



# THE RIGHTS OF WOMEN

## in the United States



### All Women Have a Right to:

#### **SAFETY AND SECURITY:**

The right to life, liberty, and security of person.<sup>1</sup> The right to be free from violence within the family<sup>2</sup> and to protection from exploitation and abuse.<sup>3</sup>

#### **EQUAL PROTECTION AND DUE PROCESS:**

The right to be treated equally under the law and be protected by the law without discrimination.<sup>4</sup>

#### **NON-DISCRIMINATION:**

The right to live free from personal and institutional discrimination based on one's sex.<sup>5</sup>

#### **WORK:**

The right to work, including equal pay for equal work, equal employment opportunities,<sup>6</sup> and paid maternity or other benefits that ensure women do not lose employment, seniority, or benefits due to pregnancy.<sup>7</sup>

#### **EDUCATION:**

Equal access to and equal opportunity in all forms and aspects of education regardless of sex.<sup>8</sup>

#### **HEALTH:**

The right to the highest attainable level of physical and mental health and equal access to health services, including family planning and reproductive health.<sup>9</sup>

#### **HOUSING:**

Access to affordable, secure, and stable housing,<sup>10</sup> with special emphasis on meeting the needs of women living in poverty and female heads of household.<sup>11</sup>

#### **POLITICAL PARTICIPATION:**

The right to vote, to stand for election, to be involved in formulating government policy and to actively participate in political life.<sup>12</sup>

### Every Woman Has Internationally Recognized Rights...

*"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status..."*<sup>13</sup>

**Universal Declaration of Human Rights (UDHR), 1948**

## WHAT ARE THE RIGHTS OF WOMEN?

The basic rights of all human beings are established by the Universal Declaration of Human Rights (UDHR) and its two subsequent treaties, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). All of the articles in these documents apply equally to men and women. However, women enjoy far from equal treatment: they are more likely to be poor, to suffer from domestic violence, to be victims of trafficking, and to lack access to positions of political or economic power. In order to address continuing discrimination, several documents attempt to clarify the rights of women, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Beijing Declaration and Platform for Action, and the Declaration on the Elimination of Violence against Women (DEVAW). Taken together, these documents affirm the rights of women to non-discrimination,<sup>14</sup> to sexual and reproductive autonomy,<sup>15</sup> to equal access to resources,<sup>16</sup> to freedom from violence,<sup>17</sup> to fully engage in economic development,<sup>18</sup> and to full participation in every realm of society.

## DOES U.S. LAW RECOGNIZE THE RIGHTS OF WOMEN?

The U.S. Constitution guarantees certain rights for all people in the U.S., without distinction of any kind, including sex. These rights include freedom of speech and association, equal protection under the law, the right to due process, and freedom from cruel and unusual punishment. The 19th Amendment specifically addresses women's suffrage, granting citizens the right to vote regardless of sex. The U.S. is also bound by international treaties such as the ICCPR and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), both of which grant human rights to all people, including women. The U.S. has not ratified CEDAW, the most detailed international agreement which seeks the advancement of women. The U.S. is the only industrialized country that has not ratified the treaty.

## IS THE U.S. FULFILLING THE RIGHTS OF WOMEN?

In the last century, women in the U.S. have made substantial gains in claiming their rights. Women now participate and hold leadership positions in all areas of public life. However, women still face unfriendly family support policies, discrimination in pay and advancement, inadequate sex harassment and sex discrimination laws, and social security, housing, and health care policies that harm women.<sup>19</sup>

### **Safety and Security**

Despite commitments made by U.S. domestic laws to protect women against violence, women face threats to their personal safety through domestic violence, sexual assault, and forced labor. Battering is the number one cause of injury to women in the U.S.<sup>20</sup> Nearly one in every four women is raped or beaten by a partner during adulthood.<sup>21</sup> Women who are victims of domestic violence are more likely than other women to be unemployed, to suffer from health problems that affect their ability to work, to report lower personal income, and to rely on welfare.<sup>22</sup> Domestic violence is a leading cause of homelessness among women.<sup>23</sup> In response to advocacy on this issue, Congress passed the Violence Against Women Act (VAWA), which seeks to increase public awareness of and provide safety and security to women who are victims of violence.<sup>24</sup>

The trafficking of women into forced labor or sex also continues to be a pressing problem, with domestic workers particularly at risk. Up to 50,000 women and children are trafficked into the U.S. each year from other countries.<sup>25</sup> The number of U.S. citizens trafficked within the country is even higher.<sup>26</sup> The principal law designed to protect victims of trafficking is the Victims of Trafficking and Violence Protection Act of 2000 (TVPA). The law is problematic, however, because it requires that traffickers use "force, fraud, or coercion" on their victims, and overlooks that victims might comply out of fear or vulnerability.<sup>27</sup>

### **Equal Protection and Due Process**

Women face many challenges in demanding equal protection and due process rights as guaranteed by the U.S. Constitution. For battered immigrant women, "[l]anguage, culture and immigration status exacerbate the level of violence, block victims from access to information about legal remedies, and complicate their efforts to obtain the relief they need to end the violence."<sup>28</sup> Indigenous women must navigate federal, state and tribal systems when seeking protection, complicating and preventing their access to justice.<sup>29</sup> Women are disproportionately affected by anti-drug legislation that prohibits judges from considering reasons such as domestic violence that might cause women to remain silent about illegal activity by a partner or family member.<sup>30</sup> Although such laws have been largely ineffective in reducing drug trafficking, they have dramatically increased the number of women incarcerated for low-level drug-related offenses.<sup>31</sup> Once in prison, women receive inadequate protection under the law, and as a result, are subject to high incidences of rape, sexual assault, and groping during searches.<sup>32</sup> Though such crimes are prevalent, few perpetrators are held accountable. Incarcerated women also face threats to their health and families through policies such as shackling during childbirth, and denial of a fair hearing in family court.<sup>33</sup>



## IS THE U.S. FULFILLING THE RIGHTS OF WOMEN?

### Non-discrimination

Discrimination against women receives different treatment under federal laws than discrimination on the basis of age, race, or disability. The Supreme Court evaluates sex discrimination under a weaker “middle-tier” scrutiny, rather than the strict scrutiny applied to discrimination based on race. According to the National Women’s Law Center, “the lesser protection makes it harder to invalidate government practices that discriminate against girls and women.”<sup>34</sup> Women also face outright discrimination in the military. Women are excluded from ground combat positions and from service on submarines and small vessels, despite research that points to no negative impact on unit readiness, cohesion and morale. As a result, women face limited career options and have trouble ascending to leadership positions because non-combat experience is perceived as less valuable.<sup>35</sup>

### Work

Title VII of the 1964 Civil Rights Act prohibits discrimination in employment based on sex, while the Equal Pay Act of 1963 requires that men and women be given equal pay for equal work.<sup>36</sup> Despite these protections, women continue to face obstacles to equality in the workplace. In 2009, the earnings of women were only 77% of the earnings of corresponding men.<sup>37</sup> Women are also more likely than men to work part-time or to hold minimum wage jobs, which limits their access to benefits like health insurance and unemployment assistance.<sup>38</sup> Many women are forced to take part-time jobs or less competitive jobs because of a lack of family support policies such as paid parental leave, paid sick days, affordable child care, and flexible workplaces. “Without viable alternatives, American parents are...more likely than those in many other countries to face a tradeoff between good care for children and equal career opportunities for mothers.”<sup>39</sup> The cumulative effect of lower pay, fewer opportunities for advancement, and fewer benefits is that women are 35% more likely to be poor than men.<sup>40</sup>

### Education

In 1972, Title IX, a federal civil rights law that prohibits discrimination on the basis of sex in any education program or activity that receives federal funding, created major changes in the U.S. education system, providing new opportunities for women and girls in the classroom and on the field. While Title IX has led to significant improvements in educational equality, women still remain underrepresented in traditionally male fields such as the sciences and engineering.<sup>41</sup> Women also face continued exclusion from the highest levels of academia, as they hold only 28% of full professor positions in the U.S.<sup>42</sup> In sports, women athletes continue to have fewer teams, fewer scholarships, and lower budgets than their male counterparts. Among Division I schools in 2006, spending on men’s athletics was nearly double what was spent on women’s sports.<sup>43</sup> Sexual harassment for women and girls in school is also a significant problem. In a recent national study of students in 8th through 11th grade, 83% of the girls reported experiencing sexual harassment in school.<sup>44</sup> At the college level, 62% of females experience sexual harassment.<sup>45</sup> Despite these statistics, “there are fewer legal protections from harassment for students in school than for employees in the workplace.”<sup>46</sup>

### Health

Due to their lower average incomes and higher health care needs, women are disproportionately affected by the high cost of health care in the U.S. Though women are more likely than men to carry insurance, they pay a higher percentage of out-of-pocket costs and are more likely to avoid receiving needed care because of cost.<sup>47</sup> Insurers create additional barriers by excluding women from coverage for reasons such as having had a C-section or using prescription drugs.<sup>48</sup> In nine states, insurance companies can even refuse coverage to victims of domestic violence.<sup>49</sup> Even when women have insurance, their health care needs may go unmet. As of 2010, only 28 states required insurers to cover routine Pap smears, though early detection of cervical cancer prevents almost 100% of deaths.<sup>50</sup> Women also receive different standards of care, especially for diseases associated with men such as lung cancer, AIDS or heart disease. As a result of substandard care, women who have a heart attack are more likely to die or have a second heart attack than men.<sup>51</sup>

### Housing

The Fair Housing Act prohibits discrimination in housing based on sex, but women still face significant barriers in access to housing. These obstacles are particularly severe for victims of domestic violence. In a recent study, 24% of cities surveyed cited domestic violence as a primary cause of homelessness.<sup>52</sup> Unjust “zero-tolerance” policies compound the problem by allowing landlords to evict a tenant for criminal activity in their home without distinguishing whether the individual being evicted is a victim of domestic violence or a perpetrator.<sup>53</sup> VAWA legislation protects women living in public or subsidized housing from such policies, but no federal law protects victims living in other kinds of housing.<sup>54</sup> Once homeless, lack of support is also a problem. Thousands of women are turned away from shelters every year due to a shortage of resources. A recent survey estimated that in a 24-hour period there were 5,686 unmet requests from victims seeking emergency or transitional housing.<sup>55</sup> Affordable housing is also an issue for women. The average U.S. household must earn at least \$15.37 per hour to afford an adequate two-bedroom rental unit and still meet basic subsistence needs.<sup>56</sup> Women are especially affected by high housing costs, since they make up the majority of minimum wage workers and are far more likely to be the sole wage earners in single-parent families.

### Political Participation

Though women have been able to vote in elections since 1920 and held federal elective office even earlier,<sup>57</sup> they remain underrepresented at all levels of American politics. No woman has ever held either of the two highest offices in the United States, President and Vice President. Women currently hold only 16.6% of Congressional seats, a record high percentage.<sup>58</sup> The U.S. ranks 61st of 185 countries in the percentage of women holding federal legislative office.<sup>59</sup>

## U.S. Government Obligations<sup>60</sup>

To ensure the rights of women, the U.S. has the following obligations:

### RESPECT:

Governments must not deprive any woman of her rights under domestic and international law and must refrain from taking retrogressive measures that are incompatible with the rights of women.

### PROTECT:

Governments must take measures to prevent individuals or third parties, such as employers or civil society organizations, from interfering in any way with the realization of the rights of women.

### FULFILL:

Governments must adopt necessary measures and create an enabling environment such that all women can enjoy their full rights.

### MEET MINIMUM STANDARDS:

Governments must ensure the satisfaction of the minimal, but essential, standard laid out in the UDHR and immediately address extreme situations of abuse.

### NON-DISCRIMINATION:

Governments must work to prevent discriminatory outcomes due to class, race, gender, language, or other factors, in order to ensure equity in the fulfillment of the rights of women.

### PROTECT MOST VULNERABLE:

Governments must actively reach out to the most frequently marginalized and excluded communities, who face the greatest barriers in realizing their rights as women.

### MONITOR AND REPORT:

Governments must monitor and report on their fulfillment of the rights of women and ensure accountability for their actions and inactions. For citations and further information, [www.discoverhumanrights.org](http://www.discoverhumanrights.org)

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