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# SUBSTANTIVE EQUALITY FOR WOMEN: The challenge for public policy

## IN BRIEF

/1 Laws that establish women and men's equal rights provide an important basis for demanding and achieving gender equality in practice. But equality before the law is not enough to ensure women's enjoyment of their rights: power inequalities, structural constraints and discriminatory social norms and practices also need to be addressed.

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/2 International human rights standards provide an understanding of gender equality—substantive equality for women—that goes beyond formal equality to emphasize women's enjoyment of their rights in practice.

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/3 Equality should be understood in relation not only to opportunities but also to outcomes. Unequal outcomes may result from indirect as well as direct discrimination, and 'different treatment' might be required to achieve equality in practice.

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/4 Progress towards substantive equality for women requires public action on three interrelated fronts: redressing socio-economic disadvantage; addressing stereotyping, stigma and violence; and strengthening agency, voice and participation. Transformation in women's lives happens when actions along these three dimensions reinforce each other.

/5 The international human rights system clarifies the obligations of States to respect, protect and fulfil human rights. States, therefore, have a proactive role as arbiters of social and economic rights.

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/6 In an increasingly integrated global economy, where state functions are often 'outsourced', the realization of women's economic and social rights requires a wider framework of accountability, which encompasses the private sector, States' actions outside their own borders and international organizations.

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/7 Women's collective action strengthens accountability for women's human rights, by legitimizing these rights as issues of public concern and building the capacity of women who experience multiple forms of discrimination, to claim their rights.

# INTRODUCTION

This Report reflects on the ‘progress of the world’s women’ at a critical moment, 20 years after the Fourth World Conference on Women in Beijing set out an ambitious agenda to advance gender equality. As the global community is defining the Sustainable Development Goals (SDGs) for the post-2015 era, it takes stock and draws lessons from policy experiences around the world to chart a forward-looking agenda for action.

Has the vision of gender equality set out in the Beijing Declaration and Platform for Action become a reality for women everywhere? This Report draws on experiences, evidence and analysis from diverse national and regional contexts to answer this question. It reviews women’s gains in obtaining equality before the law, access to education and other social services; in increasing their visibility as political actors; in participation in paid work and its benefits; and in increased public recognition of the scale and severity of the violence they experience. But it also asks why progress in ensuring women’s practical enjoyment of a range of economic and social rights has been so slow and uneven across countries and between social groups.

At a time when the world has witnessed such impressive gains in material wealth, why are millions of women denied their right to even basic levels of health care, water and sanitation? Why does living in a rural area continue to increase a woman’s risk of dying in pregnancy or childbirth? Why are women still more likely than men to have no income security in their old age? And why are the inequalities among women widening, leaving millions of poor women behind?

In seeking to understand why progress in women’s enjoyment of their rights has been

slow and uneven, this Report shares experiences from women’s rights advocates and movements around the world. Their struggles underline how persistent and pervasive discriminatory social norms, stereotypes, stigma and violence remain, holding back women and girls everywhere from realizing their full potential.

## Multiple and rising inequalities

The realization of women’s rights cannot be separated from broader questions of economic and social justice. Militarism and violent conflicts, the global financial and economic crises, volatile food and energy prices, food insecurity and climate change have intensified inequalities and vulnerability, with specific impacts on women and girls. Dominant patterns of development have led to increasingly precarious livelihoods. As of 2011, 1 billion people live in extreme poverty<sup>1</sup> and many more survive without access to basic services and social protection, exposed to recurring economic shocks, ecological crises, health epidemics and armed conflict.

Alongside poverty and vulnerability, levels of inequality are rising both across and within countries.<sup>2</sup> The world is said to be more unequal today than at any point since World War II. The richest 1 per cent of the population now owns about 40 per cent of the available assets while the bottom half owns 1 per cent or less.<sup>3</sup> These inequalities—among the triggers of the 2008 economic crisis—have been further reinforced by the subsequent recession and austerity measures. Public spending cuts have shifted the burden of coping and caring into the household and onto the shoulders of women and girls.<sup>4</sup> Rising levels of inequality compromise the advancement of women’s rights by reinforcing inequalities among women, making it harder for them to join forces across class, racial and other divides.

## No empowerment without rights

A wide variety of actors—bilateral and multilateral donor agencies, governments, civil society organizations and, more recently, the private sector—have embraced the goal of women’s economic empowerment. Some see in women a largely untapped market of consumers, while others speak about the opportunity of ‘unleashing the economic power and potential of women’<sup>5</sup> as a means to solve the lingering problems caused by the global financial crisis and stalled growth.

Synergies between women’s economic empowerment and wider prosperity clearly need to be nurtured. Increasing women’s ownership and control over agricultural assets and productive resources is likely to have a positive impact on food security and livelihood sustainability for the whole household.<sup>6</sup> Women’s participation in the workforce can enhance the competitiveness of export industries.<sup>7</sup> A fundamental question, however, is whether the presumed ‘win-win’ scenarios actually expand women’s own practical enjoyment of their rights or simply harness women’s time, knowledge and resourcefulness to serve development ends, with no benefit to women themselves.

Without a monitoring framework solidly anchored in human rights, it is difficult to know whether claims of empowering women stand up to scrutiny. Human rights standards—set out in a range of international treaties to which the great majority of governments have voluntarily signed up—provide a framework of binding principles to which countries must be accountable, irrespective of their economic, social and political characteristics. It is a framework that is centred on the rights and freedoms to which all are entitled by virtue of being human. This Report therefore underlines the centrality of women’s human rights as both the ‘end’ and an effective ‘means’ of development.<sup>8</sup>

## Indivisible rights, synergistic policies

This Report also underlines the indivisibility of rights. The focus is on women’s socio-economic disadvantage, but economic, social, civil and political rights are deeply intertwined. When a woman leaves an abusive relationship, she wants

justice but also a safe place to live, medical care and a job so she can maintain an adequate standard of living for herself and any dependents she may have.<sup>9</sup> Her rights to housing, health care and work are distinct but indivisible. Economic and social rights are closely interlinked with all other rights, especially the civil and political rights that enable women’s organizing and claims-making. Conversely, an enabling economic environment is an important foundation for States’ capacity to respect and fulfil other rights.

Not only are women’s rights seamlessly connected, so are the actions that help advance them. In practice, economic and social policies have to work in tandem to be effective and to enable the realization of rights. Yet, there is a tendency in policy debates to artificially separate the two. The role of economic policies, especially macroeconomic policies, is seen primarily in terms of promoting economic growth, while social policies are supposed to address its ‘casualties’ by redressing poverty and inequality.

In fact, macroeconomic policies can support a broader set of goals, including gender equality and the realization of human rights. Macroeconomic management is essential to ensure the availability of resources to support the realization of rights and to provide economic opportunities. Conversely, social services, whether provided through government, private providers or unpaid care and domestic work, have economic effects. Investments in child development, education and health improve productivity and contribute to sustainable growth. Social transfers, such as pensions, family allowances and unemployment benefits, have positive multiplier effects on the economy, especially—but not only—during recessions.

## Chapter overview and report structure

This Report aims to bridge the gap between global discussions of human rights, on the one hand, and the deliberation of policies to support gender equality and women’s empowerment, on the other. Bridging this divide is essential if public policies are to rise to the challenge of making rights real for all women.

This chapter elaborates the Report's central and guiding concept: substantive equality for women. The first section discusses progress towards equality before the law in various domains, highlighting advances as well as setbacks, underscoring that having legal rights on the statute is no guarantee that women can actually exercise or enjoy those rights in practice. The second section draws on human rights principles and norms to elaborate on the understanding of substantive equality. It shows the need to address both direct and indirect forms of discrimination as well as structural inequalities that constrain women's enjoyment of rights.

Finally, the third section proposes a three-part framework for advancing substantive equality,

which requires progress in: redressing women's socio-economic disadvantage; addressing stereotyping, stigma and violence against women; and strengthening women's agency, voice and participation. The framework guides the Report's identification and assessment in subsequent chapters of the range of economic and social policies that are likely to enhance women's enjoyment of rights in relation to work and care (Chapter 2), social protection and social services (Chapter 3) and the macro-economy (Chapter 4). Tackling all three dimensions can lay the foundation for lasting transformation of social structures and institutions—families, markets, States—that currently hamper women's enjoyment of rights.<sup>10</sup>

## EQUALITY BEFORE THE LAW: PROGRESS, SETBACKS AND LIMITATIONS

Equality before the law is crucial for gender equality. Laws that establish that women and men have equal rights provide the basis for demanding and achieving equality in practice. They are a touchstone for political and cultural struggles, set standards and incentives for changes in social norms and attitudes and influence shifts in policy. It would be hard to find a country in the world that has successfully tackled entrenched gender or racial discrimination without any constitutional or legal reform.<sup>11</sup> It is therefore not surprising that women's movements have so often mobilized to demand changes in the law.

### PROGRESS IN LEGAL REFORM

Progress in achieving women's civil and political rights has been a key achievement of women's

movements. Within less than a century, women have gained the right to vote and to stand for office in virtually every country of the world.<sup>12</sup> Progress is also evident in other areas of the law: as of 2014, 143 countries guarantee equality between women and men in their constitutions; 132 have equalized the minimum age of marriage (without parental consent) at 18 years or older, protecting girls from early marriage; at least 119 have passed legislation on domestic violence; and 125 have passed laws to make workplaces and public spaces safer for women by prohibiting sexual harassment (see Figure 1.1).

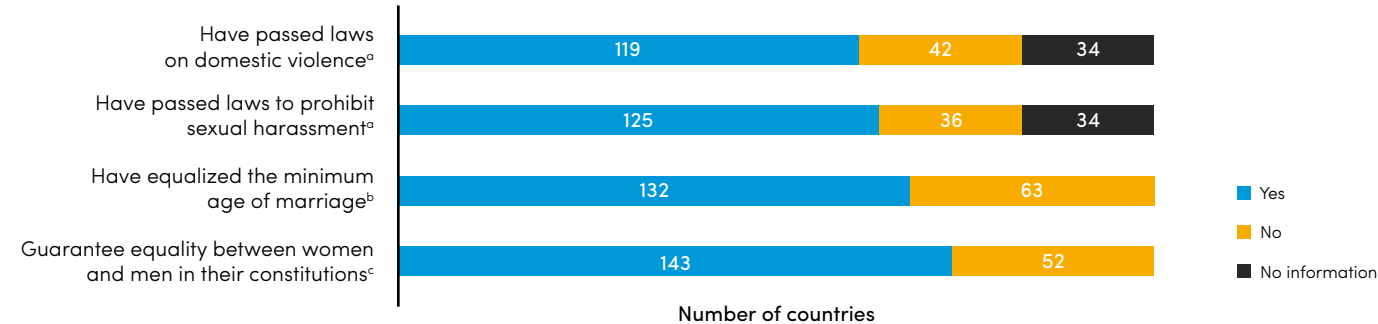
### Reforming discriminatory family laws

Progress towards equality before the law has been less consistent on family laws, also called personal status laws. Often derived from customary or

Figure 1.1

Number of countries with or without select women’s rights provisions, 2014

—> The majority of countries now have laws in place on some key aspects of women’s rights



Source: a. OECD 2015. b. UN Women’s analysis of statutory legal age of marriage data from UN Statistics Division 2014b. c. UN Women 2015.

Note: The number of countries that have passed laws on domestic violence and those prohibiting sexual harassment excludes countries where legislation is either planned, drafted or being reviewed. Domestic violence is gender-specific violence commonly directed against women, occurring in the family and interpersonal relationships, which can be in the form of physical, emotional or psychological, sexual, or financial or economic abuse. For the definition of sexual harassment, refer to Annex 3.

religious laws, family laws are of particular significance for women because they regulate gender and age hierarchies embedded within the ‘private sphere’ of the home, by shaping the rights and obligations of spouses in marriage and divorce, the relationship between parents and children, marital property, child custody or guardianship and inheritance. These laws shape power relations between women and men, parents and children and brothers and sisters. They also have a direct impact on women’s ability to access and control resources.<sup>13</sup> Reform to such laws, and changes in the practices that surround them, are necessary for women to be able to claim fundamental rights to personhood.

Data on equality between women and men in family laws covering 71 countries and spanning a 30-year time span (1975–2005) show that progress on this front has been mixed. While 18 countries started the period with family laws that were fully in line with gender equality, a further 15 had achieved this goal by 2005.<sup>14</sup> Therefore, by 2005, women in 33 out of 71 countries had acquired equal rights within the family, enabling

them to make decisions about their children and to engage in employment without requiring the permission of a spouse, for example.

The remaining 38 countries covered by the study had not fully transitioned towards gender-equal family laws by 2005. Some of these countries – including Morocco, the Republic of Korea and Turkey— began the period with extensive discriminatory provisions, but have since advanced significantly towards more gender-equal family laws. However, as of 2005, eight countries—Algeria, Bangladesh, Egypt, the Islamic Republic of Iran, Jordan, Malaysia, Pakistan and Saudi Arabia— had maintained highly discriminatory laws that, for example, endorse men’s authority over women in marriage, give men greater rights over property and limit women’s ability to file for divorce.<sup>15</sup> These countries span different regions but all apply a conservative interpretation of Islamic family law. By contrast, in Morocco, women’s rights advocates were able to spearhead extensive reforms in family law that appealed to both Islamic and human rights precepts (see Box 1.1).



## BOX 1.1

### Women's collective action paves the way to legal reform in Morocco

In 2004, Morocco overhauled its Islamic family law, the *Moudawana*, as a result of longstanding mobilization by the women's rights movement.<sup>16</sup> Women's rights activists first started to rally in the early 1990s, launching a grassroots campaign for *Moudawana* reform that collected over 1 million signatures. Minor reforms of the family law took place in 1993, but major changes were resisted. Shifts in political leadership in the late 1990s—including the victory of a socialist opposition party and the ascendance to the throne of King Mohamed VI—enhanced support for political liberalization and gender equality, enabling women's demands to be heard.

At the same time, growing public support for women's rights triggered a backlash from conservative Islamist groups. Women's rights advocates responded to this challenge by establishing alliances with other change-oriented forces, engaging in public awareness campaigns and framing their claims in ways that appealed to Islamic precepts as well as to universal human rights principles. The reformed 2004 law remains faithful to Islamic values and traditions while giving women significantly more rights. In particular, it introduces women's right to autonomous decision-making by abolishing the notion of male guardianship and the wife's duty of obedience; establishes equal rights and responsibilities in the family; and equalizes and expands women's and men's rights to initiate divorce.

The 2004 reform of the *Moudawana* paved the way for further changes in the law. Most significantly, the 2011 Constitution guarantees equality between women and men, prohibits all forms of discrimination against women and requires the State to promote women's rights in their entirety. While these momentous changes have been welcome, considerable work remains to be done in aligning all domestic laws with international human rights treaties to which Morocco is a State party and ensuring that all groups of women benefit from the equal protection of the law (see story: *Counting women in*).

### Political agency is key to family law reform

What explains why some countries have made significant progress in legal reform but not others? Analysis of data across these 71 countries suggests that women's political agency, especially the influence of autonomous feminist movements, is an important catalyst for family law reform.<sup>17</sup> In both authoritarian and democratic settings, women's rights advocates have seized political opportunities for equality-enhancing legal reforms by establishing alliances with other actors, including government officials, lawyers, politicians and development practitioners. Civic pressure alone is not enough, however; there must also be receptivity on the part of the state for change to happen.

What factors determine the disposition of the state toward family law reform? Analysis reveals that there is a powerful association between the character of the state-religion relationship and the degree of gender equality in family law. In countries where the state plays an active role in upholding religious practices, doctrines and institutions, family law tends to discriminate against women. In contexts where political and ecclesiastical institutions are more separated, family law tends to be more egalitarian. This is not to suggest that religions are inherently patriarchal; they are only historically so (as are most secular traditions). The key finding is that religious doctrine is less likely to evolve and

adapt to changing social practices where it is upheld by the state. In such contexts patriarchal interpretations of religion get frozen, and it becomes hard to reform family law. Challenges to the religious interpretations endorsed by the law come to be seen as challenges to the entire institutional configuration, binding state power and religious authority.<sup>18</sup>

Historical legacies also influence the scope for legal equality. Countries that experienced communist rule often have gender-equal family laws due to communist governments promoting changes in women's roles in order to encourage full employment and to marginalize religion and traditional cultures. The legacy of British colonialism, by contrast, has been to stymie reform by creating multiple family laws on the basis of cultural identities of the communities

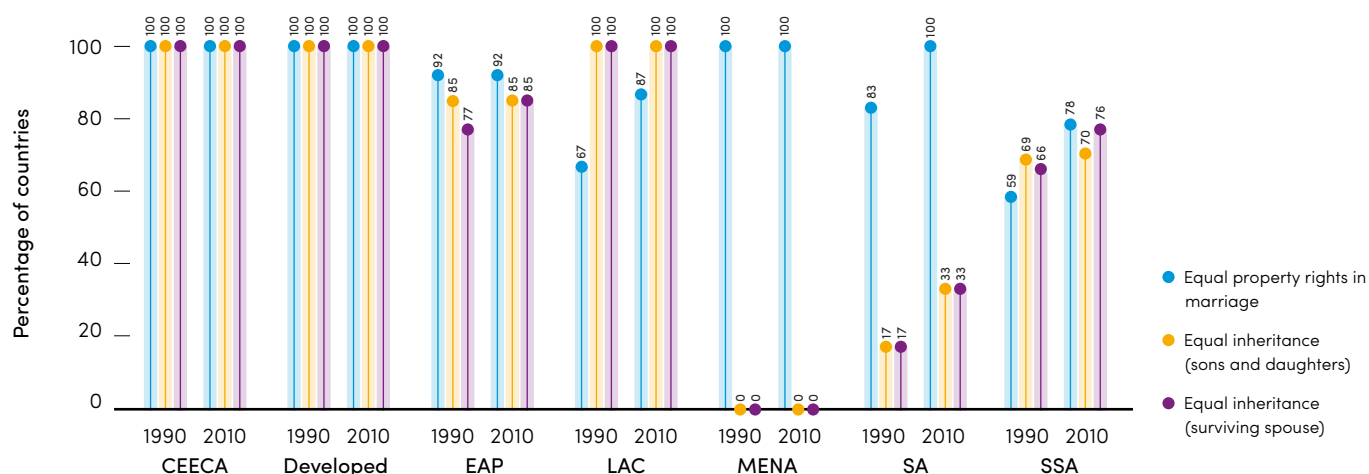
lumped together in post-colonial States. The existence of plural legal systems based on cultural or religious identity can pose particular challenges to women seeking justice.<sup>19</sup>

Even where progress towards equality in family laws has been achieved, sustaining this progress can be challenging, especially in countries where conservative forces and extremist groups that resist gender equality are gaining ground. These groups, in developed and developing countries alike, misuse religion, tradition and culture to reshape laws, state institutions and social norms to curtail women's and girls' human rights and entrench stereotypical gender roles, both within the 'private sphere' as well as in public life.<sup>20</sup> To resist this rollback and make it clear that culture and religion cannot be a justification for the violation of rights, alliances between women's

Figure 1.2

### Gender equality in property ownership and inheritance law by region, 1990 and 2010

—> *There has been progress in some regions, but in others discriminatory laws remain in place*



Source: UN Women calculations using data from World Bank 2015c.

Note: The indicator 'equal property right in marriage' measures whether there are gender-based differences in rights to own, manage or dispose of property for married women and men. However, the measure does not capture differences in how property rights are handled in the case of divorce. For instance, in a number of MENA countries women can own property within marriage, but their right to this property is not automatic upon divorce (see UNICEF 2011a). Equal inheritance (between sons and daughters) refers to whether there are gender-based differences in the rules of intestate succession (that is, in the absence of a will) for property from parents to children. And equal inheritance of surviving spouse means both spouses have equal rank and rights when it comes to inheriting assets in the absence of a will. Regions are as follows: CEECA (Central and Eastern Europe and Central Asia); Developed (Developed Regions); EAP (East Asia and the Pacific); LAC (Latin America and the Caribbean); MENA (Middle East and North Africa); SA (South Asia); SSA (sub-Saharan Africa). See UN Women regional groupings for the list of countries and territories included in each region in Annex 7.

rights advocates and other like-minded forces, whether in government or in national and global civil society, are key.

Another area of the law where customary and religious provisions are often influential is property ownership and inheritance. As Figure 1.2 shows, there has been significant progress between 1990 and 2010 in reducing legal discrimination against women regarding their ability to inherit and own assets in their own name – although here too progress has been uneven across regions. Central and Eastern Europe and Central Asia and Developed Regions have all but removed legal restrictions on women’s property rights. There has also been tremendous progress in Latin America and the Caribbean. Countries in sub-Saharan Africa,

which began the period with the largest number of legal restrictions compared to other regions, have made significant strides in removing gender based differences in the right to own property. In contrast, progress in reducing gender disparities in legislation has been less impressive in the Middle East and North Africa and in South Asia.<sup>21</sup>

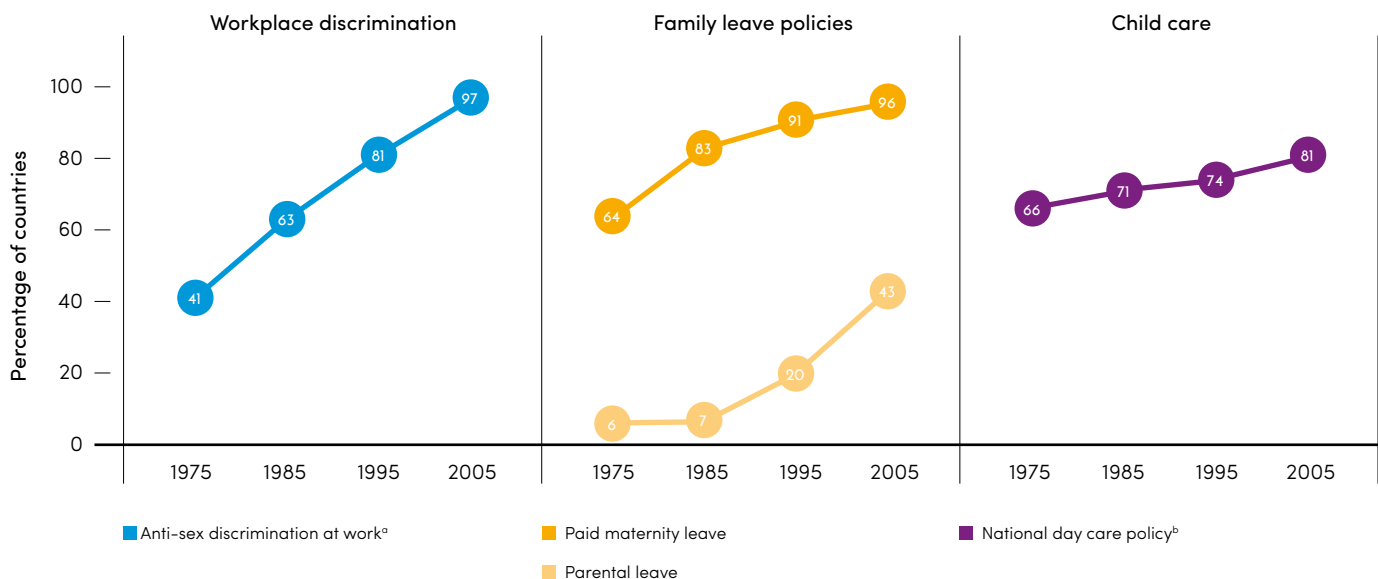
### Reforming women’s legal status at work, parental leave and childcare

What about legal rights that shape women’s access to paid work and equal conditions at work, maternity and parental leave and childcare policies? Based on analysis of more than a dozen laws and policies spanning 70 countries over three decades (1975–2005), a more recent study charts the uneven progress in these areas as well.<sup>22</sup>

Figure 1.3

Percentage of countries with legal provisions and policies, 1975–2005

—> *An increasing number of countries have introduced laws and policies to equalize women’s status at work and provide maternity leave and childcare services*



Source: Htun and Weldon 2014.

Note: Based on a study of legal provisions and policies in 70 countries. Definitions, methodology and sample size differ from data used in Annex 3 (see statistical notes in the Annex).

<sup>a</sup>Measures whether there are laws in place that prohibit discrimination in the workplace, for instance, in hiring, pay, termination of employment, access to training, and equal participation in workplace governance/unions. <sup>b</sup>Measures whether a national or federal day care policy exists.

The number of countries with policies that formally entrench sex discrimination in the workplace—for example, by prohibiting women from working in certain types of jobs, doing night work or overtime—declined during this period.<sup>23</sup> In 1975, it was most typical not to take action to outlaw discrimination. By 2005, the opposite was true, with most countries outlawing workplace discrimination (see Figure 1.3). For example, in 1975 only about one third of countries had legislated for equal pay; by 2005 the proportion had gone up to 86 per cent.<sup>24</sup>

Similarly, as Figure 1.3 shows, the number of countries that provide paid maternity leave to working women has increased and there has been a dramatic expansion in parental leave. Moreover, by 2005, more than 81 per cent of countries out of the 70 studied had a national day-care policy in place and 43 per cent had committed to public day-care provision.<sup>25</sup>

As with family laws, women's movements have played a pivotal role in pushing for women's legal rights to work and at work. Women's organizing on their own behalf has played a critical part in triggering changes with respect to women's legal right to work—by prohibiting discrimination, for example, or promoting equality in hiring and promotion. Overall income levels were a significant factor for the adoption of maternity and parental leave provisions: without an adequate revenue base, countries are unlikely to adopt publicly-funded paid maternity leave.<sup>26</sup> Women's movements have also been influential in the development of childcare policy and have found useful allies on this issue among political parties with a redistributive agenda.

## **PERSISTENT INEQUALITIES IN PRACTICE**

Gaps remain, but in many countries legal barriers preventing women from pursuing the same kind of opportunities and careers as men appear to be diminishing. Nevertheless, widespread gender segregation continues to confine women to the lowest paid segments of the labour market. At home and in their communities, women and girls

continue to assume the lion's share of unpaid care and domestic work. Gender inequalities with regard to earned income, wealth, time use and social security, documented in detail in Chapters 2 and 3, clearly indicate that something is terribly wrong: why are 'equal opportunities' not translating into equal outcomes? It is highly unlikely that women as a group would deliberately and consistently choose less remunerative livelihoods.<sup>27</sup> And even if women and men did 'freely choose' different livelihood options, why should the economic activities that women typically choose systematically attract a lower valuation in the market than those chosen by men?<sup>28</sup>

## **Discriminatory social norms**

Even in countries where gender-equal laws have been put in place, power inequalities between women and men as well as gender stereotypes and discriminatory social norms are deeply embedded. In some contexts patriarchal structures and practices constrain women's ability to seek paid work, or even health care, and to participate in social and political life. Gender stereotypes reinforce norms of gender inequality such as the continued devaluation of 'women's work' or the belief that women and men should be confined to narrow and segregated social roles.<sup>29</sup>

In the labour market, stereotypes about suitable occupations for women and men serve to maintain the existing gender division of labour. Young women and men who move into occupations that are associated with the opposite sex risk disparagement or ridicule. Women who work in male-dominated sectors may find their performance devalued and their competence questioned. This, in turn, can affect their prospects for receiving promotion or pay awards.<sup>30</sup> Men have little incentive to move into female-dominated occupations, given that those jobs often pay less than equivalent jobs that are male-dominated.<sup>31</sup> Such stereotypes inevitably influence women and men's choices, even where legislation provides for 'equal opportunities'.

More broadly, social norms generally assume that women will take primary responsibility for domestic chores and the care of young children and other family members. This limits their participation in the labour market compared to men or confines them to lower quality and lower paid jobs and livelihoods that can be 'reconciled' with unpaid work, but often at great cost to women themselves.

The power of social norms is such that women sometimes do not claim their legal rights due to pressure on them to conform to societal expectations. For example, even where women can legally inherit land on an equal basis with men, a woman may forego this right in order to maintain good relations with her brothers, whose support she may rely upon in case of marital dispute, widowhood or economic need. This practice is prevalent in many parts of South Asia, especially when women are married far away from their birth villages.<sup>32</sup>

In 2005, India took a major leap forward by amending the Hindu Succession Act (1956) to grant daughters and sons equal inheritance shares to agricultural land at the national level. In practice, a number of factors have hampered implementation of these provisions on the ground. These include: resistance from brothers against their sisters inheriting parental land; the belief that the dowry constitutes the daughter's share of her natal family's property; complicated administrative systems; and women's own fragmentary understanding of their legal rights.<sup>33</sup> Even though most women reported wanting to inherit land, they were reluctant to upset their natal families, especially brothers.

To address the gap in the implementation of this important law requires efforts at multiple levels: legal literacy campaigns are needed to raise women's awareness of their entitlements and erode discriminatory social norms; and legal procedures need to be simplified and

government functionaries trained to increase their responsiveness to women's land rights. Job creation and social protection measures would also help reduce women's dependence on family networks for their economic security.

### Structural constraints

Where women have secured access to land, this does not always translate into remunerative livelihoods due to various structural constraints that they face. Even subsistence farming requires some capital to buy seeds and tools, but more remunerative cash-crop farming requires more generous outlays. Research from sub-Saharan Africa suggests that the sums of money required to make farming viable are beyond the reach of many women farmers. In addition, women face barriers to their engagement with markets (see Chapter 2).<sup>34</sup>

Gaining equal outcomes from equal rights legislation is particularly hard for poor working class, ethnic minority or indigenous women. Lack of awareness of their rights and social barriers may prevent such women from coming forward to pursue cases through the formal justice system.<sup>35</sup> For example, poor Dalit women in the Indian state of Uttar Pradesh are more likely to experience abuse by service providers, or to come under pressure to pay bribes, compared to wealthier or higher caste women. In such cases, they rarely lodge complaints due to fear of victimization and further abuse.<sup>36</sup> Similarly, migrant domestic workers face frequent violations of their rights at work. However, national labour laws often exclude them from coverage and residency laws stipulate that they have to be sponsored by their employers. Financial costs, language barriers and discriminatory attitudes among the judiciary further hamper their recourse to justice.<sup>37</sup>

In political life, women's equal rights to vote and to stand for political office are now recognized

in the vast majority of countries. However, 'equal opportunities' do not become real just because formal barriers are removed.<sup>38</sup> Women continue to be excluded from political office by discriminatory attitudes and 'old boys' networks' in political parties, by lack of funds to run election campaigns and by family responsibilities that clash with the inflexible working hours of political institutions. In recognition of these structural constraints, quotas to increase women's representation have been

adopted across a number of developing and developed countries alike.<sup>39</sup>

The understanding that special measures are necessary to overcome the disadvantages that women face can be usefully extended to other domains. Indeed, the need for such measures, to achieve equality in practice has long been recognized in the international human rights system.

## SUBSTANTIVE EQUALITY IN HUMAN RIGHTS FRAMEWORKS

The international human rights system in general, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in particular, recognizes the limitations of formal equality in delivering equality in practice. Within the human rights system and its associated treaties, there is strong support for going beyond formal equality and the provision of 'same treatment'.

The concept of substantive equality has been advanced in key human rights treaties to capture this broader understanding: that inequality can be structural and discrimination indirect; that equality has to be understood in relation to outcomes as well as opportunities; and that 'different treatment' might be required to achieve equality in practice (see Box 1.2). While formal equality refers to the adoption of laws and policies that treat women and men equally,

substantive equality is concerned with the results and outcomes of these: 'ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience'.<sup>40</sup>

The concept of substantive equality arose out of the recognition that—because of the legacy of historical inequalities, structural disadvantages, biological differences and biases in how laws and policies are implemented in practice—formal equality is not enough to ensure that women are able to enjoy the same rights as men. To achieve substantive equality, therefore, requires both direct and indirect discrimination to be addressed. It also requires specific measures to be adopted that redress women's disadvantages and, in the longer term, the transformation of the institutions and structures that reinforce and reproduce unequal power relations between women and men.

## BOX 1.2

### Substantive equality as defined in the human rights system

Article 1 of CEDAW takes a first step towards advancing the notion of substantive equality in its comprehensive definition of 'discrimination against women':

*(it) 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.<sup>41</sup>*

This foundational definition prohibits discriminatory treatment (direct discrimination) as well as discriminatory outcomes (indirect discrimination); it also precludes discrimination that is intended (purposive) as well as unintended (discrimination in effect).<sup>42</sup>

The need to address equality of outcomes is clearly stated in article 3 of the Convention, which obliges States parties to take all appropriate measures

*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.*

This emphasis on equality of outcomes is further elaborated in the CEDAW Committee's landmark General Recommendation No. 25 on temporary special measures, which underlines the insufficiency of a 'purely legal or programmatic approach' for 'achieving de facto equality with men, which the Committee interprets as substantive equality'.<sup>43</sup> Similarly, the Committee that monitors implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), states that '(s)ubstantive equality is concerned, in addition, with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience'.<sup>44</sup>

#### Addressing indirect discrimination

The CEDAW Committee's General Recommendation No. 25 on temporary special measures explicitly prohibits indirect discrimination 'which may occur when laws, policies and programmes are based on seemingly gender-neutral criteria which in their actual effect have a detrimental impact on women'.

*Gender-neutral laws, policies and programmes unintentionally may perpetuate*

*the consequences of past discrimination.*

*They may be inadvertently modelled on male lifestyles and thus fail to take into account aspects of women's life experiences which may differ from those of men. These differences may exist because of stereotypical expectations, attitudes and behaviour directed towards women which are based on the biological differences between women and men. They may also exist because of the generally existing subordination of women by men.<sup>45</sup>*

In other words, 'discrimination includes any treatment that has the effect of nullifying the enjoyment of human rights by women in all spheres, though such discriminatory effect was not intended'.<sup>46</sup> Thus, even where unequal outcomes cannot be attributed to particular, conscious acts, this does not mean that discrimination is not happening. This contrasts with a narrow understanding of discrimination as the intended acts of individuals, which suggests that if there is no intent then there cannot be discrimination.

An example is the austerity measures adopted since 2010 in many countries across the world to reduce budgetary deficits. These do not specifically intend to hurt any particular group, but evidence suggests that they are strongly biased against low-income households, and especially against women within them.<sup>47</sup> In the January 2015 Universal Periodic Review (UPR) by the Human Rights Council, for example, Spain came under criticism from its peers for the harsh impact of its austerity measures, especially on women, migrants, people with disabilities and children.<sup>48</sup> The concept of indirect discrimination serves to emphasize how seemingly 'neutral' policies or practices can act to put some groups at a disadvantage due to structural and historical inequalities.

### **The need for temporary special measures**

CEDAW also makes it clear that non-identical treatment aimed at redressing women's disadvantages may be necessary to facilitate the achievement of substantive equality for women.<sup>49</sup> The idea that 'same treatment' is not sufficient to achieve substantive equality and non-discrimination is also recognized by other human rights treaties, such as the Convention on the Elimination of Racial Discrimination (CERD), which recommends 'special measures' to be put in place (article 1).

Article 4(1) of CEDAW promotes the use of 'temporary special measures', which are aimed at 'accelerating de facto equality between women and men' by remedying the effects of past or present discrimination against women

and promoting the structural, social and cultural changes necessary for the realization of women's substantive equality. The CEDAW Committee has clarified that such measures should 'not be deemed necessary forever, even though the meaning of 'temporary' may, in fact, result in the application of such measures for a long period of time'. The Committee goes on to explain that such measures may be discontinued 'when their desired results have been achieved and sustained for a period of time'.<sup>50</sup>

To enable the equal enjoyment of rights, States must take positive steps to eliminate all forms of discrimination against women, including structural and indirect discrimination. In doing so they can build on the foundations of formal equality, but also need to go further to ensure that the effects of laws, policies and practices redress the disadvantage that women experience.

### **WHO HAS OBLIGATIONS TO UPHOLD WOMEN'S ECONOMIC AND SOCIAL RIGHTS?**

In addition to CEDAW, which is a vital reference point for understanding the meaning of gender equality, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the work of the committee that supervises its work, are also essential to understanding and addressing women's economic and social rights.<sup>51</sup> The ICESCR covers the realization of economic and social rights in great depth. Specifically, it addresses the rights to work and to just and favourable conditions of work (articles 6 and 7), the realization of which is extensively explored in Chapter 2 of this Report. The Covenant also includes the right to social security and an adequate standard of living (articles 9 and 11), which are tackled in Chapter 3. In several of its articles the Covenant makes specific references to women's rights, including to equal pay (article 7) and paid maternity leave (article 10).

The international human rights system has helped clarify the duties of States to respect, protect and fulfil rights.<sup>52</sup> The obligation to respect



requires them to refrain from interfering directly or indirectly with the enjoyment of human rights. The obligation to protect requires them to take measures that prevent third parties, including individuals and the private sector, from interfering with the enjoyment of rights. Finally, the obligation to fulfil requires them to adopt appropriate measures towards the full realization of rights.

States, therefore, have a proactive role to play as arbiters of social and economic rights. For example, when health services are provided by third parties such as private providers, as is often the case, the State is required to regulate these actors to ensure that the availability, accessibility,

acceptability (including affordability) and quality of health care are not compromised. By the same logic, the State has a duty to regulate the conduct of employers in order to ensure the realization of the various rights to which workers are entitled. The obligation to fulfil means that when individuals cannot realize their right to, for example, social security through existing contributory systems, for reasons that are beyond their control, then the State has the duty to establish 'non-contributory schemes or other forms of social assistance' to ensure that everyone can enjoy their right.<sup>53</sup> Box 1.3 describes other key obligations of the State with respect to economic and social rights, discussed in more detail in Chapter 4.

## BOX 1.3

### **State obligations under the International Covenant for Economic, Social and Cultural Rights (ICESCR): Accountability for what?**

The ICESCR spells out a number of obligations that States must comply with to realize the rights specified in the treaty. According to article 2(1) State parties must take steps 'individually and through international assistance and cooperation ... to the maximum of available resources, with a view to achieving progressively the full realization of the rights' recognized in the Covenant.

Although steps to fulfil economic, social and cultural rights may be undertaken progressively, States should apply the 'maximum available resources' to advance as swiftly as possible using both national and international resources.<sup>54</sup> United Nations special rapporteurs have clarified the importance of taxation in this regard, underlining the need to widen the tax base, tackle tax abuse, reassess the contribution of corporations and ensure the sustainable use of revenues generated from natural resources.<sup>55</sup>

According to the Committee on Economic, Social and Cultural Rights (CESCR), State parties have a 'core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights'.<sup>56</sup> The provision of minimum essential levels is an immediate obligation. This is a helpful complement to CEDAW: it clarifies that not only do gender gaps in enjoyment of rights matter, so does the level of enjoyment of rights. It also means that it is the duty of the State to prioritize the rights of the poorest and most vulnerable, particularly in relation to minimum essential levels of food, education and health.<sup>57</sup> Even in times of severe resource constraints, States must ensure that the rights of vulnerable groups are fulfilled.<sup>58</sup>

States must also guard against deliberate retrogression (backsliding)—for example, cuts to expenditures on public services that are critical for the realization of economic and social rights or cuts to taxes that are necessary to fund such services.<sup>59</sup> Even in the context of economic crisis, governments are required to apply these principles.<sup>60</sup>

Another immediate obligation is ensuring non-discrimination in the enjoyment of economic, social and cultural rights.<sup>61</sup> This means any steps that a State takes to progressively realize such rights must be non-discriminatory in both policy and effect.

Finally, the right of individuals to participate is an ‘integral component’ of any policy or practice that seeks to meet the State’s obligation to ensure the equal rights of women and men to the enjoyment of all human rights.<sup>62</sup>

### Enlarged web of accountability

Under international human rights law, States are primary duty-bearers with respect to the protection and fulfilment of the rights of those within their jurisdiction. At the national level, human rights are the concern of all ministries—not only health, education, housing and employment but also finance, planning, trade and central banks—as well as local, municipal and regional governments.

However, in today’s increasingly integrated global economy, where States are also undergoing political decentralization and ‘outsourcing’ public service provision and other functions, state accountability for human rights lies within ‘a larger web of accountability.’<sup>63</sup> The latter encompasses not only the range of state agencies operating at different levels but also the private sector, other governments and international organizations.

Non-state actors are answerable to the wider public for how their actions affect the realization of human rights, including social and economic rights. This particularly applies to the private sector, which has an important role to play in economic development and employment generation.

The turn to ‘corporate social responsibility’ (CSR), and later to corporate accountability, is part of

a response not only to market failure but also to ‘the perceived or real inability of governments, particularly in developing countries, to be effective agents of regulation and development, and providers of essential goods and services.’<sup>64</sup> The corporate accountability agenda has evolved considerably over the past two decades to encompass more companies and industries and a broader set of issues, including labour rights, and also to involve trade unions and other civil society organizations alongside companies.<sup>65</sup>

The percentage of companies involved is still very small, however, and CSR initiatives are more prevalent in sectors where there is concern about ‘reputational risk’ among developed country consumers (e.g., toys, electronics or horticultural products). There is a risk that well-intentioned monitoring initiatives create ‘enclaves of good practices’ that have few linkages to the rest of the economy.<sup>66</sup> Ongoing efforts to improve corporate accountability must not divert attention from the need for better regulation and enforcement in all sectors, not just those that produce for export.<sup>67</sup>

Assessments of the long-term effects of voluntary private sector initiatives on working conditions point to some positive impacts in terms of worker health and safety, payment of minimum wages

and reduction of unreasonable overtime but much weaker impacts on gender equality, wage discrimination and freedom of association.<sup>68</sup> Furthermore, benefits tend to be limited to regular and permanent workers and fail to reach casualized workforces, especially the large numbers of female temporary and contract workers who work at several degrees of separation from parent firms.<sup>69</sup> But voluntary self-regulation is most vulnerable to criticism for its record on enforcement.<sup>70</sup> Existing CSR initiatives are unable to ensure the compliance of companies with established human rights standards. In particular, they lack the capacity to impose meaningful sanctions or stipulate appropriate remedial action.<sup>71</sup>

These failures were starkly shown by the 2013 Rana Plaza factory collapse in Bangladesh, in which more than 1,000 workers were killed. After years of voluntary initiatives to clean up garment global value chains, this disaster has finally spurred stronger action including the binding Bangladesh Accord on Fire and Building Safety, which makes companies legally responsible for making factories safe (see story: *Out of the ashes*). Meanwhile, at the global level, the 2011 endorsement by the Human Rights Council of the Guiding Principles on Business and Human Rights,<sup>72</sup> which affirms that business enterprises have at the very least a duty to respect all human rights in their operations under a 'do no harm' standard, is a promising development that may strengthen the accountability of business for human rights.

The actions or omissions of transnational corporations, international and regional financial institutions, multilateral development banks, credit rating agencies and private foundations can limit the policy space for States to meet their human rights obligations. In addition, global inequalities mean that actions and omissions by the more powerful States will have adverse repercussions on the capacities of smaller and less powerful States to meet their human rights obligations.

In 2013, high-income countries accounted for only 18 per cent of the world's population but

generated close to 70 per cent of global income.<sup>73</sup> The failure of rich countries to regulate volatile financial flows, which triggered the 2008 financial crisis, not only plunged their own economies into recession but also had knock-on effects on the rest of the world. The fiscal deficits that resulted from the crisis have led both developed and developing countries to cut back on public social expenditure, which is threatening to increase poverty and gender inequality.<sup>74</sup> There is a need therefore for a set of principles on extra-territorial obligations that provides standards to make governments, international financial institutions, intergovernmental organizations and transnational corporations accountable for actions that affect the realization of rights across the world. This issue is discussed in more detail in Chapter 4.

In recognition of the transformations that are taking place within, below and above the State, a multidimensional understanding of human rights accountability is beginning to emerge.<sup>75</sup> While this creates more complex lines of accountability, States remain primary duty-bearers and must create conditions in which people under their effective jurisdiction can enjoy their rights, including their economic and social rights.

## **DEMANDING ACCOUNTABILITY FOR WOMEN'S RIGHTS**

The notion of substantive equality is premised on an enabling State, one that has positive duties to protect and fulfil rights. But how can these principles be made real so that they define state action on the ground? Some would argue that there is a paradox here: States, which are seen as the main duty-bearers and guarantors of rights, may have neither the capacity nor the political will to protect and promote rights. Worse, they often violate the rights of more disadvantaged social groups. The process of translation—of rights into policies and of policies into real changes in women's lives—has been extremely uneven around the world.<sup>76</sup> How can human rights be used to create the kind of States that respect, protect and fulfil human rights, and women's rights in particular?

International human rights mechanisms can be very useful in reminding States of their duties vis-à-vis women. In its July 2013 concluding observations on the United Kingdom, for example, the CEDAW Committee raised concerns about the way in which austerity measures adopted by the Government have led to 'serious cuts in funding for organizations that provide social services to women', as well as budgetary cuts in the public sector that 'disproportionately affect women, owing to their concentration in this sector'.<sup>77</sup>

The fulfilment of human rights is sometimes seen as being contingent on a democratic framework, its minimal conditions being the universal right to participate in elections both as voters and as representatives, regular and free elections, free association and free media.<sup>78</sup> In practice, however, the relationship between rights activism and democracy works in more complex ways.<sup>79</sup>

First, human rights activism on a global level has been so successful that even States that are not formally democratic are signatories to at least some human rights treaties. This creates the possibility for advocates to campaign for measures to support the realization of women's rights even in non-democratic or weakly democratic political systems. In the process by which States compile their national reports for the CEDAW Committee, for example, women's rights advocates have the opportunity to prepare their own shadow reports, to comment on the official government report and to campaign for greater policy attention. Activists have used this process and their governments' commitments under CEDAW to leverage positive change for women's rights: from family law reform in Fiji in 2003 and Morocco in 2004 (see Box 1.1) to the lengthy campaign for legislation against sexual harassment in India, which was finally successful in 2012.<sup>80</sup>

This is not to deny that civil society faces huge challenges where freedom of expression and association and the right to information are weak and where mechanisms for holding governments accountable for the violation or inadequate realization of rights are feeble or absent. Civil

and political rights are critical if conditions for accountability are to exist and flourish.<sup>81</sup> But even where national political systems are not formally democratic, localized forms of organizing can take place around, for example, labour rights, social rights or women's civil and political rights. Rights advocacy does not have to wait for a fully-fledged democratic regime to emerge. In fact, the process of claiming rights can itself contribute to building state accountability for women's rights.<sup>82</sup>

Second, even in formally democratic settings, the idea of human rights may not be enthusiastically embraced by all. The struggle for human rights has often had to contend with two critical sets of challenges: one is that States may have little or no accountability, especially to poor and disadvantaged social groups; and the other is that inequalities—of gender, race, class, ethnicity and sexual identity—may have become so normalized that they are not perceived as unjust even by those who are most subordinated or who suffer most from discrimination.<sup>83</sup>

### The importance of women's collective action

The presence of women's organizations can make a significant difference on both these fronts by legitimizing women's rights concerns within public policy-making; putting onto the public agenda concerns that were hitherto hidden or deemed 'private', such as violation of women's sexual and reproductive rights; and fostering the capacity of those who experience multiple forms of discrimination to engage in forms of advocacy that resonate with their experience.<sup>84</sup> This is evident in grassroots work by non-governmental and women's organizations in urban slums, rural villages and marginalized migrant communities that seeks to create the time and space for women to meet and discuss their situation and constraints and channel their recommendations on how they would like to change things for the better.

Indeed, the relevance of human rights does not lie exclusively in how they are used to inspire new legislation, whether nationally or internationally.<sup>85</sup>

Those whose human rights have been violated can also use them to assert their moral claims. Activists can employ them as a tool to monitor policies or do advocacy work in order to advance the effective reach of acknowledged human rights. Public debate, political campaigns and collective organizing around human rights are also important means to question discriminatory social norms, unequal power relations and unequal distribution of resources and to encourage poor and marginalized women to see themselves as rights holders. Work with marginalized communities must begin with the realities of women's lives and create the space for critical reflection and sharing of experiences. In doing so activists may not always use the language of human rights as their starting point, preferring to employ notions of fairness and dignity that resonate better with grassroots women.<sup>86</sup>

Going back to the issue of legal rights with which this chapter began, the reason for putting women's economic and social rights into law is not only to make them justiciable in court; it can also create the political and societal momentum to ensure that women's rights can be enjoyed in practice. When economic and social rights are recognized in constitutions and enshrined in laws, it helps build political legitimacy behind them. It can also create a horizon of societal expectations and spur public action. It can help women engage with those who administer the laws and programmes that shape their lives, be they land registration officers, health service providers or public school teachers and administrators.<sup>87</sup>

## SUBSTANTIVE EQUALITY FOR WOMEN: A FRAMEWORK FOR ACTION

As the previous sections have shown, a key challenge around the world is transforming formal rights into reality to enable women's practical enjoyment of their human rights. This is how substantive equality can be achieved. Public action is fundamental to support this process. Based on the work of Sandra Fredman and elaborated by Fredman and Goldblatt (2014), this section proposes a framework, derived from human rights treaties as well as the work of the treaty bodies, to support governments and other key actors to make this change happen.<sup>88</sup> The framework identifies three interconnected dimensions along which actions need to be taken in order to transform existing structures and institutions so that all women are able to enjoy their rights:

**Redressing women's socio-economic disadvantage**

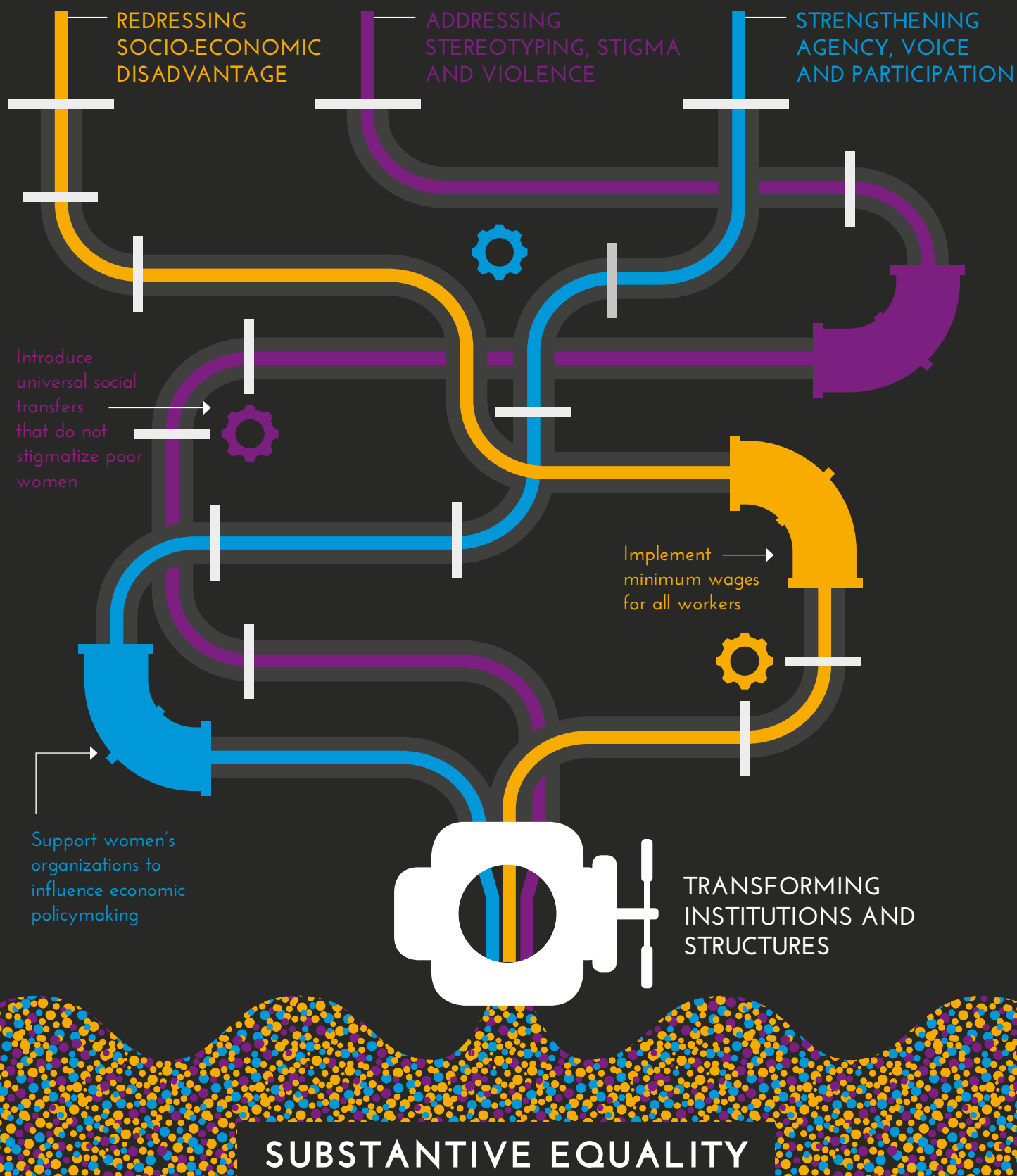
**Addressing stereotyping, stigma and violence**

**Strengthening women's agency, voice and participation.**<sup>89</sup>

This Report puts the spotlight on the first dimension—redressing socio-economic disadvantage—and the achievement of women's economic and social rights. But as Figure 1.4 shows and the following chapters make clear, women cannot enjoy these rights without action to address stereotyping, stigma and violence and strengthen women's agency, voice and participation.

Figure 1.4

## A FRAMEWORK FOR UNDERSTANDING SUBSTANTIVE EQUALITY



Stereotyping, stigma and violence are pernicious means by which gender hierarchies, whether in the labour market or in day-to-day life, are held in place and reinforced. Tackling these is necessary to break down barriers that prevent women from exercising their rights to work and social security, for example. The strengthening of women's agency and collective voice is an important goal in its own right and has also been a driver of changes in laws, policies and practices that enable the realization of economic and social rights. The lasting transformation of social structures and institutions is possible when changes along these three dimensions—of resources, respect and agency—intersect and work in concert.

The remainder of this chapter reviews overall progress towards substantive equality along these different dimensions to set the scene for the more detailed analysis of public policies in subsequent chapters. It addresses three questions: Are economic and social policies redressing women's socio-economic disadvantage? Are public policies addressing deeply entrenched gender stereotypes, stigma and violence? And does the process of public policy formulation create spaces for different groups of women to act collectively and have their voices heard by policy makers?

## **REDRESSING WOMEN'S SOCIO-ECONOMIC DISADVANTAGE**

Women's socio-economic disadvantage is reflected in pervasive gender inequalities in earned income, property ownership, access to services and time use. The absence of sex disaggregated data makes it difficult to establish if women are, across the board, more likely to live in poverty than men (see Box 1.4). But, globally three quarters of working age men are in the labour force compared to half of working age women. And among those who are employed, women constitute nearly two thirds of contributing family workers, who are employed in family businesses and farms, but receive no direct pay.<sup>90</sup> Globally, women earn on average 24 per cent less than men (see Annex 4) and are less likely than men to receive a pension (see Annex 5). This translates into

large lifetime inequalities in income between women and men (see Box 2.4). Yet in all regions women work more than men: on average they do at least two and a half times more unpaid care and domestic work than men, and if paid and unpaid work are combined, women work longer hours than men in nearly all countries (see Annex 3).

The root causes of these inequalities lie in unequal power structures that are sustained by laws, social norms and practices, market forces and public policies within both the 'private sphere' of home and family and the public arena. Both economic and social policies have a role to play in tackling the causes of these inequalities. Policies need to pay particular attention to ensuring the enjoyment of rights by women and girls from disadvantaged and poorer households who face multiple forms of discrimination.

How far have public policies supported the progressive realization of women's economic and social rights over the past decade? Overall women have made important social gains in many countries in terms of access to education and, to a lesser extent, health services and employment. But it has been difficult to sustain these gains and to translate them into an adequate standard of living. Economic policies have either undermined women's social gains or failed to support them through improved labour market opportunities. Gender gaps are narrowing in some domains, but entrenched and growing wealth inequalities mean that poorer women are being left behind. To sustain and amplify women's hard-won gains requires a different set of economic and social policies, as the following chapters will elaborate.

### **Gaps between rich and poor women and girls**

Disaggregated data collected to monitor progress towards the achievement of the Millennium Development Goals (MDGs) since 2000 show that there has been progress for women overall in access to education and health in all regions.<sup>91</sup> Nevertheless, country level data show that this progress has been very uneven among different social groups. Particularly alarming is that in many countries a gap remains, or is widening,



## BOX 1.4

### Gender and poverty: What do we know?

Poverty remains a serious global challenge. There has been progress in reducing extreme poverty since 1990, but 1 billion people—or around 15 per cent of the world’s population—were still living in extreme poverty in 2011. It is unknown how many of those living in poverty are women and girls.<sup>92</sup> In part this is because the headcount measure of extreme poverty (\$1.25 a day) is estimated using aggregate household level income or consumption data, which makes it difficult to estimate individual rates and hence gender differences in the incidence and severity of poverty.

In the absence of data on individual poverty rates, a proxy measure of women’s risk of poverty has been developed where the percentage of working age women living in poor households (defined as the bottom 20 per cent of households) is compared to the percentage of working age men in such households.<sup>93</sup> Using this measure, as Figure 1.5 shows, women are more likely to live in poverty in 41 out of 75 countries with data. Many factors contribute to women’s heightened vulnerability to poverty, including unequal access to paid work, lower earnings, lack of social protection and limited access to assets, including land and property (see Chapters 2 and 3).

An analysis of the characteristics of poor households indicates that countries where women are at greater risk of poverty also tend to have an over-representation of ‘female-only’ households (i.e., those with no male adults) among the bottom 20 per cent. This suggests a greater risk of poverty among separated women, widows and single mothers, including heads of household without a male partner.<sup>94</sup>

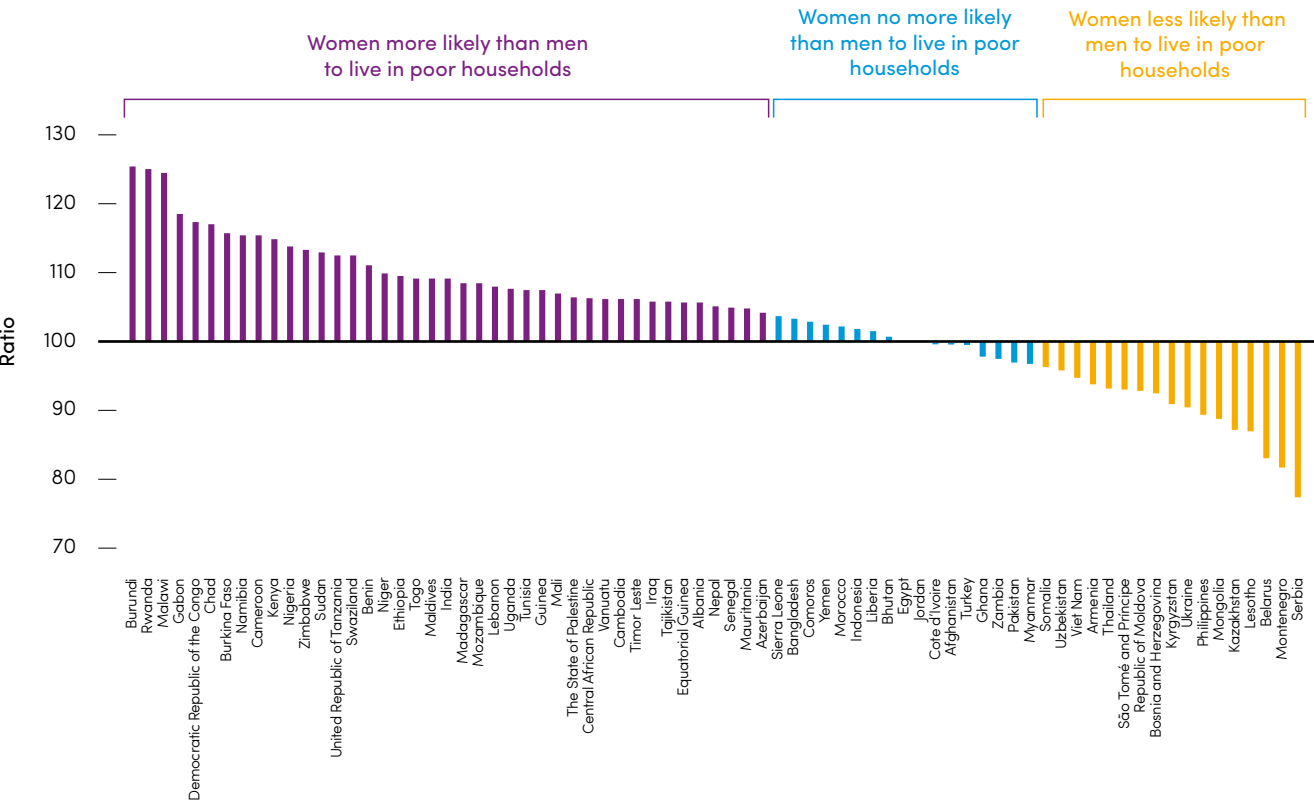
Even where women and men are both just as likely to live in a poor household, women are more likely to be deprived in other key areas of well-being, such as education, and less likely to have an independent source of income through paid work (see Annex 1), which can result in the uneven distribution of power and resources within the household.

Latin America and the Caribbean is the only region where analysis of the poorest households by gender composition has been done over time. It shows not only that women outnumber men among those living in households below the poverty line but also that the proportion of women compared to men in poor households has increased over time: from 108.7 women for every 100 men in 1997 to 117.2 women for every 100 men in 2012. This upward trend has taken place in the context of declining poverty rates for the region as a whole: 44.8 per cent of people lived below the poverty line in 1997 compared to 32.7 per cent in 2012. New social policies directed to the poorest segments of the population have contributed to reductions in poverty in the region, but their impact varies depending on the reach of programmes and the size of transfers.<sup>95</sup> Furthermore, the poorest women still face major barriers in accessing decent work. Greater efforts are therefore needed for the realization of women’s rights to and at work if they are to benefit equally from economic growth and poverty reduction.



Figure 1.5

Ratio of the share of women to men of prime working age (20–59 years) in the poorest 20 per cent of households  
→ Women are more likely than men to live in the poorest households in 41 out of 75 countries



Source: UN Women calculations using latest available data from Demographic and Health Surveys (DHS) and the Multiple Indicator Cluster Survey (MICS).

Note: This indicator is weighted by the ratio of female to male aged 20–59 in all households to take into account the fact that women may be overrepresented in the entire population. See Annex 1 for details. Values above 103 indicate that women are over-represented in the poorest quintile. Values below 97 indicate that men are over-represented in the poorest quintile. Values between 97 and 103 indicate parity. 'Poor households' refers to the bottom 20 per cent of households, using the wealth asset index as a proxy measure in DHS and MICS.

between the access to health services of the poorest groups of women compared to women from the better-off social groups.

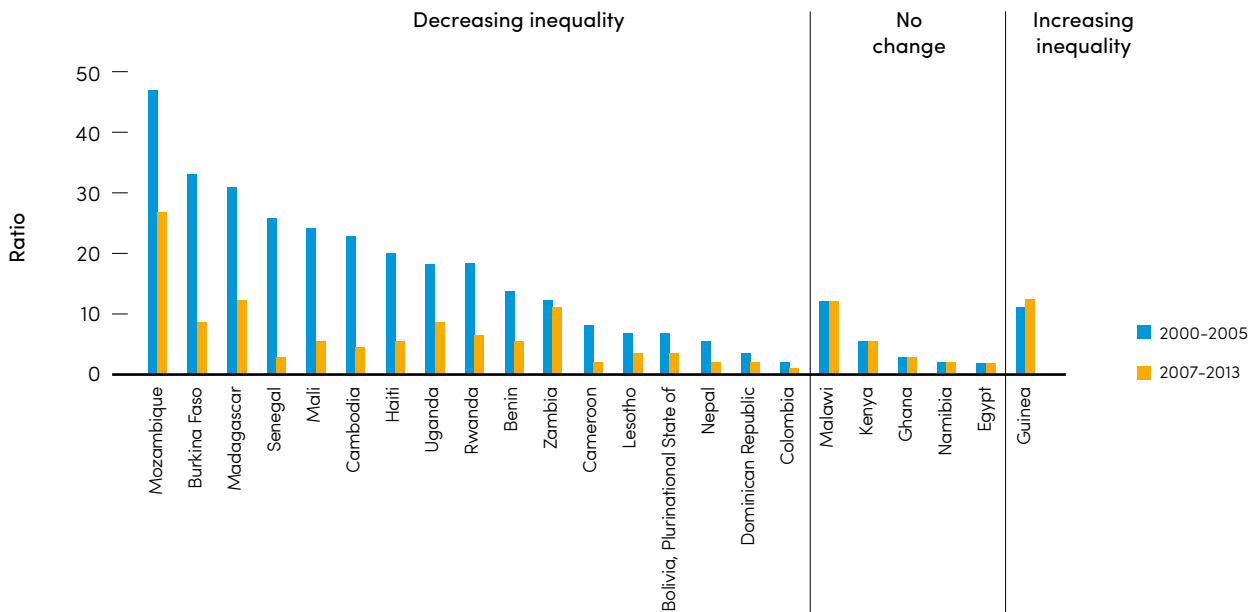
The picture is more positive with respect to wealth-based inequalities in girls' attendance in secondary school. The investments in education made since the adoption of the MDGs have contributed to reducing gender gaps in enrolment at both primary and lower secondary levels in developing countries, although drop-out rates remain high in some contexts, especially among girls.<sup>96</sup> There has also been significant progress in reducing gender gaps in gross enrolment at the upper secondary level.

These investments have narrowed the gaps in educational attendance between rich and poor, but have not succeeded in closing them. Based on data from 23 countries, Figure 1.6 shows that net attendance in secondary school was, in most cases, significantly lower for girls in the poorest quintile than in the richest quintile in the early 2000s.<sup>97</sup> In almost all of these countries, wealth-based inequalities in attendance have narrowed over the past decade, but they remain very significant in some. In Mozambique, for example, girls from the highest wealth quintile were still 27 times more likely than girls from the poorest wealth quintile to be attending secondary school in 2011, down from 47 times in 2003.

Figure 1.6

Ratio of net secondary attendance rates of girls in the richest wealth quintile to girls in the poorest quintile, 2000-2005 and 2007-2013

→ *Inequality in secondary school attendance between the richest and poorest girls has declined in most countries, but large disparities remain*



Source: UN Women calculations using data from DHS.<sup>98</sup>

Disparities across regions also remain wide. Between 2000 and 2012, the gender parity index (GPI) in net secondary enrolment increased from 0.92 to 0.96 overall, but GPI values ranged from a high of 1.07 in Latin America and the Caribbean (denoting an advantage for girls) to a low of 0.87 in sub-Saharan Africa.<sup>99</sup> The heavy focus on increasing enrolments in recent years, in the drive towards achieving the MDGs, has also arguably come at the cost of attention to the quality of education. The United Nations Educational, Scientific and Cultural Organization (UNESCO) reports that at least 250 million of the world's 650 million primary school age children

are not learning the basics in reading and mathematics.<sup>100</sup> Several country studies show that gender, rural location and poverty play a key role in determining learning outcomes.<sup>101</sup>

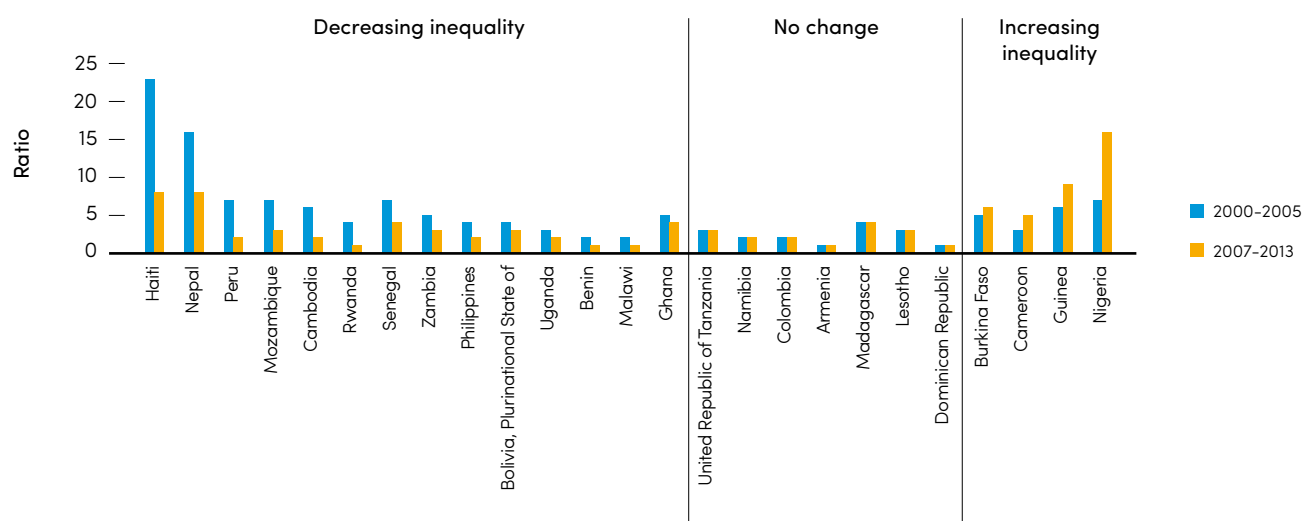
### Slow progress in health

Progress has been slower in women's health outcomes. There are serious challenges in obtaining data on maternal mortality, but globally there were an estimated 289,000 maternal deaths in 2013, down 45 per cent from the level in 1990.<sup>102</sup> This is a very significant decline but far short of the MDG target to reduce the maternal mortality ratio by three quarters

Figure 1.7

Ratio of skilled assistance rates of women in the richest wealth quintile to women in the poorest quintile, 2000–2005 and 2007–2013

—> *Inequality in access to skilled assistance in childbirth between the richest and poorest women has decreased in some countries, but disparities remain*



Source: UN Women calculations using data from DHS.<sup>103</sup>

Note: Skilled assistance refers to assistance by a doctor, nurse or midwife during delivery for all births during the last 5 years.

by 2015. High levels of maternal mortality persist particularly in sub-Saharan Africa and South Asia, which together accounted for 86 per cent of total maternal deaths in 2013.<sup>104</sup> Such deaths are largely preventable. They are linked to the low status of women, as well as inadequate health services in developing countries, including low rates of skilled attendance at delivery, women's lack of access to emergency obstetric care, unsafe abortions, and the lack of health care for underlying conditions such as malaria and HIV and AIDS, which lead to complications in pregnancy.

Patterns and trends in the percentage of births that were assisted by a skilled health professional in 25

countries since the early 2000s suggest significant and ongoing disparities in women's access to health services, as shown in Figure 1.7.<sup>105</sup> In all 25 countries, women from the poorest quintile had less access to a skilled professional during childbirth than those from the richest quintile throughout the 2000s. The gap has narrowed in 14 countries, showing that poorer women were catching up, but in 11 countries the gap either did not change or is larger than it was in the early 2000s, indicating that the poorest women were being left behind. In Nigeria, for example, at 82 per cent, skilled birth assistance for the richest quintile did not change much between 2003 and 2013, but the situation for the poorest quintile has actually worsened with a decline from 11 to 5 per cent.

### **Crisis and austerity are jeopardizing women's economic and social rights**

The 2008 global economic crisis and the austerity policies that followed in many countries since 2010 have further curtailed progress towards the realization of women's economic and social rights.<sup>106</sup>

Overall, employment expansion in the 2000s has been sluggish, and the rise in female labour force participation has slowed down after significant growth in previous decades. Gains in women's rights at work are limited: in sub-Saharan Africa and South Asia, particularly, the majority of working women remain concentrated in low-paid, low-quality forms of employment that do not provide even basic rights at work (see Chapter 2).

Particularly in developed countries, there has been retrogression in social and economic rights. Industries where men were strongly represented—such as construction and finance—were most severely affected by the crisis. As a result, the gender gap in unemployment narrowed in the immediate aftermath of the crisis through a process of levelling down: more men lost jobs than women. However, where economic recovery is taking place—for example in the United States of America (United States)—men's employment is recovering faster than women's.<sup>107</sup>

The effects of crisis and austerity policies were less acute in developing countries, but they did put a brake on employment creation and on public investment in infrastructure and services. In Asia, women have been much more affected than men by job losses due to their concentration in the export-oriented manufacturing sector, which has been particularly hard hit.<sup>108</sup> Moreover, the persistence of high and volatile global food prices following the 2008 price hikes has affected the rights of millions of people to food and to an adequate standard of living. Faced with higher food prices, households are shifting to cheaper and lower-quality food items and eating less diverse diets, which often means additional time and effort expended by women in buying and preparing food.<sup>109</sup>

With the onset of austerity measures since 2010, there have also been significant cutbacks in government spending on welfare services and benefits. Spending on child benefits, for example, which had peaked in Europe in 2009, fell back to below 2008 levels.<sup>110</sup> In developing countries, cuts have affected subsidies for food, fuel, electricity and transport and threatened the expansion of emerging social protection programmes.<sup>111</sup> These effects of economic crisis and austerity continue to be felt and may continue to jeopardize the realization of women's economic and social rights in the coming years.<sup>112</sup>

### **ADDRESSING STEREOTYPING, STIGMA AND VIOLENCE**

Stereotyping, stigma and violence often compound material disadvantage and prevent women from accessing services and opportunities that could improve their position. Being subjected to violence, for example, is not only a violation of one's dignity and physical and mental well-being but can also lead to homelessness and poverty.<sup>113</sup> Preventing maternal mortality is not simply about scaling up technical interventions or making health care affordable but is also about addressing stigma and discrimination on the part of service providers that can influence women's decisions to seek reproductive health-care services.<sup>114</sup>

Gender stereotyping translates into gender segregation first in the education system and subsequently in the labour market. Girls are still less likely than boys to choose scientific and technological fields of study and, when they do, are less likely to take up high-paying jobs in those fields. These 'choices' are informed by stereotypes about suitable occupations for girls rather than based on ability.<sup>115</sup> Similarly, in the labour market, women are over-represented in clerical and support grades, rather than in managerial roles, as well as in 'caring' professions, which tend to be low paid (see Chapter 2).<sup>116</sup>

Gender stereotypes also shape how women and men allocate their time between paid and unpaid care and domestic work as well as between work and leisure. Stereotypes that define caregiving as quintessentially female (and maternal) seem to be much harder to dislodge than those around breadwinning, previously seen as a male domain.<sup>117</sup> Increasing numbers of women are adopting what are widely seen as masculine lifestyles and patterns of work by engaging more intensively in the labour market. However, men are not, to the same extent, taking on greater responsibility for unpaid care and domestic work, widely seen as 'feminine'. Gender gaps in unpaid work are narrowing in developed countries, but they remain starker than those in market-based work virtually everywhere.<sup>118</sup>

Described as 'a process of dehumanizing, degrading, discrediting and devaluing people in certain population groups',<sup>119</sup> stigma is a weapon employed by the powerful to define what is 'normal' or 'acceptable', as a means to uphold their position in relation to a subordinate group. Stigma and even violence are often used to enforce stereotypes and social norms about 'appropriate' female and male behaviour.<sup>120</sup> Stigma is frequently invoked where gender intersects with other characteristics including disability and sexuality as well as poverty, race, caste, ethnicity and immigrant status. For example, immigrant, ethnic minority women working in domestic service are often stigmatized as being backward, dirty or carrying diseases, thereby justifying their subordinate position vis-à-vis their employers.<sup>121</sup> Stigmatization has far-reaching consequences for the realization of economic and social rights: it renders the needs of certain groups and individuals invisible, pushes them to the margins of society and excludes them from access to resources and services, as Chapter 3 shows.<sup>122</sup>

### Addressing violence against women

Men's use of violence against women is widespread across all countries and socio-economic groups. Globally, one in three women reports having experienced physical and/or sexual violence at some point in their lives, usually

perpetrated by an intimate partner.<sup>123</sup> Changes in the prevalence of violence against women over time are hard to assess given a paucity of reliable and comparable data, but there is no doubt that it continues to be a very widespread problem.

Over many decades, women's rights activists and researchers have documented how gender inequality and men's power over women create a conducive context for the perpetration of violence against women. As girls and women have entered schools, workplaces, public transport and marketplaces in greater numbers, they are frequently subject to unwelcome scrutiny, harassment and even assault. Violence is also used as a way to punish nonconformity with dominant gender stereotypes, for example in relation to sexual orientation (see Box 1.5).

Violence against women also tends to increase during periods of upheaval and displacement associated with armed conflict and natural disasters, as well as in times of crisis and instability, when people are dealing with uncertainty. For example, domestic violence may increase when men are unemployed even if—sometimes especially if—women are bringing in income.<sup>124</sup>

In response to the massive mobilizations of women's movements from the 1970s onwards, a range of countries has adopted legislation that criminalizes violence against women, as shown in Figure 1.1. However, the implementation of these legal provisions is rarely supported by adequate investments in services, in capacity building of service providers and in the public campaigns needed to effectively prevent violence against women. Addressing these deficits requires a significant investment in making homes and public spaces safe for women and girls and ensuring access to justice. It also requires a commitment from policy makers to prevent violence before it happens by changing community attitudes that accept it.<sup>125</sup>

Police services in some countries are starting to respond more effectively to violence against women, especially intimate partner violence. In

## BOX 1.5

### Gender stereotypes and punishment for nonconformity: The case of 'corrective' rape in South Africa

Women and girls with nonconforming sexual identities, including lesbian, gay, bisexual and transgender (LGBT) women, frequently face emotional, verbal, sexual and physical abuse, and even murder, as well as denial of employment, education, health and other basic rights. 'Corrective' rape, a practice used to punish nonconforming women and girls, ostensibly to 'cure' their sexual preferences, is a particularly appalling example of such abuse.

South Africa has been a pioneer in the constitutional recognition of LGBT rights, but these rights continue to be widely violated. Women and girls who transgress social and cultural norms on sexuality, or who do not conform to dominant prescriptions on how women 'should act' and what they 'should look like' are frequently targeted. Lesbians who are poor, black and live in townships are at particular risk. LGBT support groups claim that 10 new cases of 'corrective' rape occur every week in Cape Town alone. Many cases go undocumented due to the perception among victims that the criminal justice system is unresponsive. More than 31 lesbians were murdered in South Africa between 1998 and 2009, but only one of these cases resulted in a conviction.

NGO and LGBT activists have criticized the Government for failing to uphold its constitutional obligations to prevent and prohibit these crimes. In response to their demands and a petition with 170,000 signatures from 163 countries, the Department of Justice and Constitutional Development established a National Task Team in 2011 to devise a strategy for combating the problem. The Task Team developed the National Intervention Strategy (2014–2017), which takes a multi-sectoral approach by introducing prevention programmes, enhancing criminal justice system responses and strengthening institutional capacity to address and prevent such forms of violence. Civil society and non-governmental organizations, and activist groups are currently monitoring the implementation of these measures. Meanwhile, concerns remain regarding the need for greater public education to address underlying discriminatory attitudes.<sup>126</sup>

the state of Victoria in Australia, for example, in what is widely seen as a 'best practice', high-level leadership in government and the police agency itself have been key to positive changes in the way services deal with the issue. Other critical factors have been: training on violence against women for police at all levels; the adoption of performance measures related to increased numbers of charges and prosecutions and reduced rates of repeat offending; and a shift from 'criminal justice' models

to a broader approach of providing referrals and support to victims. Central to the success of these changes has been the expertise and advice provided by women's organizations working on violence against women.<sup>127</sup>

Women's activism has also played a fundamental role in the recognition, in international norms and agreements, of violence against women as a human rights violation and form of

discrimination. CEDAW did not originally specify it as such, leading to waves of global activism and advocacy from feminists to address this gap. Finally, in 1992, the CEDAW Committee adopted General Recommendation No. 19 on violence against women. This unequivocally states that it is a form of gender-based discrimination that 'seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men'.<sup>128</sup> This and other subsequent gains were consolidated during the Beijing Conference in 1995, which recognized violence against women as a critical area in its official declaration, underlining that it is an impediment to the full enjoyment by women of their human rights. In recent years, United Nations intergovernmental and expert bodies have continued to advance the global agenda on violence against women, including at the Commission on the Status of Women (CSW) at its fifty-seventh session in March 2013.<sup>129</sup>

## **STRENGTHENING WOMEN'S AGENCY, VOICE AND PARTICIPATION**

Redressing the socio-economic disadvantage that women experience and contesting the stereotypes, stigma and violence that directly and indirectly violate their rights require strengthening women's agency, voice and participation, both at the individual and collective level.

Agency refers to 'the ability to define one's goals and act upon them'.<sup>130</sup> It is often associated with decision-making within households about the day-to-day allocation of resources and responsibilities. These decisions have implications for the capacity of women to exercise their rights in both the public and private spheres. Increasing women's agency in intra-household decision-making is an important goal in itself and also has positive impacts on women's own well-being as well as that of other household members, especially children. Women's agency is affected by a variety of factors, including their earning capacity; social norms and laws governing marriage, divorce,

inheritance and child custody; and their social and collective engagements beyond their immediate family and kinship networks.<sup>131</sup>

Voice is defined in terms of 'acts or arguments that influence public decisions – usually in public decision-making arenas like legislatures'.<sup>132</sup> Voice and influence in decision-making, like agency, have intrinsic value as enabling individual and group enjoyment of democratic freedoms and rights. In addition, they serve to ensure that group-specific interests are represented and advanced in public policy and other decision-making arenas. For example, women's voice is important in decisions over public spending priorities to ensure adequate provision of services, infrastructure and social security to guarantee their physical integrity and reproductive rights. The provision of better services for women enhances their power and agency within their intimate relations by reducing their dependence on other household members and giving them a stronger 'fall-back' position in case of conflicts or relationship breakdown.

Participation can be understood as 'organized efforts to increase control over resources and regulative institutions in given social situations on the part of groups and movements hitherto excluded from such control'.<sup>133</sup> Meaningful participation of women is about more than just numerical presence in decision-making forums, whether at the local or national level. Women in decision-making positions must be able to articulate and act on issues that concern different groups of women, especially those who are disadvantaged. Women's rights advocates and autonomous feminist organizations have a critical role to play here in bringing women's concerns into the policy-making process and holding decision-makers and service providers to account.<sup>134</sup>

## **Women's voice and participation in politics and policy-making**

Recent years have seen a 'rising tide' of women's political representation, with more women than ever before in elected national assemblies. The global average has been climbing and in 2014

stood at close to 22 per cent—far from equality but nevertheless an improvement compared to 14 per cent in 2000.<sup>135</sup> The adoption of affirmative action measures—such as quotas on party electoral lists or reserved seats—has been critical in facilitating women’s entry into national assemblies. Innovations in electoral systems and affirmative action measures have come about both as a result of pressure from women’s movements and through the influence of global declarations and resolutions. In local governance, too, women are making inroads in some countries.<sup>136</sup> In executive positions in government, however, women continue to be very much in a minority and confined mainly to gender-stereotyped portfolios.<sup>137</sup>

Moving towards numerical parity in political office remains an essential component of deepening democracy and creating a more just society. Women’s involvement in politics can also have a positive ‘role-modelling’ effect by encouraging other women to seek public office. But does women’s presence in formal politics help bring women’s interests into policy-making? Here the evidence is mixed.

There is some evidence, mainly from Scandinavian countries, to support the contention that having a ‘critical mass’ of women in decision-making forums can trigger a shift in priorities to favour women’s concerns.<sup>138</sup> Women parliamentarians in a number of developing countries too have taken steps to raise the profile of gender issues in legislative debates: some have formed women’s caucuses to work across party lines and to coordinate their work in legislative committees, while others have formed standing committees on women’s rights and equal opportunities.<sup>139</sup> Moving below national legislatures to local governance bodies, there is some evidence to show that when women have a greater voice and participation in public administration, public resources are more likely to be allocated to human development priorities, including child health, nutrition and access to employment.<sup>140</sup> Recent research on community forestry institutions governing access to and use of forest products in Gujarat (India) and Nepal also suggests that having a critical mass of women

increases the likelihood of women attending meetings and voicing their concerns.<sup>141</sup>

Easing women’s access to political office does not, on its own, ensure that a women’s rights agenda is brought into policy-making. Women politicians, like their male counterparts, may address the issues of concern to their parties and constituents, and women’s rights may not be on the agenda of those representing traditional social groups or conservative parties. Moreover, their links with women’s rights organizations may be weak or non-existent. The deficiencies in government, in particular the control of dominant groups on local level bodies, are not magically fixed by having more women incorporated in them.<sup>142</sup> As more women have entered political office, many have discovered deeply entrenched patterns and practices in public decision-making and policy implementation that ‘stop progressive public policy in its tracks.’<sup>143</sup> Translating women’s political presence into progressive policy change also requires that the state and political parties are responsive to these issues and the political culture is compatible with human rights and equality claims. The capacity of the state to effectively implement policies and regulate market actors also plays a decisive role in determining whether women’s rights can be advanced in practice.<sup>144</sup>

The number of women in formal politics may not be the best indicator of the quality of women’s political participation or its effectiveness in orienting policy-making towards gender concerns. The number, size and influence of active women’s organizations may be far better indicators of women’s political participation.<sup>145</sup> Most importantly, the strength of autonomous women’s movements and how they engage with women in political office and the bureaucracy has been shown to be a key ingredient in progress towards gender-responsive public policies (see section Equality before the law).<sup>146</sup> This requires time and resources that women and women’s organizations often do not have. Hence, actions that equalize the distribution of resources, in terms of time and money, between women and men—as captured in the first dimension of the



framework shown in Figure 1.4—also contribute to strengthening women’s agency, voice and participation.

### Women’s organizing and women’s movements

Significant advances in women’s formal rights have been achieved particularly where women’s movements have been present, organized and broad-based. However, to build inclusive and effective movements, women have to confront tenacious hurdles stemming from gender-biased governance structures as well as the many cleavages that divide them—whether based on ethnicity, race, class or sexual orientation.<sup>147</sup> For example, in Latin America legislative progress to strengthen the rights of domestic workers, who are often from disadvantaged ethnic and racial groups, has frequently stalled as a result of foot-dragging in national parliaments. This resistance has, at times, come from female legislators who are able to participate in politics only because their domestic workers put in long hours to sustain their households. In some contexts, including the Plurinational State of Bolivia, Brazil and Chile, however, domestic worker organizations have been able to overcome such resistance and gain legal reforms by combining sustained autonomous movement pressure and

strategic alliance building with progressive parties as well as labour and indigenous organizations.<sup>148</sup>

In addition to organizing through their own movements and organizations, women have played a key role in mobilizing for women’s economic and social rights within broader labour and social justice movements. Such movements can generate deep and lasting transformations. However, women’s rights and gender equality have not usually been high on the agendas of ‘mainstream’ social movements even when women are active members.<sup>149</sup> Around the world, women have too often worked alongside men towards shared goals—independence, democracy, labour rights and redistribution—only to experience their needs and interests as women being sidelined and postponed.<sup>150</sup>

But there are also more sanguine experiences that illustrate how progress can be achieved by and for women within broader movements and organizations (see Chapter 2 on recent changes in trade unions). For example, women’s specific concerns have come to the fore within *Via Campesina*, a transnational agrarian movement that campaigns for rural people’s access to land, territory, food, water and seeds within a human rights framework (see Box 1.6).

## BOX 1.6

### Challenging male dominance in agrarian movements: The case of *Via Campesina*

Formed in 1993, *Via Campesina* is made up of over 160 grassroots organizations representing peasants, smallholders, agricultural workers, migrants, youth, indigenous groups and landless people in more than 70 countries.<sup>151</sup> At its International Conference held in Txacala (Mexico) in 1996, as a result of women’s collective organizing within the movement, gender issues were identified as central to *Via Campesina*’s internal functioning. After the conference, *Via Campesina* women started to meet in autonomous spaces to define a common agenda. In the words of one observer: ‘as women spoke from their own experiences of working within peasant and farm organizations, a real sense of camaraderie, sharing of insights, and respect for one another permeated the discussion of potential models and plans for work within *Via Campesina*’.<sup>152</sup>

Achievements have been significant. Today women are a central force in this movement. Women's participation and representation has increased, they have taken up positions of leadership and significant strides have been made to achieve parity in women's representation in decision-making bodies. In its Latin American section, for example, parity was established in 1997.

Training schools have been set up to show the links between gender and class inequalities, which have helped women to challenge male-dominated structures and sexist behaviour within their respective organizations. Women's specific concerns have also gained greater visibility on the movement's agenda. When *Via Campesina* developed its political position on food sovereignty in the late 1990s, for example, women argued that because women are primarily responsible for the well-being of their families, food sovereignty must include a drastic reduction in the use of health-endangering agrochemicals. Furthermore, they argued that because of women's unequal access to productive resources, food sovereignty could only be achieved by increasing their participation in agricultural policy-making.

Most recently, in 2008, *Via Campesina* launched a high-profile campaign to end violence against women, which it sees as a structural issue supported by both capitalism and patriarchy, including such violence within the movement itself.

This positive example of women advancing their own agenda within a broad-based social movement highlights the kinds of strategies and alliances that women's movements need to adopt in order to advance the social and economic rights of women and girls. Yet, one of the greatest obstacles that confront gender equality agendas is the difficulty of working within gender-biased political and governance institutions—all the way from political parties to justice systems and state bureaucracies—that remain resistant to women's equality claims and require deep institutional reform.

### **TRANSFORMING STRUCTURES AND INSTITUTIONS FOR WOMEN'S SUBSTANTIVE EQUALITY**

Change in women's lives happens when increases in their resources, respect and agency reinforce each other in a synergistic way: when resources and life chances enable an adequate standard of living for all women, as well as the time and resources for greater agency and voice; when

women can live their lives with dignity and respect; and when they are able to voice their interests and participate on equal terms with men in all decisions that affect their lives. This is the long-term goal and vision towards which public action has to move. Long-term change is enabled by both small and big initiatives that transform structures and institutions, to disrupt discriminatory norms and gender stereotypes, redistribute resources and create spaces and mechanisms for women to articulate their grievances and act collectively to claim their rights.

The groundbreaking government initiative in Brazil, *Chapéu de Palha Mulher* (see story: *Making rights real*), captures the key elements necessary for such transformations. This anti-poverty initiative goes much further than conventional conditional cash transfer programmes (CCTs) directed at poor women by setting out to change the structures that keep gender hierarchies in place and constrain women's enjoyment of their rights. It provides: a three month course on citizenship and public

policy that brings women together to raise their awareness of their rights and provide a space for critical reflection and discussion; training in male-dominated occupations that can challenge gender-based segmentations in the labour market and provide work that is better paid; and childcare services that enable them to take part in the training sessions.<sup>153</sup> The challenge is to take the transformative approach of programmes such as *Chapéu de Palha Mulher* to scale—providing resources, services and spaces that respond to women’s immediate needs while disrupting the structures that reinforce their subordination and constrain the practical enjoyment of their rights.

As subsequent chapters will show, more of the same is not enough for women and girls. Substantive equality requires the

fundamental transformation of economic and social institutions at every level of society, from households to labour markets and from communities to local, national and global governance institutions. Rather than simply adding paid work or poverty reduction to women’s already long ‘to-do’ lists, responsibilities for income-earning, caregiving and domestic work need to be redistributed more equally. Male-biased employment structures must be transformed in ways that work for both women and men and benefit society at large (see Chapter 2); social protection and social services must not only aim to equalize access, but also need to be redesigned with women’s rights at their heart (see Chapter 3); and existing macroeconomic policies should be significantly reoriented to support rather than constrain the realization of rights (see Chapter 4).

## CONCLUSIONS

Laws that establish equal rights for women and men provide a solid foundation, and indeed a pre-condition, for demanding and achieving gender equality. However, the achievement of gender equality in practice, especially for poorer women and those who are marginalized, requires the dismantling of structural barriers as well as of discriminatory social norms and stereotypes. International human rights standards and principles set out clear obligations for going beyond formal equality and the provision of ‘same treatment’ by recognizing that different treatment might be required to achieve equality of outcomes.

Under their commitments to human rights treaties, including CEDAW and the ICESCR, States have obligations to take positive steps to eliminate all

forms of discrimination against women, including structural and indirect discrimination that may occur when laws, policies and programmes based on seemingly gender-neutral criteria have a detrimental impact on women. Women’s collective action has been critical to bringing gender equality into the human rights system and remains vital to the realization of their substantive equality. In the process of claiming rights, women’s collective action can contribute to building state accountability to women.

The framework outlined in this chapter can support governments to meet their obligations to respect, protect and fulfil human rights and it can also galvanize women’s rights advocates to hold governments and other duty-bearers to account for their commitments.

Drawing on the understanding of substantive equality in human rights texts, this framework has three interconnected dimensions along which actions need to be taken to achieve progress towards substantive equality for women: redressing women's socio-economic disadvantage; addressing stereotyping, stigma and violence;

and strengthening women's agency, voice and participation. Public action across these three dimensions makes meaningful change in existing institutional rules and incentive structures possible, enabling the fulfilment of rights and triggering lasting transformation in the lives of women and girls.





# OUT OF THE ASHES

*Creating change from tragedy in  
Bangladesh's garment industry*

On the morning of 24 April 2013, thousands of factory workers went to work in the eight-storey Rana Plaza commercial building just outside of Dhaka. A few hours later the building collapsed, killing 1,137 people and injuring a further 2,500 workers. Most of those who died that morning were women.

Women make up 80 per cent of the 4.2 million strong workforce in the garment export industry and for many, these jobs are the first opportunity for economic independence and a job outside the home. Yet the Rana Plaza tragedy underlined what a double-edged sword this employment has proved to be. The industry has created tragically unsafe, exploitative and dangerous workplaces where women workers face poor pay, inequality, harassment and violence.

Today, while they are four out of five workers on the production lines of Bangladesh's 5,000 textile factories, only 1 in 20 supervisors is a woman.

Kalpona Akter, Executive Director of the Bangladesh Centre for Worker Solidarity (BCWS) in her office

Photo: Saiful huq Omi/UN Women



Photo: Saiful huq Omi/UN Women

## "The Rana Plaza disaster created a platform for workers to organize themselves."

"They are happy to give a woman a job operating a sewing machine, but less happy to see her become a supervisor," says Kalpona Akter, executive director of the Bangladesh Centre for Worker Solidarity, who began her working life on the garment factory floor aged 12. "Many of these women are forced to work in unsafe and unfair work environments because they have no ability to change things," she says.

The day before Rana Plaza collapsed the building had been condemned as unsafe, yet factory owners demanded the workers return to their machines.

"In Bangladesh the garment industry has never allowed workers to raise their voices, the political focus has always been on the growth of the industry and keeping the international corporations happy," says Kalpona. "It is this kind of power over workers' rights that created the environment in which this disaster was allowed to happen."

Yet Rana Plaza proved a turning point. The global outrage following the disaster led the Bangladeshi government to announce a raft of changes to its labour laws, including easing restrictions on workers forming trade unions, hiring additional factory inspectors and increasing the minimum wage for garment workers by 77 per cent.

At the same time, international clothing brands sourcing from Bangladesh joined with Bangladeshi and international trade unions, international worker solidarity movements and NGOs to create the Bangladesh Accord on Fire and Building Safety.

The Accord aims to address the serious issues with health and safety in the garment sector through a system of independent safety inspections at factories, the findings of which are made public. The Accord also protects workers' rights by making companies legally responsible for making factories safe and protects their right to refuse dangerous work or to enter unsafe buildings.

What makes the Accord different from previous worker safety initiatives is that its commitments are legally enforceable through binding arbitration backed up by the courts of the home countries of the companies signed up to The Accord.

It also breaks new ground by putting workers at the centre of health and safety reform of the garment industry. The agreement is jointly governed by companies and worker representatives and includes a central role for independent worker representatives in its implementation.

So far more than 190 brands from over 20 countries have signed the Accord, covering 1,500 factories employing around 2 million workers. This year its network of 110 independent engineers have carried out inspections at hundreds of sites, identifying more than 80,000 safety issues and suspending production at 17 factories.

The aftermath of Rana Plaza has also created the conditions for garment workers to take advantage of the government's easing of restrictions on trade unions.

"The Rana Plaza disaster created a platform for workers to organize themselves," says Kalpona. "In the last two years about 200 new garment worker unions have been registered, where 65 per cent of the leadership and the majority of members are women. In 2014, these women union leaders have started collective bargaining with their respective factory managements, which is a positive sign that changes are starting in improving women's

rights at factory level. The challenge is how we can make these changes sustainable.”

These challenges are considerable. Despite the new labour laws, still only 5 per cent of garment workers and fewer than 300 factories are unionized. The UN-backed Rana Plaza Donors Fund, set up to provide injured workers and relatives of those who died with US \$40m of compensation is still \$9 million short of its target. A handful of prominent US brands who refused to sign the legally-binding Accord have set up a parallel worker safety scheme called the Alliance for Bangladesh Worker Safety, which could fragment political and corporate support for The Accord.

Yet there is continued optimism that out of the ashes of Rana Plaza, positive changes can endure.

“We have created a collective voice both locally and internationally and this continues to create momentum

for holding those wielding the power to account,” says Kalpona. She points to continued social media campaigns, online petitions and consumer actions led by international NGOs, worker unions and consumer groups, which are maintaining pressure on clothing companies to sign the Accord or pay compensation.

“The women on the factory floors in Bangladesh are beginning to feel like their voices are finally being heard,” she says. “And this is a real step forward.”

So far more than  
190 brands from over  
20 countries have signed  
the Accord



Kalpona meets with union members in her office

Photo: Saiful huq Omi/UN Women

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Story: Annie Kelly. For more information on the Bangladesh Accord on Fire and Building Safety, see [www.bangladeshaccord.org](http://www.bangladeshaccord.org); and on the campaign for compensation for the victims of the Rana Plaza disaster, see [www.cleanclothes.org/ranaplaza](http://www.cleanclothes.org/ranaplaza)