<sup>226</sup> In 2017, the government addressed this loophole and Parliament unanimously voted to remove the constitutional provision allowing children to marry with parental consent.<sup>227</sup> In 2017, the amended Constitution banned child marriage for those under the age of 18 years, making child marriage officially illegal in Malawi.<sup>228</sup> The amendment brought the Constitution into line with the Marriage, Divorce and Family Relations Act of 2015, which set MAM at 18 years.<sup>229</sup> The Act also explicitly states that a marriage to someone who is below the age of 18 years is punishable by imprisonment.

#### Mozambique:

Article 30 of Family Law 10/2004 stated that, exceptionally, a girl or boy under the age of 16 years could marry, under circumstances of recognized public and family interest, and if there is the consent of parents or legal representatives. In 2016, Mozambique launched the UNFPA-UNICEF Global Programme to Accelerate Action to End Child Marriage<sup>230</sup> and the National Strategy to Prevent and Combat Child Marriage.<sup>231</sup> In 2019, Mozambique’s Parliament unanimously passed a new bill banning child marriage. The bill set the minimum age of marriage at 18 years and eliminated previous legal loopholes in the Family Law that made it possible for children to marry at 16 years with parental consent. The new law essentially prohibits the marriage of children younger than 18 years, without exceptions.<sup>232</sup> The law also establishes that marriage between an adult and a minor is punishable by up to 12 years in prison.<sup>233</sup> In 2019, the government adopted a new national strategy to prevent and combat child marriage, led by the Ministry of Gender, Children and Social Affairs.<sup>234</sup>

#### Pakistan:

Pakistan’s legal reform on child marriage in 2025 stands as a commendable example of legislative leadership within the Commonwealth and offers a case study in good parliamentary practice for countries striving to ensure equality before the law and uphold the rights of women and girls. The country’s Parliament enacted the Child Marriage Restraint (Amendment) Act to raise the minimum age of marriage for girls from 16 to 18 years, thereby ensuring parity between girls and boys



and aligning national legislation with international human rights obligations under the CRC and CEDAW. This reform also harmonized Pakistan's legal framework with SDG Target 5.3, which seeks to eliminate harmful practices, including child, early and forced marriages.

The legislative process was marked by cross-party support and the active involvement of the Women's Parliamentary Caucus, which played a pivotal role in advocating for the bill's passage. Extensive consultations were held with civil society organizations, provincial stakeholders, and international partners, reflecting a participatory and inclusive approach. With the provincial Sindh Child Marriage Restraint Act of 2013 setting a precedent, the federal legislation serves as a unified standard across all jurisdictions within the country.<sup>235</sup>

As it relates to female genital mutilation (FGM), UNICEF estimates that over 230 million girls and women across 94 countries worldwide have undergone the practice, with the largest share found in Africa (over 144 million cases), Asia (over 80 million), Middle East (over

6 million), and small, isolated and diaspora communities (1-2 million).<sup>236</sup> FGM is practiced in 24 Commonwealth countries – a 26 percent share of the global number of countries. Among these, reliable data on the practice exists in 10 countries. The percentage of girls and women aged 15 to 49 years who have undergone FGM can be as high as 73 percent in The Gambia and 83 percent in Sierra Leone. Box 5.3 highlights a collaborative response by the international community to a proposal of the National Assembly of The Gambia to repeal the existing FGM law.

Anecdotal evidence points to the practice being present, albeit to a lesser degree, in 14 other countries, namely Australia, Brunei Darussalam, Canada, Cyprus, India, Malaysia, Malta, New Zealand, Pakistan, Singapore, South Africa, Sri Lanka, the UK, and Zambia.<sup>237</sup> Of the 24 Commonwealth countries where FGM exists, 14 (55 percent) have banned it through legislation.<sup>238</sup> Figure 5.3 below highlights the prevalence of FGM across all Commonwealth countries where this is practiced.

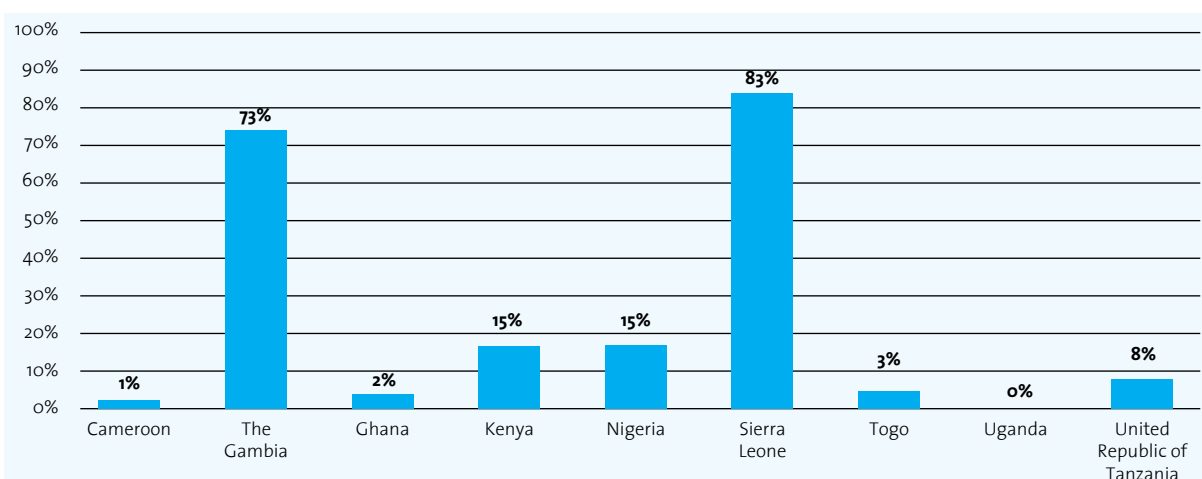
#### **BOX 5.3:**

#### **Preventing Rollback of Protections against FGM in The Gambia**

In March 2024, the National Assembly of the Gambia voted for the repeal of a landmark 2015 ban on FGM that made the practice punishable by up to three years in prison, on grounds that it violated the right of the citizens of The Gambia to freely practice their religion and culture. A group of experts consisting of the Special Rapporteur on violence against women and girls, its causes and consequences; the Working Group on discrimination against women and girls; the Special Rapporteur on the sale, sexual exploitation and sexual abuse of children; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Committee on the Elimination of Discrimination against Women; the Special Rapporteur on the Rights of Women in Africa of the African Commission on Human and Peoples' Rights; and the Executive Director of UN Women coordinated a powerful message that ultimately resulted in the decision of the National Assembly being reversed. The group asserted that "overturning the law would have created a dangerous precedent rolling back on women's rights to life, health, safety, physical integrity, bodily autonomy, privacy, dignity and freedom from gender-based violence and torture, and its impact would have been felt beyond The Gambia."

Source: The Gambia: Upholding ban on female genital mutilation another historic win, say human rights experts | OHCHR.

**FIGURE 5.3**  
**The Prevalence of FGM across the Commonwealth**



Source: UNICEF global databases, 2024, based on DHS, MICS and other national surveys, 2004-2022.

The Committee has observed a number of gaps in efforts to combat violence against women and girls in Commonwealth countries. These include women's lack of access to appropriate information to protect their rights;<sup>239</sup> non-criminalization of marital rape or lower penalties in contrast to rape;<sup>240</sup> discriminatory evidentiary rules that continue to be applied, including the requirement of corroboration;<sup>241</sup> the continued influence of harmful social norms and stereotypes;<sup>242</sup> and limited enforcement of laws.<sup>243</sup>

While digitalization, technology and artificial intelligence are embraced as critical ingredients for accelerating human development and human security, their negative aspects are increasingly recognized as grave threats to the rights, security, and well-being of women and girls.<sup>244</sup>

Technology-facilitated violence against women (TF VAW), such as online abuse and threats against women of all socio-economic classes, is widespread and has magnified an existing pattern of online and offline abuse, with the UK describing this form of violence as "a rapidly evolving threat."<sup>245</sup> In 2024, the UK porn helpline received 22,000 cases, compared with 521 in 2015.<sup>246</sup>

Common forms include misinformation, defamation, cyber-harassment, hate speech, impersonation, hacking,

stalking, astroturfing, image- and video-based abuse, doxing and violent threats.<sup>247</sup>

Indeed, a multi-regional study on cyber violence against women and girls in the Commonwealth reveals the following:

- **Africa:** An international study of 51 countries surveying 4,561 women found that 85 percent had witnessed online violence and harassment, while 54 percent knew the perpetrator.<sup>248</sup>
- **Asia:** Women and girls were found more likely to be victimized, with cyberviolence increasing during the COVID-19 lockdowns. In India, 90 percent of cyberstalking victims were women. Online violence against women and children was the second largest form of gender-based violence in Sri Lanka; 40 percent of women in Pakistan had been victims of online harassment; and the proportion of adolescents cyberbullied in Malaysia was between 26 and 33 percent.<sup>249</sup>
- **Europe:** More than half of the 14,000 15- to 25-year-old women interviewed from 22 countries said they had been cyberstalked, sent explicit messages/images or abused online. Forty-five (45) percent of domestic violence victims in the UK reported experiencing some form of abuse online during their relationship and 48 percent experienced it from an ex-partner.<sup>250</sup>

- **Caribbean and Americas:** There had been an 88 percent increase in Canada in the reporting of sextortion and other online exploitation since the COVID-19 pandemic began. Twenty-five (25) percent of Canadian parents had come across inappropriate behavior online aimed at their child. About 40–43 percent of high school students in Jamaica had been contacted inappropriately online by persons unknown to them. In Trinidad and Tobago, females were at a higher risk of being victims to unauthorized access and cyberbullying (54.3 percent female; 45.7 percent male), with younger age groups having a higher probability of being harassed.<sup>251</sup>
- **Pacific:** The same forms of gender discrimination in social, economic, cultural and political structures were found to be reproduced and perhaps exacerbated in the online sphere.<sup>252</sup>

In a related context, the Parliament of Prince Edward Island of Canada passed the 2020 Intimate Images Protection Act (Act No. 118) to support Islanders who have been the victims of nonconsensual distribution of intimate images. The Act establishes the nonconsensual distribution of intimate images as a tort, actionable without proof of damages, and would allow the court to provide various remedies to a victim of the non-consensual distribution of intimate images, including financial awards and injunctions against the distribution of images.

Violence committed against women and girls can have direct, indirect or induced costs to them as well as to society as a whole.<sup>253</sup> The Commonwealth Secretariat's case study of Lesotho reveals that by 2020, the cost of violence to girls' education was 0.8 percent of Gross Domestic Product (GDP) (or learning time lost in school); the cost to adult women was estimated at 2.8 percent of GDP; the cost to the public sector or fiscal cost was 2.3 percent of GDP; and the cost to the private sector was 1.9 percent of GDP, with a consolidated total cost to the

whole of society being 5.5 percent of GDP.<sup>254</sup> Similarly, in Seychelles, the cost to girls' education was 0.296 percent of GDP (or learning time lost in school); the cost to adult women was 2.3 percent; that to the private sector was 2 percent of GDP; and to the whole of society was 4.6 percent of GDP.<sup>255</sup>

In view of the cost of violence to women, girls and society as a whole, Australia is currently implementing a National Plan to End Violence against Women and Children 2022–2032, designed in partnership by the state and territory governments. It provides an overarching national policy framework to guide coordinated action across governments, sectors, and communities. The strategy is built around four key domains:

1. **Prevention**
  - Promote gender equality and respectful relationships
  - Challenge harmful norms and stereotypes
  - Engage men and boys in violence prevention
2. **Early Intervention**
  - Identify and respond to early signs of abuse
  - Support at-risk individuals and families
  - Improve access to services before violence escalates
3. **Response**
  - Strengthen legal and justice systems
  - Improve crisis support and housing
  - Ensure culturally safe and trauma-informed services
4. **Recovery and Healing**
  - Support long-term recovery for victim-survivors
  - Address the lifelong impacts of trauma
  - Empower communities to rebuild and thrive



### Tips:

CARICOM has designed *Model Legislation on Violence against Women in the Areas of Sexual Offences, Domestic Violence and Sexual Harassment: Comparison with International Standards and Existing Commonwealth Caribbean Legislation*. See [here](#).

Similarly, the Southern African Development Community (SADC) has designed *Model Legislation on Child Marriage*. See [here](#).

## 5.4 Nationality Rights

Article 9 of CEDAW provides that “(1) States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. (2) States Parties shall grant women equal rights with men with respect to the nationality of their children.”

However, according to the Global Campaign for Equal Nationality Rights,<sup>256</sup> 24 countries prevent women from passing their nationality on to their children on an equal basis with men and over 40 countries deny women equal rights with men to confer nationality on a non-national spouse or to acquire, change, or retain their nationality through legislation and constitutions.<sup>257</sup>

- An analysis of this data suggests that of the 24 countries that discriminate against mothers in their ability to confer nationality on their children, 7 (29 percent) are Commonwealth countries, representing 13 percent of the Association.<sup>258</sup>
- Additionally, all 3 of the countries that discriminate against unmarried fathers in their ability to confer nationality on their children are Commonwealth

countries, representing 5 percent of the Commonwealth membership.<sup>259</sup> Of the 44 countries with gender-based discrimination pertaining to the conferral of nationality on spouses and/or the ability to acquire, change and retain their nationality, 17 (39 percent) are Commonwealth countries, representing 30 percent of the Commonwealth membership.<sup>260</sup>

In some countries, sex discrimination in nationality rights is sanctioned by the constitution, legislation or both. For example, in the case of Eswatini, the Committee recommended that the State party repeal both discriminatory constitutional and legislative provisions to ensure that Swazi women married to foreign men can transfer their nationality to their husbands and children on the same basis as Swazi men married to foreign women.<sup>261</sup> Similarly, Barbados was requested by the Committee to proactively amend its Constitution to grant Barbadian women equal rights with men with respect to the transmission of nationality to their children or to their spouses of foreign nationality, in line with article 9 of the Convention.<sup>262</sup> A Bruneian woman who is married to a foreign national is required to submit an application under the Nationality Act in order to transmit her Bruneian citizenship to her children, while the children of a Bruneian father and a non-Bruneian mother automatically acquire such nationality.<sup>263</sup>

## 5.5 Family, Marriage and Property Rights

Marriage and divorce laws in the Commonwealth are influenced by the statutory, religious and cultural settings of each country (the legal system).<sup>264</sup> While the majority of countries define marriage in terms of a union of a man and woman, a few, e.g., Australia, South Africa, and the UK, recognize same-sex marriage and accord same-sex spouses the same rights and obligations as those under heterosexual arrangements. Similar considerations apply in the case of informal unions (or common law marriages), where the vast majority of national laws are underpinned by the presumption of a formal union.<sup>265</sup> In addition, while some countries, e.g., Ghana and Malawi, have taken legislative steps to consolidate legal frameworks in relation to different forms of marriage (largely Christian and Muslim, while customary marriages possess their own legal regime),

others such as Bangladesh are yet to do so (primarily in respect of Christian, Muslim, and Hindu marriages). Some of these marriage frameworks are inherently monogamous, while others are polygamous. Property relations also vary inside and outside of marriage. Some jurisdictions, such as Rwanda, legally recognize community of property arrangements between husband and wife, while others, such as Kenya, gravitate towards proof of financial contribution. Furthermore, varied inheritance practices exist across the Commonwealth, ranging from equal inheritance rights for nuclear family members to unequal inheritance rights in favour of men and boys. This subsection provides examples and case studies of these different scenarios.



Article 16 (1) of CEDAW and Article 7 of the Maputo Protocol serve as important frameworks for the design of matrimonial and property legal arrangements. The former provides:

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

The Maputo Protocol is the only treaty which expressly provides for the protection of women in polygamous relationships, providing that “Monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships are promoted and protected” (Article 7(c)).

While further research is needed to appreciate the extent to which legal equality extends to inheritance rights in the Commonwealth, there is evidence to show this is growing in the Africa region, through legislation (e.g. The Gambia, Ghana, Malta, Mozambique, Nigeria, Seychelles, Trinidad and Tobago, and the UK), as well as judicial activism, which declared male primogeniture unconstitutional in countries such as Botswana, Kenya, and South Africa. However, tension remains between statutory law and customary law in several countries, as the latter continues to hold sway in practice in matters of inheritance, resulting in discriminatory inheritance practices despite the existence of legal equality.<sup>266</sup>

In its Concluding Observations and Recommendations to State Parties, the Committee has generally recommended the repeal of laws which date back from colonial times, the abolition of bride price, marital power, and polygamy, while protecting the rights of women in polygamous relationships, legal recognition of *de facto* unions, equitable marital property regimes, equal inheritance rights, unified marriage laws in plural marital systems and registration of all types of marriages. The Committee’s jurisprudence has also been informed by the following legal frameworks:

- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
- CEDAW General Recommendation No. 21 on Equality in Marriage and Family Relations
- CEDAW General Recommendation No. 27 on Older Women and Protection of their Human Rights
- CEDAW General Recommendation No. 29 on Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (Economic consequences of marriage, family relations and their dissolution)
- Human Rights Committee General Comment No. 19: Article 23 (The Family) Protection of the Family, the Right to Marriage and Equality of the Spouses
- Committee on Economic, Social and Cultural Rights General Comment No. 20: Non-discrimination in Economic, Social and Cultural Rights

Below are examples of CEDAW concluding observations and recommendations to States Parties on marriage and family issues to Antigua and Barbuda, Bangladesh, Dominica, Eswatini, Grenada, and Solomon Islands.

### Antigua and Barbuda

49. (b) Revise its legal system governing marriage and family relations, including the Divorce Act, 1997, with a view to incorporating the principle of equal distribution of marital property upon divorce and according the same weight to financial and non-financial contributions to property acquired during marriage; (c) Take measures, including through legislation, to ensure that common law unions are registered by civil registry offices and that women enjoy adequate legal protection during common law and *de facto* unions and upon their dissolution, including by recognizing their rights with respect to the property accumulated during the relationship.<sup>267</sup>

### Bangladesh

42. The Committee notes the significant contribution that Bangladeshi women make to their marital households and assets. Nevertheless, it is concerned that the State party has no legal regime recognizing, defining or setting out rules for control over marital property during marriage or the division of marital property on an equal basis between spouses upon divorce. 43. The Committee calls upon the State party to review its personal laws and adopt a uniform family code applicable equally to members of all religions and confessions in the country and ensure that women have equal rights to marital property during marriage and upon divorce.

### Dominica

32. The Committee calls on the State party to ensure that women do not require, in law or in practice, a husband's written consent for performance of tubal ligation. 35. The Committee is concerned that the Civil Code contains discriminatory provisions relating to marriage and the family, including a provision that calls for a wife's obedience to her husband. It is also concerned about lack of provisions for divorce by mutual consent. The Committee is also concerned about the potential for discrimination against women in cohabiting relationships, in particular in regard to property.<sup>268</sup>

### Eswatini

40. The Committee is concerned that the State party retains the doctrine of marital power, which divests women of legal capacity to administer property and to sue without the consent of their husbands when they are married out of the community of property where marital power has not been excluded and which might in some cases extend to the marital power of the husband's family. 41. The State party should repeal the doctrine of marital power in order to ensure full compliance with article 15 of the Convention so that women have identical legal capacity to that of men to be able to conclude contracts and to administer property, as well as to sue or to be sued, in their own right.<sup>269</sup>

### Grenada

40. (b) Amend the Married Woman's Property Act (1896) and the Marriage Act (1903) to bring them into line with the Convention and eliminate discriminatory provisions against women in family life.<sup>270</sup>

### Solomon Islands

44. The Committee notes with concern discriminatory provisions in the Islanders' Marriage Act, the Affiliation, Separation and Maintenance Act, the Islanders' Divorce Act and in customary law. In particular, the Committee is concerned about: (a) The extremely low minimum age for marriage of 15 years for both boys and girls under the Islanders' Marriage Act and the absence of a minimum age for marriage under customary law; (b) The fact that marriages are normally authorized by the father only, unless in exceptional cases, such as the death of the father or when he is of "unsound mind"; (c) The lack of mandatory registration of marriages under customary marriage law and the continued existence of bigamy; (d) The absence of legal safeguards to ensure that women enter into marriage only with their free and full consent; (e) The continued existence of bride-price payment practices, despite relevant awareness-raising programmes; (f) The provision in the Islanders' Divorce Act that a husband may seek damages from any person on grounds of adultery when filing a judicial separation claim or for divorce; (g) The fact that women's inheritance rights are regulated by customary law, which impedes women's access to property.<sup>271</sup>

**Tip:**

Rwanda and Togo have both eliminated the 300-day ban that prevented widows from remarrying. Widowers were not subject to the ban.<sup>272</sup>

Other countries with similar provisions can look to Rwanda and Togo as examples when initiating reforms to remove such discriminatory bans and thus move toward equal rights in marriage and family relations.

## 5.6 Employment and Labour Rights

The CEDAW Committee has generally adopted a supportive approach to the ratification and implementation of International Labour Organization (ILO) Conventions, particularly those which promote equal pay for equal work, parental leave, protection from harassment, and the protection of domestic workers. Below are data on the ratification status of some relevant ILO Conventions among Commonwealth States:

### **Forced Labour Convention, 1930 No. 29**

Global ratifications: 181

Commonwealth countries: 53

Percentage of total: 29 percent

Percentage of Commonwealth Countries: 95 percent

Source: Ratifications of ILO Conventions - Ratifications by Convention.

### **Equal Remuneration Convention, 1951 No. 100**

Global ratifications: 174

Commonwealth countries: 50

Percentage of total: 29 percent

Percentage of Commonwealth Countries: 89 percent

Source: Ratifications of ILO Conventions - Ratifications by Convention.

### **Discrimination (Employment and Occupation) Convention, 1958 No. 111**

Global ratifications: 175

Commonwealth countries: 47

Percentage of total: 27 percent

Percentage of Commonwealth Countries: 84 percent

Source: Ratifications of ILO Conventions - Ratifications by Convention.

### **Maternity Protection Convention, 2000 No. 183**

Global ratifications: 44

Commonwealth countries: 3

Percentage of total: 7 percent

Percentage of Commonwealth Countries: 5 percent

Source: Ratifications of ILO Conventions - Ratifications by Convention.

**Note:** Recommendation No. 191 of this Convention makes the following recommendations on maternity leave:

1. Members should endeavour to extend the period of maternity leave referred to in Article 4 of the Convention to at least 18 weeks.
2. Provision should be made for an extension of the maternity leave in the event of multiple births.
3. To the extent possible, measures should be taken to ensure that the woman is entitled to choose freely the time at which she takes any non-compulsory portion of her maternity leave, before or after childbirth.<sup>273</sup>



**Tip:**

In Rwanda, male employees are entitled to seven calendar days of paid paternity leave upon the birth of their child – an increase from the previous four days. This is provided for in Article 58 of the new labour law.<sup>274</sup>

This important step toward promoting gender equality and ensuring that childcare responsibilities are more equitably shared between parents is an example for other Commonwealth members looking to reform.

**Violence and Harassment Convention, 2019  
No. 190**

Global ratifications: 46

Commonwealth countries: 16

Percentage of total: 35 percent

Percentage of Commonwealth Countries: 29 percent

Source: Ratifications of ILO Conventions - Ratifications by Convention.

by sex, gender pay gaps, employment segregation, the high concentration of women in the informal economy, the low concentration of women in decision-making positions in the public and private sectors of the economy, the lack of maternity and social security protection, the lack of protections for domestic and migrant workers, and discrimination on the basis of disability, refugee status and sexual orientation.<sup>275</sup>

However, WBL data and legal assessments highlight significant improvements in *de jure* labour rights in some countries in the Commonwealth. Malaysia, Sierra Leone and Togo are listed as being among five economies that enacted comprehensive reforms across all WBL 1.0 indicators except Mobility in 2023. Box 5.6 highlights some significant labour reforms in Sierra Leone.

The CEDAW Committee has expressed concern about the lack of or limited data on labour force participation

**BOX 5.6:**

**Comprehensive Labour Reforms in Sierra Leone**

Sierra Leone's score increased 20 points, from 72.5 to 92.5, in the *Women, Business and the Law* index as a result of new laws enacted to address women's rights in multiple areas—notably, Workplace, Pay, Parenthood, and Pension. At the end of 2022, the country passed the Gender Equality and Women's Empowerment Act, which introduced important protections for a woman in the workplace, such as the prohibition of gender-based discrimination and pregnancy-related dismissal. It also established a woman's equal access to credit and financial services, complementing the nondiscrimination mandate established in 2021. In May 2023, Sierra Leone also enacted the groundbreaking Employment Act 2023, which aims to improve labor and employment regulations, promote equal opportunity, and eliminate



discrimination. The Act prohibits discrimination in employment based on multiple grounds, including gender, and mandates the principle of equal remuneration for work of equal value in alignment with International Labour Organization (ILO) Convention No. 100. Furthermore, it expands the length of paid leave for a mother from 12 weeks to 14 weeks, with benefits equivalent to 100 percent of her average salary, in line with the recommendation set out by ILO Maternity Protection Convention No. 183. A father was also granted two weeks of paid leave for the birth of a child. The 2023 reform repealed the Employers and Employed Act of 1962, which restricted a woman's work in the mining, construction, factories, energy, water, and transportation industries. Finally, the Employment Act 2023 now accounts for periods of career interruption due to childcare responsibilities in the calculation of a woman's pension benefits.

Source: *Women, Business and the Law*, 2024, pp8-9.

## 5.7 Participation in Public Life

Articles 7 and 8 of CEDAW call for appropriate measures to eliminate discrimination against women in the political and public life of the country, by ensuring to women, on equal terms with men, the right to: (a) vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) participate in the formulation of government policy and to hold public office and perform all public functions at all levels of government; (c) participate in non-governmental organizations and associations concerned with the public and political life of the country (Article 7); as well as to represent their Governments at the international level and to participate in the work of international organizations (Article 8).

The data presented here includes women's leadership in executive and legislative branches of government, as well as in local government within the Commonwealth. The full data are presented in Annex III of the Handbook. The data serves to report on relevant SDG indicators and demonstrates that despite incremental progress in some regions, systemic barriers continue to hinder gender parity in political decision-making.

The CEDAW Committee also uses such data in addition to State Party Reports, Shadow Reports and confidential

reports to formulate specific recommendations to State Parties on addressing gender gaps in leadership representation at these levels of governance. In its recent General Recommendation No. 40 on equal and inclusive representation of women in decision-making systems (2024), the Committee highlights urgency for change and defines "equal and inclusive representation" as "fifty-fifty parity between women and men in all their diversity in terms of equal access to and equal power within decision-making systems", referred to as parity in the text. It defines "decision-making systems" as "encompassing decision-making that takes place through formal and informal processes in all sectors, including in political, public, economic and digital spaces."<sup>276</sup> This General Recommendation is a defining moment for gender equality and women's empowerment and serves as an important cornerstone of the Committee's jurisprudence. The Recommendation follows the Agreed Conclusions of the 65<sup>th</sup> Session of the Commission on the Status of Women (2021), which affirmed the need to "Encourage the implementation of measures and mechanisms, including appropriate mechanisms to track progress, to achieve the goal of 50/50 gender balance at all levels of elected positions."

### BOX 5.7

#### Case Study: Women's Political Participation in the UK

Established over 1,000 years ago, the rule of succession of the British monarchy has evolved. Prior to 2013, "The hereditary [common law] principles of monarchy [were] ones of primogeniture: eldest preferred,

sons before daughters.”<sup>277</sup> The UK’s Equality Act 2010, and international human rights treaties such as the European Convention on Human Rights, brought the continued validity of these principles into sharp focus. In 2013, the UK Parliament passed the historic Succession to the Crown Act, 2013, section 1 of which provides:

*“In determining the succession to the Crown, the gender of a person born after 28 October 2011 does not give that person, or that person’s descendants, precedence over any other person (whenever born).”<sup>278</sup>*

The monarchy was established in 1066 under the reign of William the Conqueror and, since then, it has held 42 monarchs, of which 7 (17 percent) have been women.<sup>279</sup> Similarly, the origins of the UK Parliament date from the 13<sup>th</sup> Century, when the Great Council of Bishops and Peer served as advisors to the Monarch.<sup>280</sup> It was not until 1735 that the offices of an elected Prime Minister and Cabinet Ministers were introduced.<sup>281</sup> To date, the UK has had 58 Prime Ministers of which 3 (five percent) have been women.<sup>282</sup> The Parliament (Qualification of Women) Act 1918 gave women the right to stand as parliamentary candidates for the first time, providing that women were no longer disqualified by sex or marriage from being elected to or sitting in the House of Commons.<sup>283</sup> In the 1918 general election (the first after the Act), 17 women stood as candidates. Nancy Astor was the first woman to take her seat in Parliament in 1919 through a by-election as a Conservative MP for Plymouth Sutton.<sup>284</sup>

## Countries with Women in the Highest Position of State

As of January 2025, women lead in only 25 countries globally. Women occupy positions as Head of State in only 18 countries.<sup>285</sup> Of these, six (Barbados, Dominica, India, Malta, Trinidad and Tobago and the United Republic of Tanzania) are Commonwealth countries. Four

Commonwealth countries (Barbados, Samoa, Togo, and the United Republic of Tanzania) are included among the 16 where women occupy the position of Head of Government.<sup>286</sup>

## Women’s Representation in Cabinets

The global average of women cabinet ministers currently stands at 22.9 percent.<sup>287</sup> This is slightly higher than the average of 22.5 percent in Commonwealth countries, where the UK, Australia, Canada, and South Africa, respectively have 50.0 percent, 48.3 percent, 45.7 percent and 43.8 percent of cabinet positions being held by women (see Annex III for the full data on the Commonwealth).

Globally, women also tend to occupy cabinet positions related to gender equality, family, children’s affairs, social affairs, and indigenous and minority issues, in contrast to areas such as economic affairs, defense, justice, foreign and home affairs, which are dominated by men.<sup>288</sup> In the Commonwealth, foreign affairs positions are led by women in Australia, Canada, Eswatini, Ghana, and Samoa, among others.<sup>289</sup>

## Women’s Representation in Parliaments

Globally, women also hold an average of 27.1 percent of seats in lower chambers and unicameral parliaments, and 27.7 percent of seats in upper chambers, with an average across all chambers of 27.2 percent.<sup>290</sup> In the Commonwealth, women hold an average of 25.6 percent of seats in lower chambers and unicameral parliaments and 29.4 percent of seats in upper chambers, with an average across all chambers standing at 26.4 percent.<sup>291</sup>

Rwanda’s 63.8 percent of seats in the lower house of Parliament is the highest in the world.

A legal assessment jointly undertaken by the Rwanda Legal Aid Forum and UN Women highlights that the country’s majority female parliament is “both a democratic and gender equality dividend, demonstrated in swift and proactive legislative reforms in favour of

women and girls, especially since the Constitution was promulgated in 2003.”<sup>292</sup> Similarly, in the UK, the 2024 general election marked a progressive step towards gender parity: women currently constitute 40.5 percent of Parliament (263 out of 650), up from 35 percent, with an increase in representation of minority women by 7.7 percent (50 MPs), up from 39 previously.<sup>293</sup>

Women’s parliamentary caucuses play a key role in advancing the gender equality agenda in the legislature. Operationally, they cut across party lines and work together for the common good through a shared vision. For example, the agenda of the women’s caucus of Sri Lanka in the parliamentary calendar of 2025 includes:

- Strategies for increasing women’s representation in parliament, provincial and local government levels.

- Advocating for women’s inclusion in decision-making bodies.
- Setting a minimum age of marriage for girls.
- Eliminating sexual and gender-based violence, including sexual harassment at the workplace.
- Promoting gender-responsive budgeting.

However, UN Women’s legal assessment of Tanzania Mainland and Zanzibar reveals that “financial requirements deter capable persons, particularly women, from aspiring to be nominated for these electoral positions. For example, the Elections Expenses Act, 2010 does not contain targeted measures for addressing women, youth and persons with disabilities’ specific financial challenges when seeking to participate in electoral processes.”<sup>294</sup>

## Women’s Representation in Local Government

At the level of local government, there are 1,454,542 women elected to deliberative bodies in Commonwealth countries for which there are data, out of 3,478,048 total elected seats.<sup>295</sup> This means that in the Commonwealth

overall, women hold 42 percent of elected seats in deliberative bodies of local government, which is well above the global figure of 35.5 percent.<sup>296</sup>

## Constitutional and Legislative Quotas

A total of 93 countries across the world have put in place a gender quota at national level. To date, 16 Commonwealth countries (8 percent globally and 29 percent of the Commonwealth) have legal frameworks in place to advance women’s participation in national and local elected positions.<sup>297</sup> Table 5.7 below highlights the type of quotas that each country has adopted.

An estimated 16 Commonwealth countries are also implementing gender quotas at local government level, including through constitutional provisions.<sup>298</sup>

India offers a case study of reserved seats successfully being used not only to empower women to participate in local government, but also other excluded groups, such as Scheduled Castes and Scheduled Tribes, an approach which works in favour of women who face intersecting forms of discrimination. India’s quota system requires that one-third of the total council seats be reserved for women. The gender quota also applies to the reserved seats for castes and tribes.<sup>299</sup> India also requires that

at least one-third of the total number of chairperson’s office members amongst local councils be reserved for women.<sup>300</sup> The policy therefore operates at multiple levels, ensuring women are not only included in local government but given the opportunity to take on leadership positions. Some states have taken this further: while the Federal Constitution guarantees one-third of reserved seats, some states reserve half of seats for women.<sup>301</sup> India’s policy therefore has the potential to create amplifying effects at multiple levels, with women in leadership able to empower other women to engage in local government, and states building on the thought-leadership of the national government. As of 1 January 2024, women held 44.4 percent of elected seats in deliberative bodies of local government in India.<sup>302</sup>

South Africa is an example of a country that uses candidate quotas with a ranking/placement rule.<sup>303</sup> It has a mixed electoral system, with elements such as proportional representation (closed list) and majority/plurality

(first-past-the-post), depending on the particular body.<sup>304</sup> The candidate quotas apply only to councilors elected using the proportional representation system. In these cases, every party must seek to ensure that 50 percent of the candidates on each list are women and that the candidates of each sex are evenly distributed throughout

the list.<sup>305</sup> As of 1 January 2024, women held 37.5 percent of elected seats in deliberative bodies of local government in South Africa.<sup>306</sup> South Africa’s global ranking was therefore 37,<sup>307</sup> which suggests that the measures it has adopted have been effective in supporting the representation of women at the local government level.

**TABLE 5.7:**  
**Type of Quota by Commonwealth Country**

Reserved Seats	Candidate Quotas	Both
Bangladesh, India,* Kenya, Samoa, Uganda, United Republic of Tanzania	Eswatini, Gabon, Guyana, Lesotho, Malta, Sierra Leone, Solomon Islands, Togo	Pakistan, Rwanda

Sources: UN Women, Global Gender Equality Constitutional Database, available at <https://constitutions.unwomen.org/en> and the United Nations, “Quota Analysis”, Gender Quota Portal, last updated 18 August 2025, available at <https://genderquota.org/quota-analysis> . \*According to the portal, while a constitutional amendment has been adopted in India, it is yet to be implemented.

### Concluding Observations and Recommendations of the CEDAW Committee

The Committee has had occasion to issue concluding observations and recommendations to several States on matters related to women’s political participation

in decision-making. Below are examples of how the Committee has articulated concerns in Kenya, Sri Lanka, Solomon Islands, and Papua New Guinea.

**BOX 5.7.1**  
**Examples of CEDAW Committee Recommendations on Participation in Public Life**

Kenya (2017)

31. (d) Ensure that political parties which are not compliant with the two-thirds gender rule are unable to gain access to funds, in line with the Political Parties Act of 2011, and provide incentives to parties that include an equal number of women and men on their electoral lists and at equal rank.<sup>308</sup>

Sri Lanka (2017)

29. (a) Ensure, within a set time frame, the enactment of the proposed minimum 30 percent quota for women candidates on nomination papers of political parties at the provincial level and introduce a similar quota for women candidates at the national level; (b) Adopt measures, including temporary special measures, in accordance with article 4(1) of the Convention and the Committee’s General Recommendation No. 25, in the form of legal quotas for women, including minority women, with a view to ensuring the targeted representation of women, including minority groups.<sup>309</sup>

Solomon Islands (2014)

28. The Committee considers that the forthcoming parliamentary elections provide an opportunity to revert the historic underrepresentation of women in political life. In this context, it notes the election preparation strategy launched by the State party to support candidatures from women. The Committee



is nevertheless concerned about the stark underrepresentation of women in decision-making positions in all areas and at all levels, especially in Parliament (with only one woman Member of Parliament), in senior positions in the Government and in the foreign service, as well as about the absence of women judges and prosecutors. It is also concerned about the lack of legislative provisions in the Constitution or any other act that provide a minimum quota of women in Parliament, as well as about the lack of family and community support to ensure that women are able to participate in political and public life. The Committee further notes with concern that the 10 percent minimum quota in the Political Parties Integrity Act for women's representation on electoral lists is very low and lacks an enforcement mechanism. 29. The Committee recommends that the State party: (b) Consider enacting legislation to reserve at least 30 percent of seats for women in Parliament and encourage the creation of a special parliamentary committee on the equality of women and men; (e) Consider increasing the minimum quota in the Political Parties Integrity Act for women's representation on electoral lists of political parties to at least 30 per cent, establish a mechanism to monitor the implementation of such legislation effectively and consider adopting sanctions against political parties that do not comply with the quota.<sup>310</sup>

#### Papua New Guinea (2010)

33. The Committee expresses its concern about the very low representation of women in Parliament and by the low levels of participation of women in other areas of public and political life, especially at the highest levels of decision-making, local government, the judiciary, including the village courts, and the international civil service. The Committee is also concerned about the practice of family voting, whereby one family member (usually the male head of the household) casts votes on behalf of other family members, or family members enter the voting booth together.<sup>311</sup>

These persistent challenges underscore the need for clear lessons and forward-looking strategies, which Chapter 6 distills into practical recommendations for reform.









# 6

## CHAPTER 6 KEY LESSONS AND RECOMMENDATIONS FOR LAW REFORM



## 6.1 Key Lessons

Drawing together the evidence of progress and gaps, this final chapter distills key lessons and recommendations to guide concrete legal reforms across the Commonwealth. By the time of colonial rule, many Commonwealth States possessed already established legal systems built on patriarchal customary laws, religious laws or a combination of both. Colonial expansion by Britain as well as other European countries such as Belgium, France, Germany, Netherlands, Portugal, and Spain significantly redefined pre-existing legal systems with the introduction of “received law”, which in Britain consisted of the common law and doctrines of equity that governed its own domestic legal system. Women in both England and the former British Empire were impacted by these norms through various standards, such as the common law doctrine of coverture and the marriage bar, which, being inherently patriarchal, carved out inferior roles and rights for women in society. While Britain has abolished these legal principles, they continue to be a feature of some post-independence Commonwealth countries, as evidenced in the continued presence of archaic laws dating back to colonial times.

Additionally, post-independence lawmaking has not been devoid of sexism. Parliaments across the Commonwealth are male dominated and continue to

enact laws that directly or indirectly discriminate against women and girls. The extent of State commitment to the elimination of discriminatory laws is reflected in the high level of reservations to CEDAW and various forms of Concluding Observations and Recommendations that the CEDAW Committee has issued to Commonwealth State Parties.

This Handbook is grounded in “*Equality in Law for Women and Girls by 2030: A Multistakeholder Strategy for Accelerated Action*”, a global framework and plan of action for eliminating gender discriminatory laws. The strategy was launched by UN Women, the Inter-Parliamentary Union, the African Union, the Commonwealth, Organisation Internationale de la Francophonie, Secretaría General Ibero-Americana, the International Development Law Organization and other institutions at the 63<sup>rd</sup> session of the United Nations Commission on the Status of Women in March 2019 to serve as a framework for accelerated action on eliminating *de jure* discrimination. Using the Strategy as a framework, this Handbook provides an opportunity to address the following inexhaustive gaps in the legal rights of women through a ten-point legislative roadmap, the time frame of which must be set by countries.

## 6.2 Recommendations

The proposed recommendations are as follows:

### 1. Ratify and commit to relevant human rights norms and standards

Commonwealth countries must ratify all relevant human rights global and regional treaties and withdraw reservations where they have been made. This effort must include accession to all relevant ILO Conventions, especially the Maternity Protection Convention, 2000 No. 183, which has been ratified by only 5 percent of Commonwealth countries, and the Violence and Harassment Convention, 2019 No. 190, ratified by 29 percent to date.

### 2. Promote the full integration of CEDAW and other relevant global and regional treaties into domestic law

In line with the Committee’s recommendations, steps must be taken to ensure the direct and timely incorporation of the Convention into domestic law as the best approach to achieving *de jure* equality, regardless of whether the country concerned applies the dualist or monist approach to the incorporation of international treaties.

### 3. Improve data collection and analysis of relevant indicators of the 2030 Agenda for Sustainable Development

Efforts must be made by all Commonwealth countries to improve data collection and analysis across the SDGs, particularly SDG 5.1.1; SDG 5.6.2; and SDG 5.a.2., for which under 40 percent of countries have data across the three indicators. All Commonwealth countries must



participate in these processes as a basis for building evidence to justify legal reforms.

#### **4. Address discriminatory constitutional provisions**

In light of the overarching supremacy of constitutions over other legal frameworks, efforts must be made to repeal all clawback clauses and promote the justiciability of principles of state policy as well as provisions that foster affirmative action and women's equal participation in decision-making.

#### **5. Address discrimination among marginalized and excluded women**

The Commonwealth is home to various groups of women who face discrimination based on their socio-economic background. Of primary attention should be women of indigenous and minority (national, ethnic, religious and linguistic) background, Scheduled Castes, Scheduled Tribes, women with disabilities, albino women, rural women, sex workers, asylum seekers, migrants, LGBTIQ persons, and children born out of wedlock and their mothers. Interventions should include the incorporation of the definition of discrimination in line with CEDAW into all constitutions and legislation and anti-discrimination education across all segments of society.

#### **6. Combat violence against women and girls**

Steps must be taken to address the most common forms of violence that the Committee has identified in Commonwealth countries. These include: forced and early marriage; marital rape; femicide; female genital mutilation; breast ironing; kidnapping of children, especially young girls, for the sale of organs or magic/religious practices; virginity testing; polygamy; pre-marriage, forced and early marriage; widowhood rites; levirate marriage; sororate marriage; bondage; denial of inheritance rights; enslavement to voodoo convents and violence against children and old women believed to be witches; the practice of prescribing sex with girls or women with albinism as a cure for HIV; ritual killings and attacks on women and girls with albinism, including the use of their body parts for purposes of witchcraft; stigma and social exclusion suffered by mothers of children with albinism; cyber/digital violence; technology-related violence; trafficking; and exploitation of prostitution. The Handbook has also identified FGM and early/child

marriage-practicing countries. This information should be used to undertake targeted policy and legal reforms.

#### **7. Decriminalize abortion and make it safe through legislation**

As noted, 37 Commonwealth countries possess restrictive abortion laws, which criminalize abortion in all circumstances.<sup>312</sup> Efforts must be made to repeal such laws within the broader framework of reproductive health-care services for women and adolescents, in line with the CEDAW Committee's recommendations, which encompass decriminalization and consideration for exceptions to the general prohibition of abortion in cases of therapeutic abortion and when the pregnancy is the result of rape or incest.

#### **8. Equalize nationality rights**

Steps must be taken by all affected Member States to repeal legislation that discriminates against women and men in their ability to confer nationality to children and spouses.

#### **9. Promote legal equality in family, marriage, and property relations**

Laws must take into account the evolving character of marriage and families, which in contemporary times include same-sex couples and informal unions. Steps must also be taken to protect the rights and needs of women in polygamous unions, while further research must be undertaken to better appreciate the state of inheritance rights.

#### **10. Advance participation in public life**

Efforts must be made to create a level playing field for women to participate in decision-making across all sectors, as well as within the political sphere, on an equal basis with men. This needs to consider the Committee's General Recommendation No. 40 on equal and inclusive representation of women in decision-making systems (2024), which defines "equal and inclusive representation" as parity 50:50 between women and men in all their diversity in terms of equal access to and equal power within decision-making systems. It also defines "decision-making systems" to encompass decision-making taking place in all sectors, in formal and informal processes, including the political, public, economic, and private spheres as well as digital spaces.

# CONCLUSION

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The evidence presented in this Handbook underscores both the scale of progress achieved and the persistence of significant gaps in advancing *de jure* equality for women and girls across the Commonwealth. From constitutional guarantees of equality to targeted reforms in family, labour, and nationality laws, many Member States have demonstrated a willingness to align domestic frameworks with international human rights standards. Yet, the continued presence of discriminatory provisions, clawback clauses, and gender-specific barriers to justice reflects a deficit that undermines the rights of women and girls and constrains the Commonwealth's collective commitment to the 2030 Agenda for Sustainable Development.

The diversity of the Commonwealth is both its greatest strength and a challenge. The richness of legal traditions, spanning customary, religious, received, and constitutional law, demands reform strategies that are context-specific, inclusive, and responsive to local realities. At the same time, the shared principles enshrined in the Commonwealth Charter, as well as the universal obligations under CEDAW and other international treaties, provide a common platform for accelerating change. What emerges clearly from the analysis is that achieving gender equal laws is not only a matter of legal reform but of political will, institutional capacity, and sustained partnership across all levels of governance.

The opportunity exists to draw on best practices from within and beyond the Commonwealth, to invest in robust data collection and monitoring, and to prioritize the repeal of discriminatory laws that continue to limit women's autonomy, safety, and participation in public life. This includes urgent reforms to eliminate child marriage, strengthen protections against gender-based violence, ensure equal nationality rights, safeguard reproductive health and rights, and enshrine gender equality as a constitutional guarantee.

Advancing equality in law for women and girls is not only a human rights imperative, but also a driver of inclusive economic growth, social cohesion, and sustainable development. The roadmap set out in this Handbook offers concrete, evidence-based tools to close the gap between commitment and implementation. Realizing this vision requires renewed solidarity among Commonwealth governments, parliaments, judiciaries, civil society, and international partners. With political courage and collective action, the Commonwealth can demonstrate global leadership by ensuring that all women and girls enjoy the full protection of the law without discrimination, delay, or exception.

Above all, the most powerful step that actors across the Commonwealth can take is to translate commitments into action by implementing and enforcing legislative reforms that advance gender equality, and by systematically documenting their impact to drive accountability and continuous progress.

# ANNEX I:

## TIPS ON UNDERTAKING A LEGAL ASSESSMENT

### 1. Identify entry points and strategies for repealing or amending discriminatory laws by:

- Consulting women's organizations, women human rights defenders and feminist movements in your country, ensuring diversity of representation and inclusion.
- Consulting other stakeholders, such as ministries of women/gender equality, justice, labour, health, education, parliamentarians, women's parliamentary caucuses, ombudspersons, national law reform commissions, national human rights institutions or equality bodies, women judges and lawyers, bar associations, trade unions, employers' organizations, and traditional/religious and community leaders.
- Inquiring about the most problematic pieces of discriminatory legislation; past and ongoing initiatives to address them; possible allies in reform efforts; and strategies and entry points.

### 2. Tactics that can be used to promote reform of discriminatory legislation:

- Build evidence of the impact of discriminatory legislation on women and girls, as well as communities at large, including linkages with development and the achievement of the SDGs. For example, there is abundant evidence - at global level - of how discrimination in access to land and productive resources has a negative impact on the achievement of the SDGs.
- Develop key messages and resources on discriminatory legislation for members of the UN Country Team. This can assist in ensuring that the UN communicates 'as one', particularly in situations where the issue at stake may be seen as politically sensitive. The UN and other partners have produced useful tools to assist in the

development of advocacy messages, as well as the provision of technical advice (see below).

- Prioritize strategic litigation before national, regional and international bodies as an important pathway for changing laws, national policies and plans. This can be done, for example, by submitting amicus briefs or by supporting civil society organizations leading strategic litigation. For example, in Mexico, following strategic litigation of one case, the Supreme Court issued a ruling that access to abortion when the health of the woman is at risk was part of the human right to health, which is protected by the Mexican Constitution.
- Cooperate with regional and international human rights mechanisms. Activating human rights treaty bodies, Special Procedures and the Universal Periodic Review, or mechanisms such as the ILO Committee of Experts by submitting information for their action, or by supporting civil society or national human rights institutions to do so, can open up opportunities for dialogue with relevant state authorities on reforming discriminatory laws. For example, activated by civil society in 2014, the CEDAW Committee found that a municipal ban on modern forms of contraception in Manila, Philippines constituted a grave and systematic violation of the Convention. This decision contributed to the reform of the Philippines' reproductive health law.
- Support convening and capacity building of national allies, including civil society, women human rights defenders, national human rights institutions, parliamentarians, parliamentary women caucuses, bar associations, trade unions, employers' organizations etc. to build arguments and strategies to promote and support reform of discriminatory laws. For example, collective bargaining can be instrumental in eliminating discrimination in the context of equal pay, and capacity building can focus on existing evidence,

normative grounds, sharing good practices from, and facilitating exchange of experiences with, countries in the same region.

- Provide technical expertise to parliaments, including providing evidence – and, as appropriate, testimonies – of the impact of discriminatory legislation; informing about recommendations made by international mechanisms; clarifying doubts/dispelling myths; providing technical advice based on good practice, including by offering to provide comments on draft legislation before its examination by parliament; bringing in parliamentarians

from other countries who have supported reforms in the same areas; and sharing views/experiences.

- Raise awareness and promote dialogue among the general public, as well as key actors, such as religious and community leaders, social partners and other critical constituencies.
- Locate and support allies in feminist organizing and mobilizing. Investments in feminist movements have been one of the most important drivers of change to address discriminatory laws.

## Some Tools on Good Practices

<a href="#"><u>UN Women Data Hub</u></a>	The Data Hub provides information on key elements of good practices on questions covered under SDG indicator 5.1.1 and lists examples of national laws/provisions. Click the “i” on the right side for tools.
<a href="#"><u>Global good practices in advancing gender equality and women’s empowerment in constitutions</u></a>	This policy guidance from 2017 provides a range of good practice options for advancing gender equality in the content of constitutions.
<a href="#"><u>Handbook for legislation on violence against women</u></a>	This Handbook intends to provide all stakeholders with detailed guidance to support the adoption and effective implementation of legislation which prevents violence against women, punishes perpetrators, and ensures the rights of survivors. It is available in all UN official languages.
<a href="#"><u>Realizing women’s rights to land and other productive resources</u></a>	This second edition, co-published by UN Women and OHCHR, aims to provide guidance to lawmakers and policymakers, as well as civil society organizations and other stakeholders, on supporting the adoption and effective implementation of laws, policies, and programmes to respect, protect, and fulfil women’s rights to land and other productive resources.
<a href="#"><u>Gender Justice &amp; The Law: Assessment of laws affecting gender equality in the Arab States region</u></a>	This study provides a comprehensive assessment of laws and policies affecting gender equality and protection against gender-based violence in 18 Arab countries, including the country’s key legislative developments and gaps regarding gender justice.
<a href="#"><u>Legal Assessment Tool for gender-equitable land tenure</u></a>	The Legal Assessment Tool offers a scroll-down list of legal indicators for gender-equitable land tenure. They focus on the elimination of gender-based discrimination in the constitution, inheritance, nationality, property rights and access to justice, among others.
<a href="#"><u>Global Campaign for Equal Nationality Rights</u></a>	This is a campaign to mobilize international action to end gender discrimination in nationality laws. Here you can find information on the countries that maintain nationality laws that discriminate on the basis of sex and/or deny women the right to confer their nationality on their children on an equal basis with men. It also contains information on countries that recently changed legislation and other useful resources.



# ANNEX II:

## SDG 5 DATA ON LEGAL FRAMEWORKS AND RELATED MATTERS IN THE COMMONWEALTH

This Annex provides quantitative data on:

1. Legal frameworks that promote, enforce and monitor gender equality (SDG Indicator 5.1.1)
2. Number of countries with laws and regulations that guarantee full and equal access to women and men aged 15 years and older to sexual and reproductive health care, information and education (SDG Indicator 5.6.2)
3. The proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control (SDG indicator 5.a.2)
4. Minimum age of marriage in the Commonwealth (linked to SDG indicator 5.3.1 on proportion of women aged 20–24 years who were married or in a union before age 15 and before age 18)

### 1. Legal Frameworks that Promote, Enforce and Monitor Gender Equality (SDG Indicator 5.1.1)

SDG indicator 5.1.1. measures government efforts to put in place legal frameworks to promote, enforce and monitor gender equality. Currently, data is available for 36 of the 56 Commonwealth states, indicating a need to improve reporting and monitoring.

Strengthening this process allows for a better understanding of whether states are fulfilling their SDG 5 obligations and will help identify trends and areas

where targeted interventions are required to drive further progress.

Table 1 presents all of the sub indicators (or questions) that are used to collect data on SDG indicator 5.1.1.

Table 2 presents data on the 36 countries for which information is available.

**TABLE 1:**  
**Questions Used to Collect Data on SDG Indicator 5.1.1**

**Area 1: Overarching legal frameworks and public life**

**Promote**

If customary law is a valid source of law under the constitution, is it invalid if it violates constitutional provisions on equality or non-discrimination?

If personal law is a valid source of law under the constitution, is it invalid if it violates constitutional provisions on equality or non-discrimination?

Is there a discrimination law that prohibits both direct and indirect discrimination against women?

Do women and men enjoy equal rights and access to hold public and political office (legislature, executive, judiciary)?

Are there quotas for women (reserved seats) in, or quotas for women in candidate lists for, national parliament?

Do women and men have equal rights to confer citizenship to their spouses and their children?

**Enforce and monitor**

Does the law establish a specialized independent body tasked with receiving complaints of discrimination based on gender (e.g., national human rights institution, women's commission, ombudsperson)?

Is legal aid mandated in criminal matters?

Is legal aid mandated in civil/family matters?

Does a woman's testimony carry the same evidentiary weight in court as a man's?

Are there laws that explicitly require the production and/or dissemination of gender statistics?

Are there sanctions for noncompliance with mandated candidate list quotas, or incentives for political parties to field women candidates in national parliamentary elections?

**Area 2: Violence against women**

**Promote**

Is there legislation specifically addressing domestic violence?

Have provisions exempting perpetrators from facing charges for rape if the perpetrator marries the victim after the crime been removed, or never existed in legislation?

Have provisions reducing penalties in cases of so-called honor crimes been removed, or never existed in legislation?

Are laws on rape based on lack of consent, without requiring proof of physical force or penetration?

Does legislation explicitly criminalize marital rape or does legislation entitle a woman to file a complaint about rape against her husband or partner?

Is there legislation that specifically addresses sexual harassment?

**Enforce and monitor**

Are there budgetary commitments provided for by government entities for the implementation of legislation addressing violence against women by creating an obligation on the government to provide a budget or allocation of funding for the implementation of relevant programs or activities?

Are there budgetary commitments provided by government entities for the implementation of legislation addressing violence against women by allocating a specific budget, funding, and/or incentives to support non-governmental organizations for activities to address violence against women?

Is there a national action plan or policy to address violence against women that is overseen by a national mechanism with the mandate to monitor and review implementation?

### Area 3: Employment and economic benefits

#### Promote

- Does the law mandate non-discrimination based on gender in employment?
- Does the law mandate equal remuneration for work of equal value?
- Can women work in jobs deemed hazardous, arduous, or morally inappropriate in the same way as men?
- Are women able to work in the same industries as men?
- Are women able to perform the same tasks as men?
- Does the law allow women to work the same night hours as men?
- Does the law provide for maternity or parental leave available to mothers in accordance with the ILO standards?
- Does the law provide for paid paternity or parental leave available to fathers or partners?

#### Enforce and monitor

- Is there a public entity that can receive complaints on gender discrimination in employment?
- Is childcare publicly provided or subsidized?

### Area 4: Marriage and family

#### Promote

- Is the minimum age of marriage at least 18, with no legal exceptions, for both women and men?
- Do women and men have equal rights to enter marriage (i.e., consent) and initiate divorce?
- Do women and men have equal rights to be the legal guardian of their children during and after marriage?
- Do women and men have equal rights to be recognized as head of household or head of the family?
- Do women and men have equal rights to choose where to live?
- Do women and men have equal rights to choose a profession?
- Do women and men have equal rights to obtain an identity card?
- Do women and men have equal rights to apply for passports?
- Do women and men have equal rights to own, access, and control marital property including upon divorce?

#### Enforce and monitor

- Is marriage under the legal age void or voidable?
- Are there dedicated and specialized family courts?

Source: United Nations Department of Economic and Social Affairs, Metadata database, [https://unstats.un.org/sdgs/dataportal/SDMXMetadataPage?5.1.1-SG\\_LGL\\_GENEQLFP](https://unstats.un.org/sdgs/dataportal/SDMXMetadataPage?5.1.1-SG_LGL_GENEQLFP).

TABLE 2:

### Legal Frameworks that Promote, Enforce and Monitor Gender Equality (Percentage of Achievement, 0 - 100) (2024)

Country	Area 1: overarching legal frameworks and public life	Area 2: violence against women	Area 3: employment and economic benefits	Area 4: marriage and family
Antigua and Barbuda	30.00	44.44	60.00	90.91
Australia	80.00	100.00	100.00	90.91
Bahamas	20.00	55.56	60.00	81.82
Bangladesh	75.00	77.78	20.00	63.64
Barbados	40.00	77.78	60.00	72.73
Belize	30.00	77.78	40.00	81.82
Solomon Islands	63.64	100.00	20.00	54.55
Cameroon	50.00	66.67	50.00	9.09
Canada	80.00	88.89	90.00	81.82
Cyprus	70.00	88.89	90.00	90.91
Fiji	60.00	100.00	80.00	100.00
Ghana	54.55	66.67	60.00	81.82
Grenada	40.00	66.67	80.00	90.91
India	63.64	77.78	40.00	100.00
Jamaica	50.00	77.78	50.00	90.91
Kenya	83.33	66.67	90.00	100.00
Malawi	54.55	66.67	80.00	63.64
Malaysia	33.33	66.67	40.00	63.64
Malta	90.00	100.00	90.00	90.91
Mauritius	58.33	100.00	100.00	81.82
Mozambique	72.73	66.67	70.00	81.82
Namibia	72.73	88.89	70.00	63.64
New Zealand	70.00	88.89	700.00	90.91
Nigeria	58.33	77.78	40.00	72.73
Pakistan	50.00	88.89	50.00	63.64
Papua New Guinea	63.64	66.67	30.00	72.73
Rwanda	90.91	88.89	90.00	90.91



Saint Kitts and Nevis	30.00	66.67	40.00	81.82
Samoa	81.82	88.89	70.00	63.64
Seychelles	60.00	88.89	80.00	81.82
Sierra Leone	72.73	88.89	100.00	100.00
Trinidad and Tobago	70.00	77.78	80.00	90.91
Uganda	83.33	77.78	80.00	72.73
United Kingdom	70.00	100.00	100.00	100.00
United Republic of Tanzania	70.00	44.44	80.00	72.73
Vanuatu	36.36	55.56	30.00	45.45

Source: United Nations Department of Economic and Social Affairs, SDG Indicators Database, <https://unstats.un.org/sdgs/dataportal/database>

## 2. Countries with Laws and Regulations that Guarantee Full and Equal Access to Women and Men Aged 15 Years and Older to Sexual and Reproductive Health Care, Information and Education (SDG Indicator 5.6.2)

The data on SDG Indicator 5.6.2 was collected in 2019 from 107 countries, representing 75 percent of the global population. However, only 31 of the 56 Commonwealth countries (55 percent) were included in this analysis. SDG indicator 5.6.2 measures 13 components across four sections.

Data are collected through official government responses to the UN Inquiry on Population and Development, and track the extent to which countries have laws guaranteeing full and equal access to sexual and

reproductive health care, information, and education for men and women aged 15 and older. Countries provide information on the presence of legal enablers and barriers for various components of sexual and reproductive health and rights. The data is then used to create country-specific scores, on a scale of 0–100, by dividing the number of existing enablers by the total number of potential enablers for each component. Scores for Commonwealth countries for which there is available data are presented below.


**TABLE 3:**  
**Components of SDG Indicator 5.6.2**

Maternity Care	Contraception and Family Planning	Comprehensive Sexuality Education (CSE) and Information	Sexual Health and Well-being
Maternity Care	Contraception	CSE Law	HIV Testing and Counselling
Life-saving Commodities	Consent for Contraceptive Services	CSE Curriculum	HIV Treatment and Care
Legal Status of Abortion Post-Abortion Care	Emergency Contraception		Confidentiality of Health Status of Men and Women Living with HIV
			HPV Vaccine

Source: Adapted from United Nations Population Fund, *Ensure universal access to sexual and reproductive health and reproductive rights*, Measuring SDG Target 5.6 (February 2020).

TABLE 4:

Number of Countries with Laws and Regulations that Guarantee Full and Equal Access to Women and Men Aged 15 Years and Older to Sexual and Reproductive Health Care, Information and Education (SDG Indicator 5.6.2), 2019 (percent)

COUNTRY	SECTION 1 MATERNITY CARE				SECTION 2 CONTRACEPTION SERVICES			SECTION 3 SEXUALITY EDUCATION		SECTION 4 HIV AND HPV				SECTION 1 Maternity Care	SECTION 2 Contracep- tive Services	SECTION 3 Sexuality Education	SECTION 4 HIV and HPV	5.6.2 
	C1 Maternity Care	C2 Live Saving Commodities	C3 Abortion	C4 Post-Abor- tion Care	C5 Services	C6 Consent	C7 Emergency	C8 Curricu- lum Laws	C9 Curricu- lum Topics	C10 HIV Counselling and Test Services	C11 HIV Treatment and Care Services	C12 HIV Confidenti- ality	C13 HPV Vaccine					
Antigua and Barbuda	-	85	0	100	0	100	0	0	0	100	100	100	0	-	33	0	75	-
Australia	100	-	0	100	80	100	100	0	0	100	100	100	0	-	93	0	75	-
Bangladesh	0	85	-	100	0	0	0	100	88	40	40	75	0	-	0	94	39	-
Barbados	100	77	75	0	60	0	0	0	0	80	80	100	0	63	20	0	65	44
Belize	0	100	0	100	0	0	0	0	100	60	80	100	0	50	0	50	60	42
Botswana	100	92	-	0	80	100	100	100	88	40	80	100	100	-	93	94	80	-
Cameroon	100	92	25	100	100	100	100	0	0	-	-	-	0	79	100	0	-	-
Gabon	100	100	0	100	40	0	25	100	100	40	100	50	0	75	22	100	48	58
Gambia	100	100	25	100	100	100	100	100	100	40	20	100	100	81	100	100	65	83
Guyana	100	92	75	100	60	100	50	100	100	60	60	75	0	92	70	100	49	75
India	-	85	75	-	100	100	100	0	0	60	100	100	-	-	100	0	-	-
Malawi	25	100	-50	75	80	100	100	100	100	80	80	100	100	38	93	100	90	76
Malaysia	75	77	-25	75	80	100	75	100	100	100	100	100	100	50	85	100	100	81
Maldives	0	92	25	0	0	0	0	100	63	100	100	100	0	29	0	81	75	45
Malta	100	100	-25	100	100	100	100	100	100	100	100	100	100	69	100	100	100	90
Mauritius	100	85	50	100	60	100	50	0	0	100	100	100	100	84	70	0	100	73
Mozambique	100	92	25	100	100	100	100	100	100	100	100	100	100	79	100	100	100	94
Namibia	100	100	50	100	100	100	100	100	100	100	100	100	100	88	100	100	100	96
New Zealand	100	100	25	100	100	100	100	100	100	100	100	100	100	81	100	100	100	94
Nigeria	-	100	75	0	100	100	100	100	100	100	100	100	100	-	100	100	100	-
Pakistan	100	92	-50	100	100	100	100	0	0	100	100	100	0	61	100	0	75	65
Saint Lucia	100	92	-	100	60	100	50	100	100	80	80	75	100	-	70	100	84	-
Saint Vincent and the Grenadines	100	62	25	100	80	100	100	100	100	80	100	100	0	72	93	100	70	81
Sierra Leone	100	100	50	0	100	100	100	0	0	100	100	100	0	63	100	0	75	65
South Africa	100	100	75	100	80	100	75	100	100	100	100	100	100	94	85	100	100	95
Sri Lanka	100	77	-25	100	100	100	100	100	100	100	100	100	100	63	100	100	100	89
Tanzania	100	100	-	100	100	100	100	100	100	100	100	100	100	-	100	100	100	-
Togo	100	100	50	100	100	100	100	0	0	100	100	100	0	88	100	0	75	73
Trinidad and Tobago	25	85	0	25	0	0	0	100	100	40	40	0	0	34	0	100	20	32
United Kingdom of Great Britain and Northern Ireland	100	100	0	100	100	100	100	100	100	100	100	100	100	75	100	100	100	92
Zambia	100	100	50	100	60	100	75	100	100	100	100	100	100	88	78	100	100	91

Source: Extracted from United Nations Population Fund, *Ensure universal access to sexual and reproductive health and reproductive rights*, Measuring SDG Target 5.6 (February 2020), available at <https://www.unfpa.org/sites/default/files/pub-pdf/UNFPA-SDG561562Combined-v4.15.pdf>.

### 3. Proportion of Countries where the Legal Framework (including customary law) Guarantees Women's Equal Rights to Land Ownership and/or Control (SDG indicator 5.a.2)

Indicator 5.a.2 assesses the extent to which national legal frameworks (including customary law) guarantee women's equal rights to land ownership and/or control. The indicator "measures" the level to which a country's legal framework supports women's land rights by testing that framework against six proxies drawn from international law and internationally accepted good practices, in particular CEDAW and the Voluntary Guidelines for the Responsible Governance of the Tenure of Land Fisheries and Forestry (VGGT). The six proxies by which progress under this indicator can be assessed are as follows:

- Proxy A: Is the joint registration of land compulsory or encouraged through economic incentives?
- Proxy B: Does the legal and policy framework require spousal consent for land transactions?
- Proxy C: Does the legal and policy framework support women's and girls' equal inheritance rights?
- Proxy D: Does the legal and policy framework provide for the allocation of financial resources to increase women's ownership and control over land?

- Proxy E: In legal systems that recognize customary land tenure, does the legal and policy framework explicitly protect the land rights of women?
- Proxy F: Does the legal and policy framework mandate women's participation in land management and administration institutions?

More information and guidance for countries reporting on SDG indicator 5.a.2 is set out by the FAO in *Realizing women's rights to land in law: A guide for reporting on SDG Indicator 5.a.2*.

Table 5, which is presented in ascending order, highlights significant variation in progress on SDG indicator 5.a.2 among Commonwealth countries. Scores range from a low of 1, shared by Belize, Ghana, Saint Lucia, and Sierra Leone, to a perfect score of 6 achieved by Rwanda, signifying that the target has been fully met. However, with data available for only 14 countries, it is challenging to draw broader conclusions for the Commonwealth as a whole. To advance progress on SDG indicator 5.a.2, further reporting is essential to better evaluate the strengths and gaps in women's legal rights to land across Commonwealth states.

**TABLE 5:**  
**Degree to which the Legal Frameworks (including Customary Law) Guarantee Women's Equal Rights to Land Ownership and/or Control**

Country	Score*	Current status	Data and assessment refer to the year	Source Detail
Belize	1	Very far from target	2023	National Women's Commission
Ghana	1	Very far from target	2020	Office of Attorney General and Ministry of Justice (OAGMoJ)
Saint Lucia	1	Very far from target	2021	Department of Agriculture Fisheries Natural Resources and Co-operatives
Sierra Leone	1	Very far from target	2021	Ministry of Land, Housing and Country Planning

Guyana	2	Far from target	2021	Ministry of Agriculture
Pakistan	2	Far from target	2020	Ministry of Human Rights
Saint Vincent and the Grenadines	2	Far from target	2023	Ministry of Agriculture, Forestry, Fisheries, Rural Transformation, Industry and Labour
Malawi	3	Far from target	2020	Ministry of Lands
Togo	4	Moderate distance to target	2021	Institut National de la Statistique et des Etudes Economiques et Démographiques (INSEED)
Kenya	5	Close to target	2020	Ministry of Public Service and Gender - Gender Mainstreaming Department
Namibia	5	Close to target	2022	Ministry of Gender Equality, Poverty Eradication and Social Welfare
Uganda	5	Close to target	2022	Ministry of Lands Housing and Urban Development
United Republic of Tanzania	5	Close to target	2021	Ministry of Constitutional and Legal Affairs
Rwanda	6	Target met	2020	Ministry of Gender and Family Promotion

\* 1=No evidence to 6=Highest levels of guarantees

Source: FAO, "SDG Indicators Data Portal", <https://www.fao.org/sustainable-development-goals-data-portal/data/indicators/5a2-women-s-equal-rights-to-land-ownership/en>.



## 4. Minimum Age of Marriage in the Commonwealth (linked to SDG 5.3.1 on proportion of women aged 20–24 years who were married or in a union before age 15 and before age 18)

Table 6 shows the minimum age for marriage for girls, including with exceptions, coupled with the prevalence of child marriage in all Commonwealth countries, organized from highest minimum age to lowest.

**TABLE 6:**  
**Minimum Age of Marriage in the Commonwealth**

Country	Minimum legal age of marriage for girls	Minimum legal age of marriage for girls with exceptions	Prevalence of child marriage
Rwanda	21	N/A	6 percent
Botswana*	21	18	No data
Kiribati	21	18	18 percent
Nigeria	21	18	30 percent
Samoa*	21	18	7 percent
Tuvalu*	21	18	2 percent
Uganda	21	18	34 percent
Eswatini	21	6	5 percent
Vanuatu*	21	16	21 percent
Cameroon	21	15	30 percent
Gabon	21	15	22 percent
Papua New Guinea	21	14	27 percent
Namibia	21	0	7 percent
Zambia	21	0	29 percent
Antigua and Barbuda*	18	N/A	No data
Fiji*	18	N/A	4 percent
Gambia (The)	18	N/A	23 percent
Ghana	18	N/A	19 percent
India	18	N/A	23 percent
Kenya	18	N/A	23 percent
Malawi	18	N/A	58 percent
Maldives*	18	N/A	2 percent
Mauritius*	18	N/A	No data
Nauru*	18	N/A	27 percent
Pakistan	18	N/A	18 percent

Sierra Leone	18	N/A	30 percent
Trinidad and Tobago*	18	N/A	4 percent
Australia*	18	16	No data
Barbados	18	16	29 percent
Belize	18	16	34 percent
Cyprus*	18	16	No data
Dominica*	18	16	No data
Grenada*	18	16	No data
Guyana	18	16	32 percent
Jamaica*	18	16	8 percent
Malaysia*	18	16	No data
Mozambique	18	16	53 percent
New Zealand*	18	16	No data
Saint Lucia	18	16	24 percent
Togo	18	16	25 percent
United Kingdom*	18	16	No data
Saint Kitts and Nevis*	18	15	No data
Saint Vincent and the Grenadines*	18	15	No data
South Africa	18	15	4 percent
United Republic of Tanzania	18	14	31 percent
Bahamas*	18	13	No data
Bangladesh	18	0	51 percent
Lesotho	18	0	16 percent
Singapore*	18	0	No data
Sri Lanka*6	18	0	10 percent
Canada*	16	N/A	No data
Malta*	16	N/A	No data
Solomon Islands*	15	N/A	21 percent
Tonga*	15	N/A	10 percent
Seychelles*	15	0	No data
Brunei Darussalam*	14	N/A	No data

Source: The data for the Commonwealth has been extracted from UNICEF child marriage country profiles, available at <https://data.unicef.org/resources/child-marriage-country-profiles/> and the Girls Not Brides Child Marriage Atlas, available at <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/atlas/>. An asterisk (\*) indicates the source of the data is the Girls Not Brides Child Marriage Atlas.

# ANNEX III:

## WOMEN POLITICAL LEADERS IN THE COMMONWEALTH

**TABLE 1:**  
Share of Women Cabinet Members that Head Ministries in the Commonwealth,  
as of 1 January 2025

Global Rank	Country	Total Ministers	Women (number)	Women (percent of total)
6	United Kingdom	18	9	50.0
10	Australia	29	14	48.3
15	Canada	35	16	45.7
18	South Africa	32	14	43.8
30	Dominica	13	5	38.5
35	Namibia	19	7	36.8
37	Seychelles	14	5	35.7
40	Guyana	17	6	35.3
43	New Zealand	20	7	35.0
45	Cyprus	18	6	33.3
“	Jamaica	15	5	33.3
“	Malawi	21	7	33.3
“	Sierra Leone	27	9	33.3
53	Togo	31	10	32.3
55	Trinidad & Tobago	22	7	31.8
56	Barbados	16	5	31.3
59	Grenada	13	4	30.8
61	Kenya	20	6	30.0
“	Uganda	20	6	30.0
65	United Republic of Tanzania	21	6	28.6
68	Mozambique	18	5	27.8
69	Gabon	29	8	27.6

71	Eswatini	19	5	26.3
“	Rwanda	19	5	26.3
75	St. Kitts & Nevis	8	2	25
89	Samoa	13	3	23.1
90	Bahamas	18	4	22.2
99	Cameroon	34	7	20.6
109	Bangladesh	22	4	18.2
“	St. Lucia	11	2	18.2
“	St. Vincent & The Grenadines	11	2	18.2
“	Tonga	11	2	18.2
117	Ghana	23	4	17.4
119	Botswana	18	3	16.7
123	Zambia	25	4	16.0
129	Gambia (The)	21	3	14.3
“	Kiribati	14	2	14.3
“	Nauru	7	1	14.3
“	Singapore	17	2	14.3
140	Antigua & Barbuda	8	1	12.5
“	Malta	16	2	12.5
146	Lesotho	17	2	11.8
148	Malaysia	27	3	11.1
154	Fiji	19	2	10.5
156	Brunei Darussalam	10	1	10.0
160	Maldives	21	2	9.5
“	Solomon Islands	21	2	9.5
165	Sri Lanka	22	2	9.1
166	Nigeria	34	3	8.8
167	Mauritius	24	2	8.3
172	Belize	17	1	5.9
174	India	36	2	5.6
180	Papua New Guinea	37	1	2.7
181	Pakistan	18	0	0.0
“	Tuvalu	8	0	0.0
“	Vanuatu	12	0	0.0

Source: UN Women, “Women Political Leaders 2025”, 2025. Available at <https://www.unwomen.org/sites/default/files/2025-06/poster-women-political-leaders-2025-en.pdf>. The data is compiled from Permanent Missions to the United Nations, official government websites and publicly available information.



TABLE 2:

## Women's Parliamentary Representation in the Commonwealth, as of 1 August 2025

Country	Global Ranking	Lower or single House				Upper chamber			
		Elections	Seats	Women	%	Elections	Seats	Women	%
Rwanda	1	07.2024	80	51	63.8	09.2024	26	14	53.9
Australia	9	05.2025	150	69	46.0	05.2025	76	43	56.6
New Zealand	13	10.2023	122	55	45.1	-	-	-	-
South Africa	16	05.2024	399	179	44.9	06.2024	54	24	44.4
Dominica	26	12.2022	32	13	40.6	-	-	-	-
Namibia	26	11.2024	96	39	40.6	12.2020	42	6	14.3
United Kingdom	28	07.2024	650	263	40.5	-	832	258	31.0
Guyana	31	03.2020	71	28	39.4	-	-	-	-
Mozambique	33	10.2024	250	98	39.2	-	-	-	-
United Republic of Tanzania	39	10.2020	392	148	37.8	-	-	-	-
Uganda	50	01.2021	555	189	34.1	-	-	-	-
Cameroon	51	02.2020	180	61	33.9	03.2023	100	33	33
Singapore	59	05.2025	99	32	32.3	-	-	-	-
Grenada	64	06.2022	16	5	31.3	08.2022	13	4	30.8
Saint Kitts and Nevis	64	08.2022	16	5	31.3	-	-	-	-
Canada	71	04.2025	343	104	30.3	-	104	57	54.8
Sierra Leone	74	06.2023	149	44	29.5	-	-	-	-
Malta	76	03.2022	79	23	29.1	-	-	-	-
Jamaica	80	09.2020	63	18	28.6	09.2020	20	8	40.0
Seychelles	80	10.2020	35	10	28.6	-	-	-	-
Barbados	88	01.2022	30	8	26.7	02.2022	21	7	33.3
Gabon	93	10.2023	98	25	25.5	10.2023	69	14	20.3
Lesotho	97	10.2022	120	30	25.0	11.2022	33	7	21.2
Trinidad and Tobago	101	04.2025	42	10	23.8	05.2025	31	8	25.8
Kenya	103	08.2022	342	80	23.4	08.2022	67	21	31.3
Saint Vincent and the Grenadines	111	11.2020	23	5	21.7	-	-	-	-

Country	Global Ranking	Lower or single House				Upper chamber			
		Elections	Seats	Women	%	Elections	Seats	Women	%
Eswatini	113	09.2023	74	16	21.6	11.2023	30	14	46.7
Malawi	118	05.2019	193	40	20.7	-	-	-	-
Bahamas, The	133	09.2021	39	7	18.0	10.2021	16	5	31.3
Mauritius	134	11.2024	67	12	17.9	-	-	-	-
Pakistan	136	02.2024	311	53	17.0	04.2024	85	16	18.8
Togo	142	04.2024	113	17	15.0	02.2025	61	15	24.6
Zambia	142	08.2021	167	25	15.0	-	-	-	-
Ghana	144	12.2024	275	40	14.6	-	-	-	-
Cyprus	147	05.2021	56	8	14.3	-	-	-	-
India	149	04.2024	544	75	13.8	01.2024	234	39	16.7
Malaysia	151	11.2022	222	30	13.5	-	56	9	16.1
Samoa	153	04.2021	54	7	13.0	-	-	-	-
Belize	155	03.2025	32	4	12.5	05.2025	14	5	35.7
Kiribati	160	08.2024	45	5	11.1	-	-	-	-
Nauru	162	09.2022	19	2	10.5	-	-	-	-
St. Lucia	162	07.2021	19	2	10.5	08.2021	11	6	54.6
Tonga	164	11.2021	30	3	10.0	-	-	-	-
Sri Lanka	165	11.2024	225	22	9.8	-	-	-	-
Fiji	168	12.2022	55	5	9.1	-	-	-	-
Botswana	169	10.2024	69	6	8.7	-	-	-	-
Gambia The	170	04.2022	58	5	8.6	-	-	-	-
Solomon Islands	173	04.2024	50	3	6.0	-	-	-	-
Antigua & Barbuda	174	01.2023	18	1	5.6	02.2023	17	7	41.2
Nigeria	178	02.2023	356	15	4.2	02.2023	107	4	3.7
Maldives	179	04.2024	93	3	3.2	-	-	-	-
Papua New Guinea	180	07.2022	111	3	2.7	-	-	-	-
Vanuatu	181	01.2025	52	1	1.9	-	-	-	-
Tuvalu	182	01.2024	16	0	0.0	-	-	-	-

Source: Inter-Parliamentary Union, "Monthly ranking of women in national parliaments", August 2025, *Inter-Parliamentary Union Parline database*. Data for Bangladesh is not available.

TABLE 3:

## Elected Seats Held by Women in Deliberative Bodies of Local Government, as of 1 January 2024

Global rank	Country/Area name	Reference election year or equivalent	Number of elected women	Number of elected seats	Proportion of elected seats held by women (percentage)
8	Rwanda	2021	216	468	46.2%
11	Namibia	2020	168	374	44.9%
12	Antigua and Barbuda	2023	4	9	44.4%
13	India	2017	1375914	3100804	44.4%
14	Guyana	2023	542	1222	44.4%
29	Trinidad and Tobago	2023	62	156	39.7%
31	Maldives	2021	388	982	39.5%
37	South Africa	2021	3874	10320	37.5%
39	United Kingdom of Great Britain and Northern Ireland	2021	5873	16629	35.3%
40	New Zealand	2022	321	909	35.3%
43	Australia	2018	1679	4950	33.9%
45	Kenya	2017	746	2224	33.5%
53	Belize	2022	445	1381	32.2%
60	Tanzania, United Republic of	2020	1634	5326	30.7%
62	Lesotho	2023	429	1406	30.5%
83	Canada	2015	6140	23083	26.6%
86	Malta	2019	117	464	25.2%
88	Cameroon	2020	2829	11526	24.5%
89	Mauritius	2020	315	1290	24.4%
94	Bangladesh	2023	15637	66638	23.5%
97	Uganda	2021	10225	46285	22.1%
105	Jamaica	2016	42	229	18.3%
106	Sierra Leone	2018	93	511	18.2%

111	Cyprus	2016	546	3394	16.1%
113	Pakistan	2023	23852	151470	15.7%
116	Botswana	2019	73	490	14.9%
117	Malawi	2019	67	460	14.6%
118	Eswatini	2018	56	394	14.2%
121	The Gambia	2018	23	167	13.8%
122	Togo	2019	198	1527	13.0%
125	Tuvalu	2020	6	48	12.5%
129	Nigeria	2022	1065	9628	11.1%
130	Sri Lanka	2018	552	5067	10.9%
132	Vanuatu	2020	13	129	10.1%
15	Kiribati	2020	18	248	7.3%
136	Zambia	2016	116	1624	7.1%
140	Ghana	2023	264	6216	4.2%

Source: Data compiled by UN Women (the custodian agency for SDG indicator 5.5.1b) in partnership with UN Regional Commissions.

Notes: 1. A number of countries/areas reported that there are no elected local deliberative bodies as of 1 January 2024. These countries/areas are: Barbados, Brunei Darussalam, Fiji, Grenada, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Singapore, Tonga. 2. In Fiji, currently there are no elected deliberative bodies. Women's representation in appointed positions of local government is 36%, women holding 29 out of 81 positions in local governments with available data. 3. In Malaysia, currently there are no elected deliberative bodies. Women's representation in appointed positions of local government is 19%.



TABLE 4:

## Legislated Gender Quotas for National Governments, as of 1 January 2024

Country	Type of quota	Quota target	Placement rules for candidate quotas	Sanctions for candidate quotas	Methods of filling reserved seats	Electoral system
Bangladesh	Reserved seats	14%	N/A	No	Post-election allocation of seats proportional to the number of general seats won by each party in general elections	Majority/plurality
Eswatini	Candidate quota	30%	None	No	N/A	Majority/plurality
Gabon	Candidate quota	30%	None	Yes	N/A	Majority/plurality
Guyana	Candidate quota	33%	None	Yes	N/A	Proportional representation
India	Reserved seats	30%	N/A	No	One third of seats is reserved for women	Majority/plurality
Kenya	Reserved seats	33%	N/A	No	Special list/ballot for women candidates	Majority/plurality
Lesotho	Candidate quota	50%	Candidates shall alternate by sex	No	N/A	Mixed
Malta	Candidate quota	40%	None	No	N/A	Proportional representation
Pakistan	Reserved seats, Candidate quota	17%	None	No	Separate list for women candidates: post-election allocation of seats proportional to the number of general seats won by each party in the general election	Majority/plurality
Rwanda	Reserved seats, Candidate quota	30%	None	No	Special list/ballot for women candidates	Proportional representation

Samoa	Reserved seats	10%	N/A	No	None	Majority/ plurality
Sierra Leone	Candidate quota	30%	One in three consecutive candidates shall be female.	No	N/A	Proportional representation
Solomon Islands	Candidate quota	10%	None	No	N/A	Majority/ plurality
Togo	Candidate quota	50%	None	No	N/A	Proportional representation
Uganda	Reserved seats	22%	N/A	No	Special list/ballot for women candidates	Majority/ plurality
United Republic of Tanzania	Reserved seats	30%	N/A	No	Post-election allocation of seats proportional to the number of general seats won by each party in general elections	Majority/ plurality

Source: United Nations Gender Quota Portal. 2025. <http://genderquota.org>.

**TABLE 5:**  
**Legislated Gender Quotas for Local Governments, as of 1 January 2024**

Country	Type of Quota	Quota Target (%)	Information on quota
Gabon	Candidate quota	33	<p>Candidate quota:</p> <ul style="list-style-type: none"> <li>Ranking/ placement requirements: Lists must alternate between men, women and youth throughout.</li> <li>Sanctions: Lists are rejected, and political parties are given 48 hours to comply.</li> <li>Legal source: Parity law</li> </ul>
Kenya	Candidate quota, Reserved seats	33	<p>Candidate quota:</p> <ul style="list-style-type: none"> <li>Ranking/ placement requirement: Candidates shall alternate by sex.</li> <li>Sanctions: No.</li> </ul> <p>Reserved seats:</p> <ul style="list-style-type: none"> <li>The reserved seats are filled by women selected from regular party lists.</li> </ul> <p>Legal source: Constitution, Electoral law</p>
Lesotho	Reserved seats	33	<p>Reserved seats:</p> <ul style="list-style-type: none"> <li>Wards selected through a lottery system elect women for the reserved seats.</li> </ul> <p>Legal source: Electoral law, local government law</p>
Mauritius	Candidate quota	33	<p>There are no provisions on ranking/ placement or sanctions. Legal source: Local government law</p>
Namibia	Candidate quota	30	<p>There are no provisions on ranking/ placement or sanctions. Legal source: Local government law</p>
Rwanda	Reserved seats	30	<p>Reserved seats:</p> <ul style="list-style-type: none"> <li>Separate candidate lists, women candidates with the highest votes fill the reserved seats</li> </ul> <p>Legal source: Electoral law, local government law</p>
Sierra Leone	Candidate quota, Reserved seats	30	<p>Candidate quota:</p> <ul style="list-style-type: none"> <li>Ranking/ placement requirement: For every three candidates nominated, one must be female.</li> <li>Sanctions: Lists are rejected.</li> </ul> <p>Reserved seats:</p> <ul style="list-style-type: none"> <li>Reserved seats only apply to districts.</li> </ul> <p>Legal source: Electoral law, Parity Law</p>
South Africa	Candidate quota	50	<p>Candidate quota:</p> <ul style="list-style-type: none"> <li>Ranking/ placement requirements: Candidates of each sex must be evenly distributed throughout the list.</li> <li>Sanctions: No.</li> </ul> <p><b>Note: The quota is only used for some types of local government.</b></p> <p>Legal source: Local government law</p>

Tanzania, United Republic of	Reserved seats	30	<p>Reserved seats:</p> <ul style="list-style-type: none"> <li>• Filled from a separate list of women candidates nominated by political parties.</li> </ul> <p>Legal source: Electoral law, local government law</p>
Uganda	Reserved seats	33	<p>Reserved seats:</p> <ul style="list-style-type: none"> <li>• Filled amongst women candidates, people with disabilities and electoral college consisting of youth councils and youth executives.</li> </ul> <p>Legal source: Constitution, local government law</p>
Bangladesh	Reserved seats	33	<p>Reserved seats:</p> <ul style="list-style-type: none"> <li>• Filled through direct elections.</li> </ul> <p><b>Note: The quota is only used for some types of local government.</b></p> <p>Legal source: Local government law</p>
India	Reserved seats	40	<p>Reserved seats:</p> <ul style="list-style-type: none"> <li>• Wards selected through a lottery system elect women for the reserved seats.</li> </ul> <p>Legal source: Constitution, local government law</p>
Maldives	Reserved seats	33	<p>Reserved seats:</p> <ul style="list-style-type: none"> <li>• Reserved seats are filled from city constituencies determined by the Election Commission; elected candidates</li> </ul> <p><b>Note: The quota is only used for some types of local government.</b></p> <p>Legal source: Local government law</p>
Pakistan	Reserved seats	10	<p>Reserved seats:</p> <ul style="list-style-type: none"> <li>• Reserved seats are filled by women candidates with the highest number of votes; successful candidates nominated by elected council members</li> </ul> <p>Legal source: Local government law</p>
Sri Lanka	Candidate quota	25	<p>Candidate quota:</p> <ul style="list-style-type: none"> <li>• Ranking/placement requirements: No</li> <li>• Sanctions: Lists are rejected. Also uses a quota on results. If fewer women are elected than required, the remaining seats will be filled by unelected and eligible women candidates listed in the First or Additional Nomination Papers.</li> </ul> <p>Legal source: Electoral law</p>
Vanuatu	Reserved seats	6	<p>Reserved seats:</p> <ul style="list-style-type: none"> <li>• Filled by unelected women with the highest votes; Minister may also appoint nominees.</li> </ul> <p><b>Note: The quota only applies to some types of local government.</b></p> <p>Legal source: Electoral law</p>

Source: Data compiled by UN Women.



# ANNEX IV: WOMEN, BUSINESS AND THE LAW DATA

This Annex presents data from the World Bank Group's *Women, Business and the Law*, which measures laws that affect women's economic opportunity in 190 economies. The index of eight indicators is structured around women's interactions with the law as they move through their lives and careers: Mobility, Workplace, Pay, Marriage, Parenthood, Entrepreneurship, Assets, and Pension. Overall index scores are calculated by taking

the average of each indicator, with 100 representing the highest possible score. Scores for each indicator and overall scores for Commonwealth countries from 1970 and 2023, for which there is data available, are below.

The data is current as of October 1, 2023. For the full dataset, including legal reforms by country from 1970 to the present, please visit [wbl.worldbank.org](http://wbl.worldbank.org).

**TABLE 1:**  
*Women, Business and the Law 2024 Scores for Commonwealth Countries, by Indicator*

Economy	WBL INDEX	MOBILITY	WORK-PLACE	PAY	MARRIAGE	PARENT-HOOD	ENTREPRE-NEURSHIP	ASSETS	PENSION
Antigua and Barbuda	68.8	75	50	75	100	20	75	80	75
Australia	96.9	100	100	100	100	100	100	100	75
Bahamas, The	81.3	100	100	75	80	20	75	100	100
Bangladesh	49.4	100	50	25	60	20	75	40	25
Barbados	80.0	75	100	50	100	40	75	100	100
Belize	82.5	100	75	50	100	60	75	100	100
Botswana	63.8	75	25	75	100	0	75	60	100
Brunei Darussalam	53.1	50	25	75	40	0	75	60	100
Cameroon	60.0	50	75	25	40	80	50	60	100
Canada	100.0	100	100	100	100	100	100	100	100
Cyprus	96.9	100	100	75	100	100	100	100	100
Dominica	62.5	75	25	50	100	0	75	100	75
Eswatini	46.3	100	25	50	40	20	0	60	75
Fiji	82.5	100	100	50	100	60	75	100	75
Gabon	95.0	100	100	100	80	80	100	100	100
Gambia, The	69.4	100	50	75	60	60	75	60	75
Ghana	75.0	100	100	50	100	20	75	80	75
Grenada	80.6	100	50	100	100	20	75	100	100
Guyana	86.9	75	100	100	80	40	100	100	100
India	74.4	100	100	25	100	40	75	80	75

Jamaica	74.4	100	75	50	100	20	75	100	75
Kenya	83.8	100	100	100	100	40	75	80	75
Kiribati	76.3	100	100	100	100	20	75	40	75
Lesotho	80.6	100	75	75	100	20	75	100	100
Malawi	80.0	50	100	100	100	40	75	100	75
Malaysia	60.6	50	50	75	40	60	75	60	75
Maldives	73.8	100	100	75	60	40	100	40	75
Malta	91.3	100	100	75	100	80	100	100	75
Mauritius	89.4	100	100	100	80	60	100	100	75
Mozambique	82.5	100	100	50	100	60	100	100	50
Namibia	80.0	75	75	75	100	40	75	100	100
New Zealand	97.5	100	100	100	100	80	100	100	100
Nigeria	66.3	75	75	50	100	0	75	80	75
Pakistan	58.8	75	100	50	60	20	75	40	50
Papua New Guinea	60.0	75	50	25	100	0	75	80	75
Rwanda	91.9	100	100	100	100	60	100	100	75
Samoa	75.0	75	100	75	100	40	75	60	75
Seychelles	76.3	75	50	75	100	80	75	80	75
Sierra Leone	92.5	100	100	100	100	60	100	80	100
Singapore	82.5	100	75	75	100	60	75	100	75
Solomon Islands	56.9	75	25	25	100	0	75	80	75
South Africa	88.1	100	100	100	100	80	100	100	25
Sri Lanka	65.6	100	75	25	100	20	75	80	50
St. Kitts and Nevis	71.3	100	25	50	100	40	75	80	100
St. Lucia	83.8	75	100	100	80	40	75	100	100
St. Vincent and the Grenadines	68.1	75	25	50	100	20	75	100	100
Tanzania	81.3	100	100	100	80	60	75	60	75
Togo	97.5	100	100	100	100	80	100	100	100
Tonga	58.8	100	25	75	100	0	75	20	75
Trinidad and Tobago	75.0	75	50	75	80	20	100	100	100
Uganda	83.8	100	100	100	100	40	75	80	75
United Kingdom	97.5	100	100	100	100	80	100	100	100
Vanuatu	55.6	75	25	50	80	0	100	40	75
Zambia	81.3	75	100	100	80	40	100	80	75

Source: *Women, Business and the Law* database, available at [wbl.worldbank.org](http://wbl.worldbank.org).

Note: Data is not available for Nauru or Tuvalu.

TABLE 2:

Reform Progress in Commonwealth Countries between 1970 and 2023 using *Women, Business and the Law 1.0* data, by Overall Score

Economy	WBL Index, 1970	WBL Index, 2024
Antigua and Barbuda	51.9	68.8
Australia	54.4	96.9
Bahamas, The	50.0	81.3
Bangladesh	35.0	49.4
Barbados	60.0	80.0
Belize	51.3	82.5
Botswana	20.0	63.8
Brunei Darussalam	38.8	53.1
Cameroon	45.6	60.0
Canada	63.8	100.0
Cyprus	60.0	96.9
Dominica	45.6	62.5
Eswatini	26.9	46.3
Fiji	51.3	82.5
Gabon	43.1	95.0
Gambia, The	44.4	69.4
Ghana	46.3	75.0
Grenada	45.6	80.6
Guyana	60.6	86.9
India	49.4	74.4
Jamaica	48.8	74.4
Kenya	46.3	83.8
Kiribati	46.3	76.3
Lesotho	28.8	80.6
Malawi	42.5	80.0
Malaysia	41.9	60.6
Maldives	44.4	73.8
Malta	35.0	91.3
Mauritius	43.8	89.4
Mozambique	33.8	82.5
Namibia	33.8	80.0
New Zealand	60.6	97.5
Nigeria	49.4	66.3
Pakistan	38.1	58.8
Papua New Guinea	48.1	60.0
Rwanda	44.4	91.9
Samoa	43.1	75.0

<b>Seychelles</b>	51.3	76.3
<b>Sierra Leone</b>	31.9	92.5
<b>Singapore</b>	51.9	82.5
<b>Solomon Islands</b>	48.1	56.9
<b>South Africa</b>	25.6	88.1
<b>Sri Lanka</b>	54.4	65.6
<b>St. Kitts and Nevis</b>	58.1	71.3
<b>St. Lucia</b>	43.8	83.8
<b>St. Vincent and the Grenadines</b>	55.0	68.1
<b>Tanzania</b>	58.8	81.3
<b>Togo</b>	25.6	97.5
<b>Tonga</b>	50.0	58.8
<b>Trinidad and Tobago</b>	43.1	75.0
<b>Uganda</b>	46.9	83.8
<b>United Kingdom</b>	51.9	97.5
<b>Vanuatu</b>	41.3	55.6
<b>Zambia</b>	46.9	81.3

Source: *Women, Business and the Law* database, available at [wbl.worldbank.org](http://wbl.worldbank.org).

Note: Data is not available for Nauru or Tuvalu.



## Endnotes

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