



EXECUTIVE SUMMARY

2011–2012
Progress
of the World's
Women

IN PURSUIT OF
JUSTICE



United Nations Entity for Gender Equality
and the Empowerment of Women

Progress of the World's Women: In Pursuit of Justice

This volume of *Progress of the World's Women* starts with a paradox: the past century has seen a transformation in women's legal rights, with countries in every region expanding the scope of women's legal entitlements. Nevertheless for most of the world's women, the laws that exist on paper do not translate to equality and justice.

In 1911, just two countries in the world allowed women to vote. A century later, that right is virtually universal and women are exercising greater influence in decision-making than ever before. Alongside women's greater political influence, there has been a growing recognition of women's rights, not only political and civil, but also economic, social and cultural rights. Today, 186 countries worldwide have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), signalling their commitment to meeting the human rights of women and girls, breaking down the barriers to gender equality and justice.

And yet, while examples of countries making immense strides in promoting gender equality abound, all too often women are denied control over their bodies, denied a voice in decision-making and denied protection from violence. Some 600 million women, more than half the world's working women, are in vulnerable employment, trapped in insecure jobs, often outside the purview of labour legislation. Despite major progress on legal frameworks, millions of women report experiencing violence in their lifetimes, usually at the hands of an intimate partner. Meanwhile, the systematic targeting of women for brutal sexual violence is a hallmark of modern conflicts.

Pervasive discrimination against women creates major hurdles to achieving rights and hinders progress on all of the Millennium Development Goals (MDGs) – the benchmarks that the international community has set to eradicate extreme poverty – from improving maternal health, to achieving universal education and halting the spread of HIV and AIDS.

Although equality between women and men is guaranteed in the Constitutions of 139 countries and territories, inadequate laws and implementation gaps make these guarantees hollow promises, having little impact on the day-to-day lives of women. In many contexts, in rich and poor countries alike, the infrastructure of justice – the police, the courts and the judiciary – is failing women, which manifests itself in poor services and hostile attitudes from the very people whose duty it is to meet women's rights.

Progress of the World's Women shows that well-functioning legal and justice systems can be a vital mechanism for women to achieve their rights. They can shape society by providing accountability, by stopping the abuse of power and by creating new norms. The courts have been a critical site of accountability for individual women to claim rights and to set legal precedents that have benefitted millions of others.

This report highlights the ways in which governments and civil society are working together to reform laws and create new models for justice service delivery that meet women's needs. It demonstrates how they have risen to the challenge of ensuring that women can access justice in the most challenging of situations, including in the context of legal pluralism and during and after conflict.

Progress of the World's Women outlines ten recommendations to make justice systems work for women. They are proven and achievable and, if implemented, they hold enormous potential to increase women's access to justice and advance gender equality.

Support women's legal organizations

Women's legal organizations are at the forefront of making justice systems work for women. Where government-funded legal aid is limited, women's organizations step in to provide the advice and support that women need to pursue a legal case, to put a stop to violence, to seek a divorce or to claim land that is rightfully theirs.

These organizations have spearheaded law reform efforts and strategic litigation cases that have transformed the landscape for women's rights nationally, regionally and internationally (see Box 1).

They have also been leaders in successful interventions in legally plural environments, showing that it is possible to engage with plural legal systems while simultaneously supporting local cultures, traditions and practices.

For example, in Ecuador, where the right of indigenous people to determine their own justice systems is enshrined in the Constitution, women in two indigenous Kichwa communities have developed Reglamentos de Buena Convivencia (Regulations for Good Living), which bring together customary norms and human rights principles to address violence within the family and women's access to justice.

In Indonesia, PEKKA, a local non-governmental organization (NGO), has trained community-based paralegals to support women to use the religious courts to legally register marriage and divorce, which enables them to access public services and benefits. PEKKA has also lobbied the Government to increase the number of circuit courts and waive fees to make courts more accessible to women.

Box 1: Balancing the Scales: Landmark cases that have changed women's lives

These cases have increased women's access to justice in countries all over the world. Some have advanced the legal understanding of women's human rights under international law; some have enforced or clarified laws already on the books; some have challenged laws that should be repealed; and some have created new laws. All have led to positive changes in women's lives.

Meera Dhungana on behalf of FWLD v HMG

In Nepal, the law exempted men from being prosecuted for the rape of their wives. In 2002, in a case taken by the Forum for Women, Law and Development, the Supreme Court ordered Parliament to amend the rape law. To date, 52 countries worldwide have explicitly criminalized marital rape in their penal codes.

Judgment of the Constitutional Court of Colombia

In 2006, Women's Link Worldwide took a case on behalf of Martha Solay to challenge the law prohibiting doctors from performing an abortion to save her life. The Court held that the ban violated women's fundamental rights and affirmed that abortion must be accessible in certain cases.

Unity Dow v Attorney General of the Republic of Botswana

Despite being a citizen born and raised in Botswana, the law stated that because Unity Dow had married a foreigner, their two children required residence permits and were denied their rights as citizens. This landmark 1992 case confirmed that the guarantee of equality in the Constitution applied to women's citizenship rights.

Velez and others v Novartis Pharmaceuticals

In the largest gender discrimination class action ever to go to trial in the United States of America, 12 female employees of the pharmaceutical company Novartis alleged they were discriminated against on pay and promotions. The jury found unanimously in their favour and Novartis agreed to pay US\$175 million to settle the matter, including \$22.5 million for improvements to policies and programmes to promote equality in the workplace.

Implement gender-sensitive law reform

Gender-sensitive law reform is the foundation for women's access to justice. Without a solid legal foundation, attempts to make courts more accessible to women, police less hostile to their complaints and other necessary reforms to the administration of justice are likely to founder.

CEDAW provides the internationally agreed gold standard for legal reform to achieve gender equality. Action is needed to repeal laws that explicitly discriminate against women; to extend the rule of law to the private domain, including to protect women from domestic violence; and to address the actual impact of laws on women's lives.

There has been progress in every region, so that in 2011:

173 countries guarantee paid maternity leave

139 constitutions guarantee gender equality

125 countries outlaw domestic violence (see Figure 1)

117 countries have equal pay laws

115 countries guarantee women's equal property rights

But despite significant advances, discriminatory laws, gaps in legal frameworks and failures of implementation mean that women continue to be denied their rights.

127 countries do not explicitly criminalize rape within marriage

61 countries severely restrict women's rights to abortion

53 percent of women work in vulnerable employment

50 countries have a lower legal age of marriage for women than for men

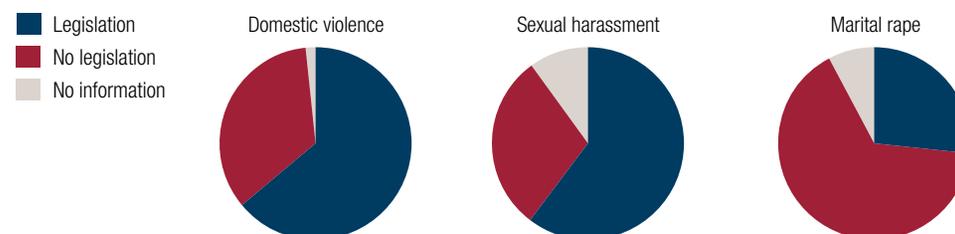
10-30 percent is the average pay gap between women and men

While CEDAW has been ratified by almost all United Nations Member States, it is also one of the treaties with the largest number of reservations. The most common reservations are on article 16, which guarantees women's rights within marriage and the family (see Figure 2). Removing these reservations is a critical step to putting in place a legal framework that supports women's rights.

Laws must be drafted to drive implementation, including clear mandates, procedures, funding and accountability mechanisms. For example, in 45 countries, laws on domestic violence include guarantees of free legal aid for women. In Nepal, tax exemptions on land transfers have helped to ensure implementation of laws on equal inheritance rights, which has led to a threefold increase in women's property ownership. In Sweden, non-transferable 'daddy months' have increased the uptake of paternity leave, helping to address the gender pay gap.

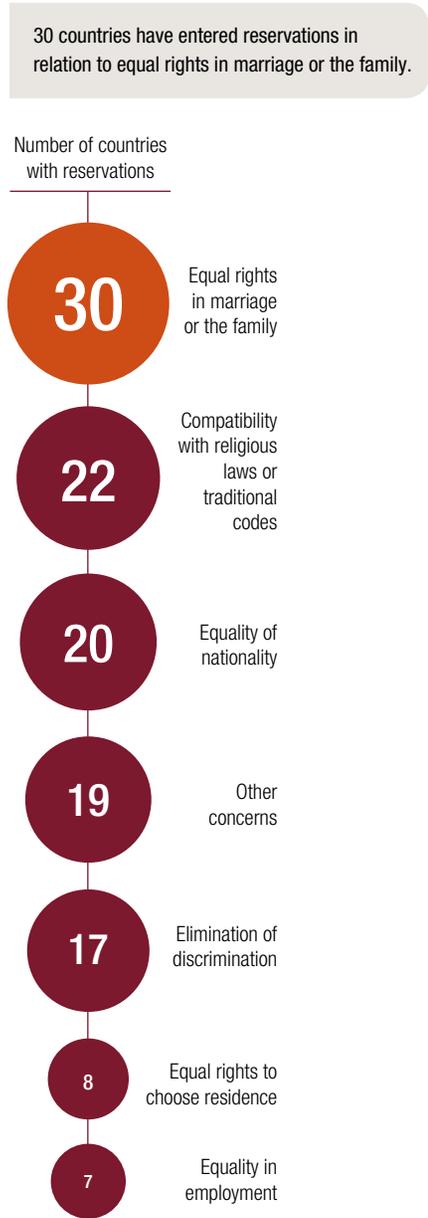
FIGURE 1: Laws on violence against women

Two thirds of countries have laws in place against domestic violence, but many countries still do not explicitly criminalize rape within marriage.



Source: Annex 4, *Progress of the World's Women 2011–2012*

FIGURE 2: Reservations to CEDAW

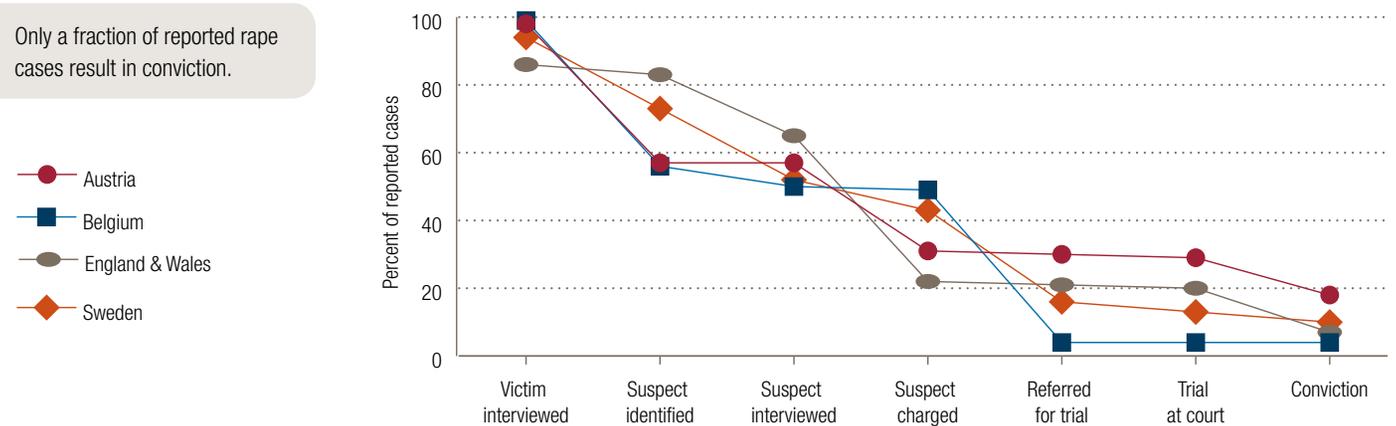


Source: Annex 5, *Progress of the World's Women 2011–2012*

Support one-stop shops to reduce attrition in the justice chain

The justice chain, the series of steps that a woman must take to seek redress, is characterized by high levels of attrition, whereby cases are dropped as they progress through the system. As a result, only a fraction of cases end in a conviction or a just outcome.

FIGURE 3: Rape case attrition in a sample of European countries



Source: Lovett and Kelly 2009.

A 2009 study of European countries found that, on average, 14 percent of reported rapes ended in a conviction, with rates falling as low as 5 percent in some countries (see Figure 3).

One way to reduce attrition is to invest in one-stop shops, which bring together vital services under one roof to collect forensic evidence, and provide legal advice, health care and other support for women. The Thuthuzela Care Centres (TCCs) in South Africa are one successful example of this approach.

These Centres are located in public hospitals and provide emergency medical care, counselling and court preparation in an integrated and survivor-friendly manner.

They aim to address the medical and social needs of sexual assault survivors, reduce secondary victimization, improve conviction rates and reduce delays in cases.

TCCs are staffed by specialized medical personnel, social workers and police, who are on call 24 hours a day. Conviction rates for rape cases dealt with by the Soweto TCC in Gauteng Province have reached up to 89 percent, compared to a national average of 7 percent. The Thuthuzela model is now being replicated in other countries, including Chile and Ethiopia.

Put women on the front line of law enforcement

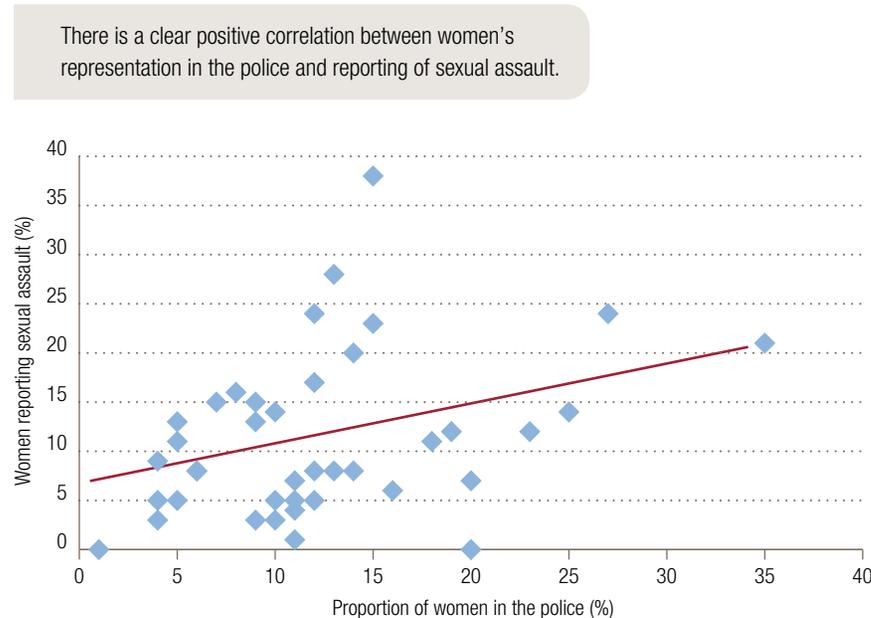
Under-reporting of crimes against women is a serious problem in all regions. Across 57 countries, crime surveys show that on average 10 percent of women say they have experienced sexual assault, but of these only 11 percent reported it. This compares to a similar incidence of robbery, on average 8 percent, but a reporting rate of 38 percent.

Employing women on the front line of justice service delivery can help to increase women's access to justice. Data show that there is a positive correlation between the presence of women police officers and reporting of sexual assault (see Figure 4). In post-conflict Liberia, the deployment of an all-women Indian police brigade has led to increased reporting and has also boosted recruitment of women into the force. Despite these benefits, women's average representation in the police does not exceed 13 percent in any region.

The gains from employing women in the police are not automatic: investment is essential. The experience from Latin America and elsewhere is that women's police stations and gender desks must be adequately resourced, and staff should be expertly trained, properly rewarded and recognized for their work.

Furthermore, recruitment of women police officers and resourcing of gender desks must be part of a broader strategy to train and incentivize *all* police to adequately respond to women's needs.

FIGURE 4: Women in the police and reporting of sexual assault



Source: UN Women analysis based on police representation data from UNODC 2009 and reporting of sexual assault calculated from ICVS (latest available).

Invest in women's access to justice

Making justice systems work for women – whether through catalysing legal reform, or supporting legal aid, one-stop shops and training for judges – requires investment. Recognizing the importance of strengthening the rule of law, governments spend a significant amount on justice aid. However, targeted funding for gender equality remains low.

In 2009, donors on the Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD-DAC) allocated \$4.2 billion to justice, with the United States and the European Union (EU) together accounting for 70 percent of this total. Iraq, Afghanistan, Mexico, the occupied Palestinian territory and Pakistan were the largest recipients of this aid. Of this total, \$206 million (5 percent) was allocated to programmes in which gender equality was a primary aim. A further \$633 million (15 percent) was allocated to programmes in which gender equality was a secondary aim. The EU allocated no funds to justice programmes in which gender equality was a primary aim in 2009.

Sweden, Canada, Denmark, Norway and Germany were the largest donors to programmes in which gender equality was a primary aim, supporting activities including training for judges; legal aid for survivors of violence; women's participation in peacebuilding and reconciliation; reintegration of victims of trafficking; and awareness-raising campaigns to reduce early marriage. Guatemala, Burkina Faso, the Democratic Republic of the Congo, Afghanistan and Colombia received the most gender justice aid in 2009.

Over the decade 2000 to 2010, the World Bank allocated \$874 billion to 6,382 grants and loans, of which \$126 billion (14 percent) was allocated to public administration, law and justice. Over this time, 21 projects included components on gender equality and the rule of law, supporting activities such as improving women-friendly court infrastructure; recruitment and capacity building of paralegals; and policy advocacy for legal reforms. The total allocated to the gender equality components of these projects amounted to just \$7.3 million.

In December 2010, the World Bank concluded the process of replenishing the International Development Association (IDA) fund, with 51 donors pledging \$49.3 billion to support the poorest countries between 2011 and 2014. In this round, four areas of special focus were agreed, of which gender equality was one. This presents an important opportunity to ensure that women's access to justice receives a larger share of the World Bank's funding in the future.

Train judges and monitor decisions

Balanced, well-informed and unbiased judicial decision-making is an essential part of ensuring that women who go to court get justice. However, even where laws are in place to guarantee women's rights, they are not always properly or fairly applied by judges.

Organizations such as the International Association of Women Judges and Sakshi, an Indian NGO, provide judges, both women and men, with specialized training and space to discuss the challenges they face, which can help to build understanding of, and commitment to, gender equality. The impact of this work is demonstrated through dozens of groundbreaking cases decided by judges who have participated in these trainings (see Box 2).

Systematic tracking of judicial decision-making is needed at the national level to provide accountability to women seeking justice and to enable civil society and governments to monitor the performance of the courts on women's rights.

Box 2: Vishaka and the power of gender-sensitive judicial decision-making

In 1996, the Indian NGO, Sakshi conducted interviews with judges, lawyers and female litigants to explore the impact of judicial perceptions and decision-making on women who come to court. More than two thirds of judges said that women who wore provocative attire were inviting rape.

Sakshi developed a programme to change internalized myths and gender stereotypes, which has since expanded to 16 countries in the Asia-Pacific region. India's former Chief Justice, Jagdish Sharan Verma, was among the first participants in the programme.

Shortly after, Justice Verma had the opportunity to put into practice what he had learned. When Bhanwari Devi was gang-raped by local men, while doing her job as a social worker in a village in Rajasthan, she not only initiated criminal proceedings, but also sought a broader remedy for other working women.

Supported by five women's organizations, including one called Vishaka, and by Naina Kapur, founder of Sakshi and lead instructing counsel, Bhanwari took the case to the Indian Supreme Court. Here they won watershed recognition of sexual harassment in the workplace.

As one of the presiding judges in the case, Justice Verma was undeterred by the absence of existing sexual harassment laws, recognizing that the right to gender equality and to a safe working environment was guaranteed by both the Constitution and India's international obligations under CEDAW. The Court used the case to produce the first comprehensive legally enforceable guidelines on sexual harassment in both public and private employment.

The Vishaka decision has inspired a similar case in Bangladesh and law reform in Pakistan, so that today almost 500 million women of working age in these three countries alone have the legal protection needed to carry out their work free from harassment and abuse.

Increase women's access to courts and truth commissions during and after conflict

Sexual violence as a tactic of warfare has been used systematically and deliberately for centuries. It is used against civilian populations as a deliberate vector of HIV, for the purpose of forced impregnation, to drive the forcible displacement of populations and to terrorize whole communities.

Very significant advances in international law in the past two decades have, for the first time, made it possible to prosecute sexual violence crimes (see Box 3). To increase the number of convictions, it is vital that international courts prioritize gender-based crimes in their prosecution strategies.

Furthermore, measures are needed to make courts as well as other justice forums, such as truth commissions, more accessible to women. The only way to guarantee this is to ensure that women play a central part in defining the scope, remit and design of all post-conflict justice mechanisms.

Box 3: Two decades of groundbreaking progress in international law

In the past, the impact of conflict on women has barely been acknowledged in international law. As a result, women's experiences have been largely denied and written out of history. However, in the past two decades, significant advances have been made in the recognition and prosecution of sexual violence crimes committed during conflicts.

In the 1929 Geneva Convention, sexual violence was treated as a matter of moral defamation, rather than a violent crime. The Charters of the Nuremberg and Tokyo Tribunals, established to prosecute war crimes in the aftermath of the Second World War, did not include rape.

The 1949 Geneva Conventions stated that 'women shall be especially protected against any attack on their honour', but rape was not listed as a 'grave breach' of the Conventions.

1993

The International Criminal Tribunal for the former Yugoslavia was established. The Statute recognized that rape is a crime against humanity and a series of landmark cases have confirmed that sexual violence is a serious war crime. To date, there have been 29 convictions for sexual violence in this Court.

1998

In *Prosecutor v Akayesu* at the International Criminal Tribunal for Rwanda, it was found that rape constitutes genocide and a crime against humanity for the first time. To date, there have been 11 convictions for sexual violence in this Court.

2000

United Nations Security Council resolution 1325 recognized the role of women in peacebuilding, emphasizing the need for their full participation in all efforts to promote peace and security.

2002

The Rome Statute, which established the International Criminal Court, codified as international crimes a broad range of sexual and gender-based crimes. Of the 23 indictments issued by the Court, 12 contain sexual violence charges.

In *Prosecutor v Brima et al.*, the Special Court for Sierra Leone found that forced marriage was an inhumane act constituting a crime against humanity.

2008–2010

United Nations Security Council resolution 1820 called for effective steps to prevent and respond to acts of sexual violence as a central part of maintaining international peace and security.

Security Council resolutions 1888, 1889 and 1960 provide concrete building blocks for the implementation of resolutions 1325 and 1820.

Measures that make a difference include financial assistance, childcare and transport to help women to overcome the practical obstacles to their participation; psychosocial counselling, health care and other long-term support; and providing closed session hearings to enable women to testify about sexual violence.

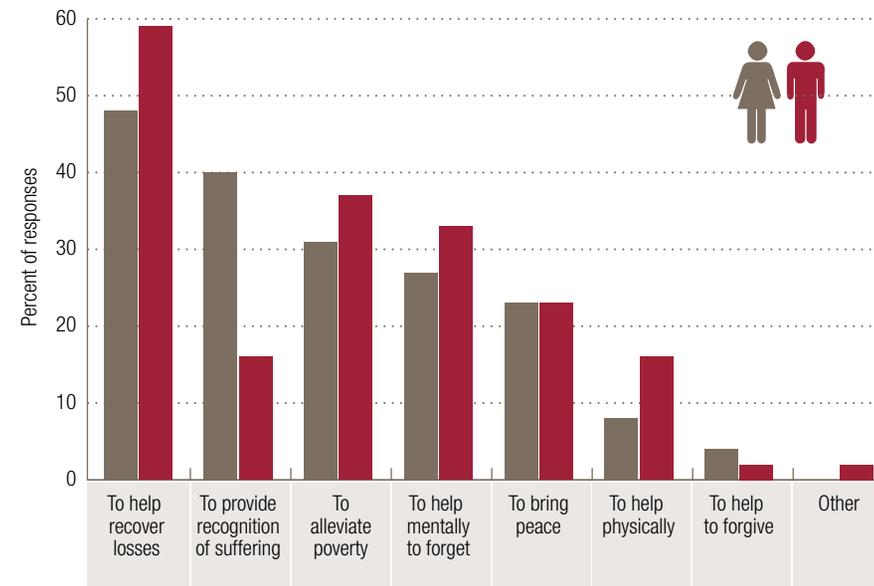
In the Democratic Republic of the Congo, mobile courts are bringing justice to women, responding rapidly to investigate and prosecute perpetrators. In 2010, nine mobile courts adjudicated 186 cases. Of these, 115 were rape cases that resulted in 95 convictions, with prison sentences ranging from 3 to 20 years.

In February 2011, one such court prosecuted the first crimes against humanity case in a mobile court, sentencing nine soldiers for their part in the mass rape of more than 40 women and girls, which took place in Fizi just a few weeks before.

Implement gender-responsive reparations programmes

FIGURE 5:
Women's and men's perceptions of why reparations are important in the Central African Republic

Women are more likely to demand apologies and punishment of those responsible for violations, than men.



Source: Based on data from Vinck and Pham 2010a and 2010b.

Reparations are the most victim-focused justice mechanism and can be an essential vehicle for women's recovery. In the Central African Republic, in common with many post-conflict contexts, women say that reparations are needed to help them recover losses and alleviate poverty, but they are also important to recognize women's suffering (see Figure 5).

While the international community has dedicated substantial funding to international courts and other transitional justice mechanisms, this has not been matched by an equal commitment to assist States to fulfil their obligations for reparative justice.

To benefit women, reparations programmes must take account of all forms of sexual and gender-based violence, and include individual, community and symbolic measures, as well as access to services and land restitution.

In Sierra Leone, the Government's National Commission for Social Action, supported by the United Nations Trust Fund to End Violence against Women and the United Nations Peacebuilding Fund, is implementing a reparations programme targeting 650 women survivors of sexual violence, designed to promote their long-term empowerment.

To date, 300 women have been provided with micro-grants, support to set up small businesses and skills training in 14 districts of the country. In March 2011, at a ceremony in Freetown, the first 90 women graduated from training courses including literacy, driving, computer skills, soap-making and hairdressing.

Use quotas to boost the number of women legislators

In countries where women's representation in parliament increases substantially, new laws that advance women's rights often follow.

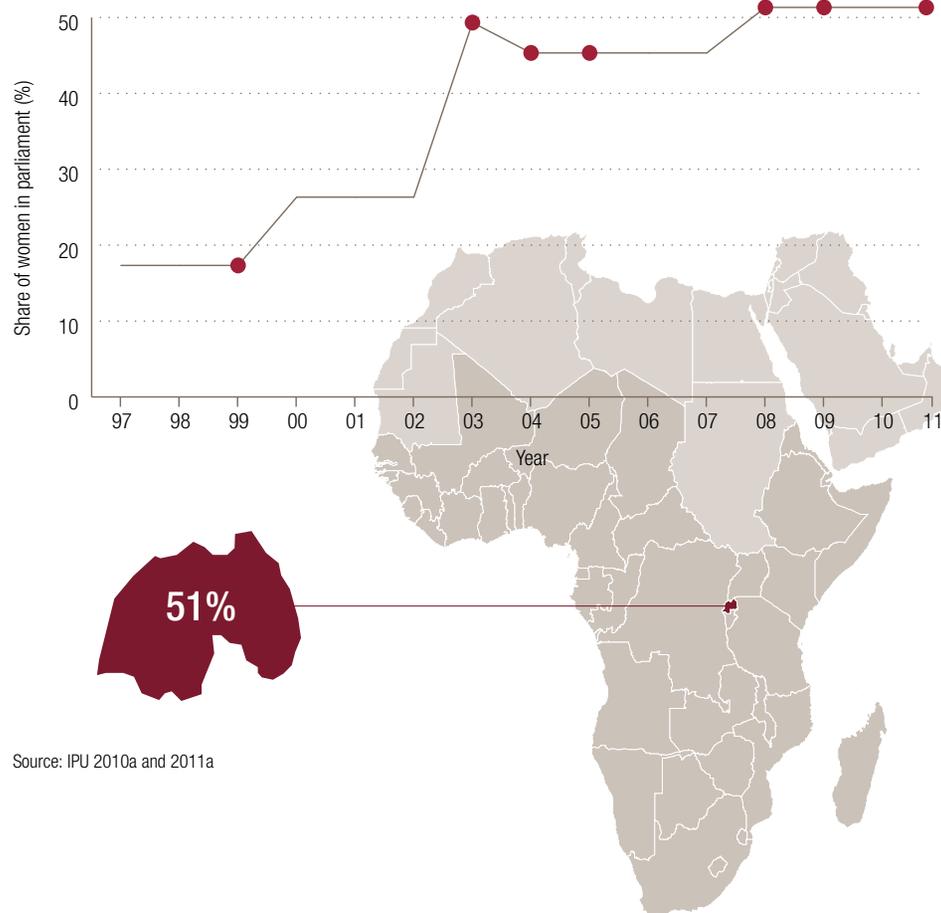
From Nepal to Costa Rica, Rwanda to Spain, where quotas have been used to boost the number of women legislators, progressive laws on land rights, violence against women, health care and employment have been passed. Where women have organized, sometimes across party lines to ensure women's interests are represented, change has followed.

The Beijing Platform for Action called for gender balance in governmental bodies, while CEDAW mandates the use of temporary special measures, including quotas, to amplify women's voices in political decision-making. Of the 28 countries that have reached or exceeded 30 percent women's representation in national parliaments, at least 23 have used quotas.

FIGURE 6: Women's representation and legal reform in Rwanda

Progressive laws on women's rights have followed a rapid increase in the number of women parliamentarians.

- The Succession Law (1999) established gender equality in inheritance and property ownership.
- The Constitution (2003) enshrines the principle of gender equality and non-discrimination, specifying that women must be in at least 30 percent of posts in decision-making at all levels.
- The National Land Policy (2004) and Land Law (2005) provides equality in statutory and customary land ownership.
- The Law on Prevention and Punishment of Gender-Based Violence was passed (2008) and marital rape was criminalized (2009).
- 51 percent of parliamentarians and half of Supreme Court judges are women, including the President of the Court (2011).



Six of the countries that have exceeded the 30 percent mark have recently come out of conflict, demonstrating that progress has more to do with political will than level of development. One such country, Rwanda, has the highest level of women's representation in the world (see Figure 6).

Rwanda's 2003 Constitution commits to 'ensuring that women are granted at least 30 percent of posts in decision-making organs' and in the elections of the same year, women exceeded this minimum target. Rwanda's women parliamentarians have worked in a cross-party caucus and collaborated with the Women's Ministry and civil society organizations to push through reforms, including on inheritance, land rights and violence against women. The women parliamentarians also collaborated with their male colleagues to go on a nationwide tour to monitor implementation of land and inheritance laws and to help change attitudes on women's rights.

Put gender equality at the heart of the Millennium Development Goals

The MDGs are interdependent and each one depends on making progress on women's rights. Scaling up investment and action on the gender equality dimensions of all the Goals has the dual advantage of addressing widespread inequality and accelerating progress overall.

Achieving these Goals is also an essential precondition for women's access to justice. Without education, awareness of rights and decision-making power, women are often unable to claim their rights, obtain legal aid or go to court.

While advances have been made, including on reducing poverty and child mortality, and increasing access to education, data show that overall progress masks inequalities based on gender, income and location.

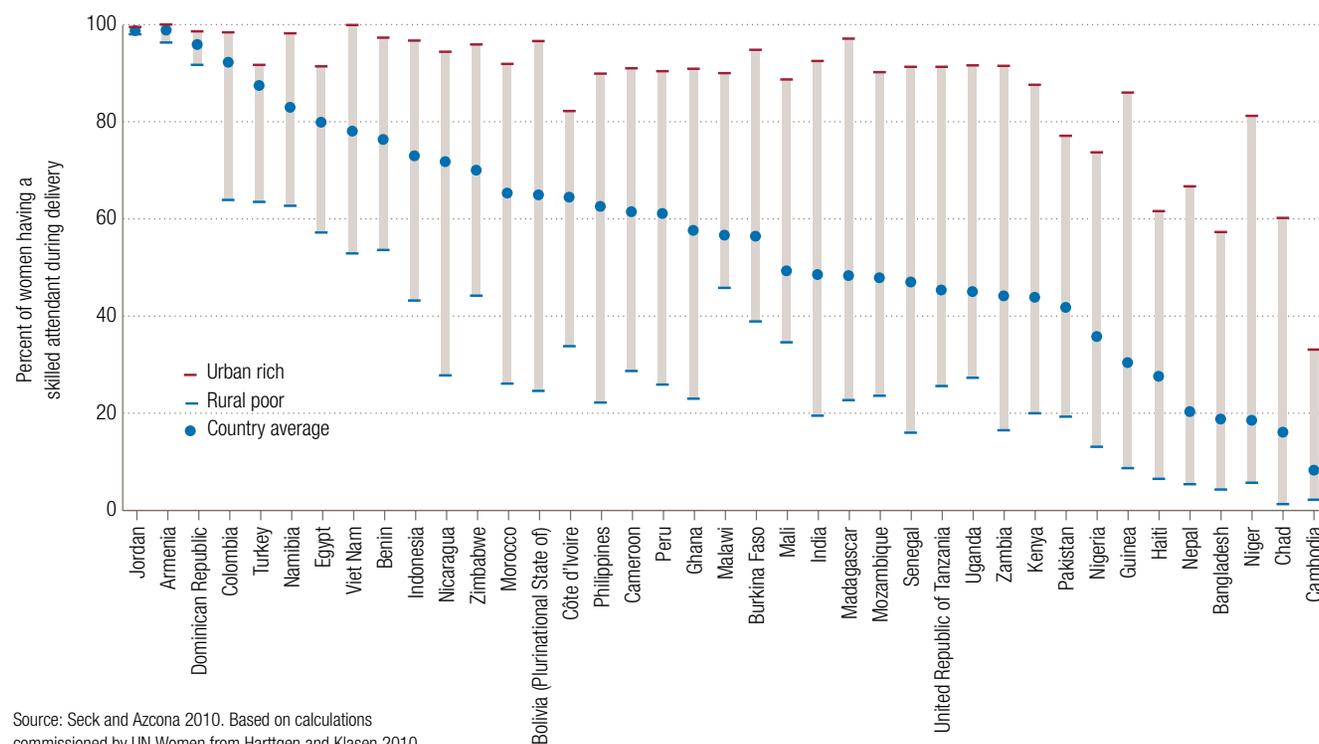
Women and girls, especially those living in rural areas, have been the least likely to share in progress, with millions continuing to live in poverty and exclusion. For example, poor women in rural areas are much less likely to have access to skilled attendance at the birth of their children, which is essential for preventing maternal mortality and morbidity, compared to rich women in urban areas (see Figure 7).

With only four years left until 2015, the target date for achieving the MDGs, ending gender-based injustices that create barriers to women's and girls' opportunities must be the centrepiece of further action.

Some practical approaches to putting women's rights at the heart of the MDGs include: abolishing user fees for health care, which has been shown to increase women's and girls' access to services, including for reproductive health; using stipends and cash transfers to encourage girls to go to school, delay marriage and continue their education for the critical secondary years; putting women on the front line of service delivery to make public services more accessible; and amplifying women's voices in decision-making, from the household up to local and national levels, to ensure that policies reflect the realities of women's lives.

FIGURE 7: Skilled attendance at delivery, urban rich and rural poor women

Rural poor women are much less likely than urban rich women to receive assistance from a skilled health professional during childbirth.



Source: Seck and Azcona 2010. Based on calculations commissioned by UN Women from Harttgen and Klasen 2010.

UN Women is the United Nations organization dedicated to gender equality and the empowerment of women. A global champion for women and girls, UN Women was established to accelerate progress on meeting their rights worldwide.

UN Women supports United Nations Member States as they set global standards for achieving gender equality, and works with governments and civil society to design laws, policies, programmes and services needed to implement these standards. It stands behind women's equal participation in all aspects of life, focusing on five priority areas: increasing women's leadership and participation; ending violence against women; engaging women in all aspects of peace and security processes; enhancing women's economic empowerment; and making gender equality central to national development planning and budgeting. UN Women also coordinates and promotes the United Nations system's work in advancing gender equality.



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