

Expert Group Meeting

Sixty-ninth session of the Commission on the Status of Women (CSW 69)

‘Beijing +30: Emerging issues and future directions for gender equality and women’s rights’

Virtual, 13–15 August 2024

## **Law Reform Amidst Gender Backlash and Democratic Backsliding**

Expert paper prepared by:

Zainah Anwar\*

Board chair, Musawah

---

\* The views expressed in this publication are those of the author(s) and do not necessarily represent those of UN-Women, the United Nations or any of its affiliated organizations.

The world today remains less democratic and less safe. It is therefore not surprising that not only do we see little progress in advancing the rights of women over the past years, but we are also seeing regression of gains made. The hopeful world of Beijing 1995 where transitions towards democracy and excitement over real progress towards gender equality is gone. Much of our world today is dominated by a gender backlash in the midst of democratic backsliding.

So what can we do? Is it possible to once again find inspiration in the Violence Against Women movement? In the 1970s and 80s, VAW was not even on the agenda of most women's groups. Few countries had laws or policies on domestic violence. But through organizing and mobilizing, VAW became an international issue of concern. From the Nairobi conference in 1985 to Vienna in 1993, to the UNGA declaration on elimination of VAW, to IWD in 1995 when the UNSG called on member states to turn the Declaration into a legally binding form - All these developments led to more than 162 countries today having adopted laws on domestic violence - even if not all of them comply fully with international standards. This was a huge achievement of the women's movement and display of government compliance.

Research<sup>1</sup> on domestic violence policies found that strong autonomous mobilisation of feminists in national and trans-national contexts was the critical factor accounting for policy change on violence against women. It was feminist organizing and mobilising that became the primary drivers of law reform on domestic violence.

Our ability to bring about law reform today is of course much more challenging. The rise of anti-democratic forces and conservative religious actors demonizing human rights and women's rights activists as a threat to society, traditional and family values have diminished public spaces for action. Governments display no political will nor political courage to confront these anti-rights forces. And in many cases, autocratic and populist governments are actually in alliance with these forces.

Many women's rights groups operating in undemocratic and conservative contexts in the Global South are giving up initiating engagements with recalcitrant governments to drive change. Many today prioritise building support and awareness on the ground, recognizing that advocacy for change will be a long drawn-up process of building the resilience and courage of civil society actors, public voices and public pressure.

All the more support needs to be given to the women's movement to drive change in these challenging times.

I want to make the case for the most critical and most urgent area of law reform today – family law. There can be no equality in the public sphere without equality in the private sphere

---

<sup>1</sup> S. Laurel Weldon & Mala Htun (2013) Feminist mobilisation and progressive policy change: why governments take action to combat violence against women, *Gender & Development*, 21:2, 231–247.

of the family. The World Economic Forum Gender Gap report, the World Bank Women, Business and Law Report show the dozens of countries at the bottom of these indices are countries with discriminatory family laws – and among them, are high and high middle-income countries. We know who they are and why.

[SDG Indicator 5.1.1](#) has identified family law as one of the four legal frameworks that must be reformed to accelerate progress to promote, enforce, and monitor gender equality. UN-Women's [Equality in Law for Women and Girls](#) report identified promoting equality in family relations as one of the six areas of focus to accelerate action towards gender equality by 2030. UN-Women's report on [Families in a Changing World](#), had as its top recommendation the need to establish family laws that recognize diversity and promote equality and non-discrimination.

The UN Working Group on discrimination against women in law and in practice has emphasized that failure to ensure the equality of women and girls within the family undermines any attempt to ensure their equality in all areas of society. Its 2018 report to the Human Rights Council highlighted that equality in the private domain – the family – remains one of the biggest hurdles to achieving gender equality.

Taking advantage of the upcoming Beijing +30, and the specific 2030 deadline set for the SDGs, what can we as civil society and what can the UN system do to catalyse collective action and build urgency to turn words into action.

We are all aware that law reform is a slow and challenging process, not least in the area of family law because the basis of discrimination is justified in the name religion, culture and tradition. But the portrayal of family law as cultural and religious, conceals its political construction, its economic functions, and distributive impacts.<sup>2</sup> The allocation of rights and duties within the family touches not just on culture and kinship relations, but also allocates material power and rewards. The gendered power dynamics underpins the resistance to change, but religion is conveniently used to justify why change cannot take place. This elephant in the room must be confronted.

It is time for family law reform to be at the global forefront of the law reform agenda. It is for this reason that two global initiatives have been launched to spearhead a movement for change.

The Global Campaign for Equality in Family Law, led by eight women's rights and faith-based organisations, and supported by UN-Women, is now working with the World Bank and its repository of data to make the economic case for egalitarian family law. Research<sup>3</sup> shows that greater legal capacity in women's personal status is the most consistent correlate of women's economic agency, and thus the most crucial precondition for empowering women economically.

---

<sup>2</sup> Mala Htun, Francesca R Jensenius and Jami Nelson-Nu: Gender-Discriminatory Laws and Women's. [https://www.academia.edu/87077544/Gender\\_Discriminatory\\_Laws\\_and\\_Women\\_s\\_Economic\\_Agency](https://www.academia.edu/87077544/Gender_Discriminatory_Laws_and_Women_s_Economic_Agency).

<sup>3</sup> Ibid.

While egalitarian laws are necessary conditions for social change, not all laws matter in the same ways and to the same degree. It is family law that matters the most. Women's ability to act and make choices independently of the men in their lives – about money, travel, work, property, and children – by far is the strongest predictor of women's share of bank accounts, firm ownership, and labour force participation, the research found.

The 2015 Mckinsey Global Institute *Power of Parity* report showed that the global economy will increase by a staggering US\$28 trillion in 2025 if there is gender parity in the workforce. Even if countries advance to match the rate of improvement of the best performing country in their respective regions, US\$12 trillion will be added to the global economy.

Aligned with this global campaign is Musawah's Campaign for Justice in Muslim Family Laws to build the capacity of women's rights groups in conservative Muslim contexts to organize, build knowledge and courage to open up the space for public debate and advocacy for reform of these religion-based discriminatory family laws. Musawah has built a Positive Developments table to show the diversity of laws that exist in the Muslim world. This very diversity and progress towards law reform break the myth that Muslim Family Law is divine and unchangeable. We have developed Knowledge Briefs and Policy Briefs to make the case for reform in the 12 areas of discrimination in family law. We intervene in the CEDAW process by submitting Thematic Reports on Article 16 on marriage and family to challenge the ways governments use Islam to justify why their discriminatory laws cannot be amended and why their reservations cannot be lifted. We have made clear that the battle is not over religion, but a battle over power, privilege and authority of patriarchs who wilfully abuse an authoritative text for authoritarian purposes.

We believe the case for the urgency of family law reform has been made by the UN, the World Bank, academics and women's rights groups. Women's lived realities today underpin this urgent demand for reform. We must use Beijing+30 and the SDG deadline of 2030 as platforms to build momentum in re-committing ourselves to ending laws that discriminate against women.

In the 21st century, there is no justice without equality; there can be no equality in the public sphere without equality in the private sphere of the family. We have the knowledge to make the case why change is possible, why it is necessary. We now need to spread that knowledge, build political will, amplify the voices demanding change, and build multigenerational and collective power.

And women's rights groups that are resisting and organizing against conservative forces and autocratic states must be supported and strengthened, and well-resourced.