

MEDIA BRIEF

Report Title	Strengthening Gender Equality in Law: Mapping Discriminatory Laws against Women and Girls in Kenya (<i>full report enclosed</i>)
Organization (s)	<ul style="list-style-type: none"> • Kenya Law Reform Commission (KLRC) • UN Women, Kenya Country Office • International Development Law Organization (IDLO)
Target Country	The Republic of Kenya

Background:

Kenya's Constitution has progressive provisions that seek to promote gender equity and equality. Despite 14 years of its implementation, there are still pieces of legislation which are not aligned with its spirit and letter.

Despite a robust legal framework in Kenya, discriminatory laws persist, limiting women and girls' rights and hindering gender equality. These laws affect areas such as marriage and family, succession and inheritance, sexual and reproductive health rights, land ownership, employment, and political participation. Urgent action is needed to align these laws with regional and international gender equality standards.

Overview: The report, a joint initiative by UN Women, KLRC and IDLO, reviews Kenya's legal landscape and identifies some discriminatory laws and gaps in legal protection for women and girls. The launch of this report marks a step towards enhancing gender equality in Kenya. It provides a roadmap for legal reforms and serves as a valuable resource for stakeholders to work collectively towards eliminating discriminatory laws and ensuring the rights and well-being of women and girls are upheld.

Alignment: It aligns with national priorities, including Kenya's Vision 2030, Kenya's Fourth Medium Term Plan (MTP IV), and various international treaties, including CEDAW and the Maputo Protocol.

Outcomes: To ensure Kenya's legal framework is in line with regional and international gender equality obligations.

Objective(s):

- To identify and recommend reforms for discriminatory laws against women and girls in Kenya.

- To highlight the challenges that undermine the effective implementation of the existing laws in Kenya.

Summary Findings:

- A total of nine laws or provisions require repeal in whole or in part.
- Seventeen laws need revision or amendment.
- New laws are needed in seven thematic areas.
- Existing gaps and discriminatory provisions in the legal framework hinder the full realization of women and girls' rights.

Detailed Findings:

- The analysis reveals that a total of nine laws or provisions must be repealed in whole or in part, seventeen laws must be revised or amended, and new laws must be enacted in seven thematic areas to bring Kenya's legislative framework in line with its regional and international obligations on gender equality and women's empowerment.
- The legal assessment on gender discriminatory laws in Kenya establishes that generally, Kenya has a robust constitutional, policy and legal framework meant to empower women and girls and remove barriers faced by women in political, social and economic spheres.

Nonetheless, Kenya's legal framework by itself has proved inadequate to fully realize the rights of women and girls. This is due to the inability to fully implement the existing provisions, reinforced in some instances by a patriarchal culture and gender stereotypes that discriminate against women and girls. In some instances where legal frameworks promote formal gender equality or meet normative standards set by international and regional treaties, the executive has not been able to ensure full implementation of the provisions. This has hindered the substantive enjoyment of rights and fundamental freedoms by women and girls on an equal basis with men and boys.

- Furthermore, the report has uncovered that several provisions in the laws are explicitly discriminatory against women and girls. In fact, some of the provisions have been successfully challenged in the courts and found to be in contravention of the Constitution of Kenya 2010, and thus void. These provisions nonetheless remain in the statute books.
- The report recommends that the explicitly discriminatory provisions in the law be amended immediately as a matter of urgency, as these cannot be subject to progressive realization.

- Existing gaps in legal protections should be addressed through the enactment of specific legislation, as in the case of sexual and reproductive health. Besides law reform, the study recommends specific policy and program actions by duty bearers to enable the full implementation of the provisions in the law and equal enjoyment of rights by women and girls in practice. Efforts to influence social and behavioral change at the community level, including of retrogressive customs and practices, will also need to be stepped up and sustained.

Recommendations:

- Amend explicitly discriminatory provisions immediately.
- Address gaps in legal protections through specific legislation.
- Implement policy and program actions for equal enjoyment of rights by women and girls.
- Influence social and behavioral change at the community level to combat retrogressive customs and practices.

Key Messages:

- Discriminatory laws persist in Kenya, hindering women's and girls' rights.
- Urgent reforms are needed to align Kenya's legal framework with gender equality obligations.
- Multi-stakeholder collaboration is crucial for effective law reform and implementation.
- Addressing discriminatory laws is vital for achieving sustainable development and inclusive societies.

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