

# WHERE ARE WE? A FACTSHEET



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A STATUS AUDIT OF  
STATES'  
COMPLIANCE WITH  
SELECTED  
REGIONAL AND  
INTERNATIONAL  
TREATIES

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# INTRODUCTION

The Women@Work Campaign operates in eight countries in Eastern and Southern Africa. These are Kenya, Uganda, Tanzania, Rwanda, Ethiopia, Malawi, Zambia and Zimbabwe. This project seeks to improve labor conditions for women working in global horticulture supply chains (flowers, fresh vegetables, beans, avocados and chilies) through fair wages, security in the workplace and good working conditions.

Hivos' work is anchored in social change but also engaging governments and civil society to work toward realizing better policies and enforcing existing ones to ensure dignity for all within the workplace. Through the ratification and actual implementation of national, regional and international labor and rights instruments, the dignity and fair treatment of all female workers can be realized.

This factsheet gives a snapshot analysis of the state of ratification and reporting against regional and international instruments as well as information on the lived reality of women in the workforce within these countries.

This factsheet focuses primarily on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Banjul Charter (ACHPR), the ILO Equal Remuneration Convention (C100), the Discrimination Convention (C111), the Maternity Protection Convention (C183), the Occupational Safety and Health Convention (C155), the Termination of Employment Convention (C158), the Employment Promotion and Protection against Unemployment Convention (C168), the Minimum Wage Fixing Convention (C131) and the Right to Organise and Collective Bargaining Convention (C098).

The ILO has eight fundamental Conventions out of 189; these are binding to every member regardless of ratification status, while 71 of these are up to date and in force. These Conventions cover several primary areas that are individual rights at work, collective labor rights, equal treatment, job security, and six Conventions that require administrative apparatus by governments to enforce and promote labor standards. Additionally, mounting awareness and pressure to address gender-based violence and harassment at work has led to the proposed ILO Convention Ending Violence and Harassment at Work that will be discussed and tabled for adoption at the 108<sup>th</sup> Session of the International Labour Conference (ILC) in June 2019.

**All eight countries under the Women@Work Campaign have ratified the *ILO Equal Remuneration Convention (1951)*.**

# SELECTED RIGHTS INSTRUMENTS

## 1 KEY CONVENTIONS

### CONVENTIONS, DESCRIPTION AND STATE OBLIGATIONS

Table 1: Key Conventions

Convention	Description and state obligations
<b>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)</b>	CEDAW was adopted by the UN in 1979. States commit themselves to undertake a series of measures to end discrimination against women in all forms, including but not limited to the principle of equality of men and women in their legal system, ensure elimination of all acts of discrimination and establish tribunals to ensure effective protection of women against discrimination.
<b>International Covenant on Economic, Social and Cultural Rights (ICESCR)</b>	This instrument compels states to use their maximum resources to achieve full realization of economic, social and cultural rights for all. This includes the right to food, adequate housing, health, water and sanitation and social security.
<b>Banjul Charter (ACHPR)</b>	The Banjul Charter serves as the African human rights protection mechanism and obliges states to respect rights, duties and freedoms enshrined in the Charter. This includes respecting, promoting and fulfilling all human rights including social, political and economic rights.
<b>Equal Remuneration Convention (C100)</b>	This ILO Convention requires ratifying countries to ensure all workers application of the principle of equal remuneration for men and women workers for work of equal value.
<b>Discrimination Convention (C111)</b>	This ILO Convention requires ratifying countries to establish a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.
<b>Maternity Protection Convention (C183)</b>	This ILO Convention requires ratifying countries to ensure the rights of all women of reproductive age are protected. The ratifying state as the duty bearer will ensure that all pregnant women and

mothers are able to have maternity leave and benefits, breastfeeding considerations and are not discriminated against by employers. This will include provision of (but not limited to) crèches, breastfeeding stations, breastfeeding breaks and health benefits.

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**Occupational Safety and Health Convention (C155)** Safety, health and welfare of their workers including but not limited to conducting health inspections, providing workers with proper protective gear, prevent occupational accidents and protect workers from physical and psychological overload.

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**Termination of Employment Convention (C158)** This ILO Convention compels ratifying states to protect employees from unlawful termination of employment. This Convention also includes stipulating a standard period of notice severance allowance and income protection.

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**Employment Promotion and Protection against Unemployment Convention (C168)** This ILO Convention compels ratifying states to ensure that social security systems should provide employment assistance and economic support to those who are involuntarily unemployed and special programs to promote additional job opportunities and employment assistance amongst others.

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**Minimum Wage Fixing Convention (C131)** This ILO Convention compels ratifying states to establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate. This minimum wage takes into account the needs of workers and their families and economic factors.

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**Right to Organise and Collective Bargaining Convention (C098)** This ILO Convention compels ratifying states to protect the voluntary nature of collective bargaining as it is an aspect under freedom of association. This Convention secures workers and employers rights to establish and join organizations of their choosing.

## 1.1 SITUATIONAL ANALYSIS

All eight countries under the Women@Work Campaign have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Banjul Charter, the ILO Equal Remuneration Convention (C100), and the Discrimination Convention (C111). Despite this step, in many areas of interest, these Conventions remain to be realized in practice. For example, Tanzania ratified the Equal Remuneration Convention in 2002 but according to the Global Gender Gap Report 2017 published by the World Economic Forum, the average Tanzanian man earns 39 percent more than what the average woman receives in total. Within this report, Tanzania has the 24<sup>th</sup> largest pay gap of 34 other African countries.

In Ethiopia, a simple difference in averages across both formal and informal sectors seems to support that female employees earn 44 percent less per hour than their male counterparts. Even in the face of

potentially useful constitutional frameworks, the lived reality of women workers continue to indicate a large gender gap that is yet to be closed.

## KENYA

Kenya's Constitution broadly speaks to the equality of all citizens regardless of gender. Kenya has ratified CEDAW, ICESCR and the Banjul Charter along with ILO Conventions C100, C111, C131 and C098. Kenya ranks 37th out of 149 countries surveyed in the Global Gender Gap Report of 2018 in economic participation and opportunity.



Having ratified the Equal Remuneration Convention and the Discrimination Convention in 2001, Kenya's gender gap remains glaring. According to the World Economic Forum Report 2017, a Kenyan woman is paid Sh55 for every Sh100 paid to a man for doing a similar job.

In response to its latest report to the ILO Committee on Equal Remuneration the state party was asked to show evidence that particular attention is paid to ensuring that, when determining wage rates through job evaluation, skills considered to be 'female' are not undervalued or overlooked in comparison to skills related to work traditionally performed by men.

Kenya's Constitution also mentions sexual harassment within the Employment Act and Sexual Offences Act as a crime. The law also prescribes that any workplace with more than 20 employees has a sexual harassment policy. In reality however, this is far from the case and many employers continue to operate without one or with one with inadequate grievance redress mechanisms for workers.

It is worth noting that some of the country's legislations offer necessary protections and considerations for female employees such as the Breastfeeding Mother's Bill, 2017. The country has not ratified the Maternity Protection Convention however though the breastfeeding mother's provisions as stipulated within the Act sufficiently meet the ILO threshold.

## UGANDA

Uganda has ratified CEDAW, ICESCR, the Banjul Charter and ILO Conventions C100, C111, C158 and C098. According to the Global Gender Gap Report, Uganda is 49<sup>th</sup> out of 149 countries.

The country, in its last submission to the ILO Committee, was asked to step up its efforts to prevent and address sexual harassment in employment and occupation in both the public and the private sectors including through awareness-raising campaigns, and to provide examples of measures, policies and committees put in place by employers with more than 25 employees.

On a positive note, Uganda's Parliament recently passed a Minimum Wage Bill which calls for the formation of a Minimum Wages Advisory Board and sets the minimum wage at 35 USD (UGX 130,000). This Bill stipulates stiff penalties for any employers who would not honor the minimum wage.

Uganda’s law mandates equal and fair remuneration; however, according to the Uganda Bureau of Statistics latest findings, the average income of male household heads was much higher (UGX 243,000) than for female household heads (UGX 176,000). Men continue to significantly earn more than women across all levels of education attained.

Additionally, the state has not kept up with its reporting obligations to the Committee of the Banjul Charter and CEDAW according to respective websites.

In Uganda, workplace sexual harassment is prevalent but seldom spoken about. Uganda’s 2016 demographic and health survey found that more than one in five (20 percent) women report having experienced sexual violence. Silence, stigma and weak policies continue to hinder efforts against the vice. Despite government and employer resistance, women’s rights organizations and labor rights collectives in the country are making strides to change this reality.

**TANZANIA**

Tanzania has ratified CEDAW, ICESCR, the Banjul Charter, and the ILO Conventions, C100, C111, C131 and C098. The country is ranked 75<sup>th</sup> out of 149 countries with regard to wage equality for similar work by the Global Gender Gap Report of 2017.

Equal pay in Tanzania is determined by the country’s law. In the Employment and Labour Relations Act of 2004 every employer is mandated to guarantee equal pay for work of equal value as well as promote equal opportunity in the workplace. Despite these protections and Tanzania’s ratification of both the Equal Remuneration and Discrimination Conventions in 2002, the gender wage gap is still notably present.

The average Tanzanian man earns 39 percent more than what the average woman receives *in total* – The Global Gender Gap Report 2017

The state has not honored all its reporting obligations, being out of the reporting cycle for the ACHPR and having 5 unsubmitted reports.

Within the formal sector, only 17 percent are women who work in the private, profit-making business sector, according to the 2015 Employment and Earnings Survey.

Public campaigns against sexual harassment have been launched in conjunction with various stakeholders and even the use of a PSA. These campaigns touch on sexual harassment in various spheres within and outside the workplace. However, progress continues to be slow toward the realization of gender equality at work.

**RWANDA**

Rwanda has ratified CEDAW, ICESCR, the Banjul Charter and Conventions C100, C111, and C098. Convention 155 (Occupational Safety and Health Convention) is on track for ratification on the 29<sup>th</sup> of



June 2019. Rwanda is ranked 6<sup>th</sup> out of 149 countries polled according to the Global Gender Gap Report of 2018. By many indicators, the country is seen as a global benchmark for gender inclusion and equality.



Rwanda sits with Nordic countries in terms of gender equality with one of the highest percentages of women in political leadership. However, many wonder whether these numbers translate to actual influence and influence power relations in the home. GBV is pervasive in the country and though Rwanda's Penal Code addresses sexual harassment, in the workplace it remains pervasive and takes the form of sexually suggestive language, sexual extortion by superiors, and pressure to perform sexual favors in order to access promotions and opportunities (according to Transparency Rwanda).

The country continues to work toward gender just policies and extending their influence to lower levels. Rwanda has ratified most of the key gender rights' and ILO Conventions and for the most part honored her reporting obligations for the same.

## ETHIOPIA

Gender equality as a whole continues to be an issue in Ethiopia and as such, the rights of women within the workplace are yet to be fully realized. The nation has ratified CEDAW, ICESCR, the Banjul Charter and ILO Conventions C155, C158 and C098.

The Government of Ethiopia is committed to the achievement of gender equality. Ethiopia's Constitution clearly stipulates the rights of women and the Women's Policy of Ethiopia reiterates the Government's commitment to gender equality. The leadership is making strides with appointing women to top leadership in government but the gap that needs to be closed is still far and wide.

Globally Ethiopia is ranked 117<sup>th</sup> out of 149 (up from 2010's 121) countries surveyed for the Global Gender Gap Report. Despite significant economic growth, however, women continue to face significant barriers in the workforce. The unmet potential of women in the workforce is intrinsically linked to a lack of opportunities for women in education, health, and human rights despite the nation having ratified the International Covenant on Economic, Social and Cultural Rights.

Though the nation has ratified and honored its reporting obligations for both the Equal Remuneration and Discrimination ILO Conventions, a United Nations Development Program (UNDP) study conducted in Ethiopia revealed that some 77 percent of hiring firms were found to be inclined to favor men employees than women for the same qualifications and skills required.

Heavy patriarchal norms and structures within the country continue to expose women to violence, abuse and other violations at home and at work. Wage inequality in Ethiopia is a widespread issue according to the Global Gender Gap Report of 2018, which reveals women earn on average 60 percent of what a man earns for the same job despite the country having legal provisions for equal pay.

**68.5 percent of employed women in Ethiopia were unpaid family workers and 24.8 percent were *self-employed in informal jobs.***

## **MALAWI**

Malawi's new Constitution, which came into effect in 1994, captured certain fundamental labor rights in its principles of national policy that compel the state to actively promote welfare and development, including gender equality, non-discrimination, maternity benefits amongst others. In addition to this, the country has ratified CEDAW, ICESCR, the Banjul Charter and ILO Conventions C100, C111 and C098.

Ranked 112<sup>th</sup> out of 149 in the World Economic Forum Global Gender Gap Report of 2018, Malawi has not honored its reporting obligations on ICESCR, the Banjul Charter and C158 and still has a fair share of progress to make in the tea sector and indeed overall. Though the male:female gender ratio in the tea sector is a 50:50 split, managerial positions are largely held by men.

**“Managerial positions within Malawi’s labor market are largely held by men despite *an almost 50-50 split of men and women within the work force.*” – ILO 2019**

The Tea Association of Malawi has developed a new Gender and Sexual Harassment Policy with a strong framework to address this issue. This has been implemented on the tea estates and there has been work on implementing the new policies and around women and empowerment with committees formed on gender.

While the country has a useful constitutional framework and

prohibits forced labor, slavery and servitude, a weak resource base, lack of gender disaggregated data and cultural practices, beliefs, traditions and social norms have hindered the gender and development programs.

## **ZAMBIA**

Zambia has ratified CEDAW, ICESCR, the Banjul Charter and ILO Conventions C100 C111, C155, C158, C131 and C098.

Subsistence agriculture accounts for 75 percent of Zambia's working population according to the ILO and largely women workers do not have access to information on their rights and protections. This phenomenon is much more prevalent with women in the informal sector than those in the formal sector. Women workers in Zambia face inflexible hours of work regardless of family and other

responsibilities, long hours of work, denial of leave and indiscriminate dismissals. Women workers are often victims of sexual harassment, sexual exploitation, as well as human trafficking in extreme cases and these practices are prevalent in the informal sector.

Women also continue to form the bulk of the unemployed and underemployed population. Labor market segregation is high, women being concentrating in low-skilled, low wage sectors and often only temporary jobs.

Zambia's state authority has not honored its reporting obligations with regard to the Banjul Charter, CEDAW and ICESCR. Zambia has not ratified ILO Conventions 156 (Workers with Family Responsibilities, 1981) and 183 (Maternity Protection, 2000) and this has the effect of limiting women's and men's access to provisions that relate to family responsibilities.

Despite the key documents that Zambia has ratified, implementation continues to be a challenge. There appears to be little political goodwill to address these shortcomings, evidenced by the gross under-resourcing of the gender machinery in the country. Hopefully this reality can be overturned in time to come.

## ZIMBABWE

Zimbabwe has ratified several conventions such as CEDAW, ICESCR, the Banjul Charter and ILO Conventions C100, C111, C155 and C098. Zimbabwe is ranked 47th out of 149 in the Global Gender Gap Report of 2018 and 62nd with regard to economic participation and opportunity.

Gender differences in earnings and productivity have been systematic and persistent on and off the farm. Women have been shown to exhibit lower average productivity and earn lower wages than men. This is despite the fact that Zimbabwe's law mandates equal pay. State action to enforce employment legislation has been consistently leaning in favor of employers, with respect to both public and private employers and it would be fair to imagine that this leads to even greater discrimination against women

The country has not honored its reporting obligations with regard to ICESCR and the Banjul Charter. With regard to social protections, trade unions do not necessarily prioritize maternity questions and women's rights campaigners are working to change this.

Cultural traditions also mean women are not able to access leadership especially at work. Women form the bulk of the informal economy workers while men are concentrated in formal work which offers them better pay and greater social protections.

Though the Constitution protects maternity leave, the country is not party to C183 and hence women in the child bearing age continue to be disadvantaged in terms of securing employment and getting promoted. Women in the informal sector do not get to have maternity leave as it directly impacts their income.

Through trainings and advocacy, the tide is slowly changing and issues such as maternity leave and sexual harassment at work are being addressed. Undoubtedly, the progress could always be faster.

Our mission is to innovate for social change. With *smart projects* in the right places, we work towards more open and green societies.

# COUNTRY STATUS AUDIT TABLE

## TABLE SHOWING STATE COMPLIANCE

Country*	KEN	UG	TZA	RWA	ETH	MW	ZM	ZWE
CEDAW	1984	1985	1985	1981	1981	1987	1984	1991
ICESCR	1972	1987	1976	1975	1993	1993	1985	1991
ACHPR	1992	1986	1984O/ C	1985 O/C	1998O/ C	1989O/ C	1984O/ C	1986
C100	2001	2005 O/C	2002	1980 O/C	1999	1965	1972	1989
C111	2001	2005O/ C	2002	1981O/ C	1966	1965	1979	1999
C183	NR	NR	NR	NR	NR	NR	NR	NR
C155	NR	NR	NR	29/6/19	1991	NR	2013	2003
C158	NR	1990	NR	NR	1991	1986	1990	NR
C168	NR	NR	NR	NR	NR		NR	NR
C131	1979	NR	1983	NR	NR	NR	1972	NR
C098	1964	1963	1962	1988	1963	1965 O/C	1996	1998 O/C

\*Country names abbreviated as per ISO standard abbreviation

NR – Not ratified according to ILO website

O/C – Out of cycle

Up to date with reporting	Some reports not submitted	Conclusive reporting data unavailable	Convention scheduled to come into effect
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# NOW WHAT? CALL TO ACTION

Walking the path towards a better future for women at work is within reach and involves various parties and forces working in tandem to realize this objective. These efforts need to go beyond just engaging stakeholders but empowering individuals who in turn will drive the collective action approaches that create lasting change.

There is no advocacy without action but more importantly, there is no advocacy without evidence and data. Gender equality at work needs to be a measureable agenda. One of the key actions in measuring and realizing gender equality lies in better gender disaggregated data that documents the gender impact of unfair labor practices, business impact of sexual harassment, the impact of better social protection on employment and parental leave uptake. The push for equal remuneration as a key step to achieving gender equality can be even closer to reality through increased wage transparency and employers' willingness to publish employee salaries decided in accordance with objective measures of performance.

Training and capacity building to form and strengthen coalitions for influence and further to protest unfair labor practices across geopolitical spaces needs to be a strong pillar and driving factor to achieving dignity at work for workers and specifically, women workers. Empowering key constituents and partners to understand their employers' and governments policy obligations and be able to influence policy formulation at its key points is crucial for ensuring the sustainability of progress and its transformation into key dominant practices beyond CSO funding cycles. This approach goes hand in hand with creating and strengthening redress mechanisms especially in the case of gender-based violence and harassment in the workplace. Leveraging innovative solutions to curb non-reporting such as anonymous reporting through the use of mobile technologies for instance will make sure that persons who have been victim to sexual harassment are protected and not stigmatized while still ensuring allegations are investigated and perpetrators found guilty brought to book.

Keeping track of governments' progress to achieving gender equality and lobbying the state to adopt, ratify, operationalize and accurately report on key ILO Conventions and other binding international human rights instruments remains one of the strongest drivers of change. While progress has been made through the *Minimum Wage Bill* (Uganda), the *Breastfeeding Mother's Bill* (Kenya), the newly adopted *ILO Convention and Recommendation on Elimination of Violence and Harassment in the World of Work (ILO C190)* and sexual harassment policies adoption in Kenya, Uganda, Tanzania and Malawi, barriers to women's full participation at work remain deeply intact. Compelling, challenging, questioning and working with state actors has to be a pillar upon which we build the structure for lasting change.



# SUMMARY

A simple audit of the eight countries in which the Women@Work Campaign operates reveals that several deficits still exist in the decent work sector for women. These include social protections, lack of health and safety precautions, pay disparities between men and women, lack of inclusion of women in training and promotion opportunities as well as sexual harassment. Women continue to be concentrated into less productive industries and further into less productive jobs and this means fewer opportunities for career advancement and/or business scale-up. In this way we realize that economic growth does not always denote increased gender equality and that more needs to be done to make sure that economic growth means growth and freedom for all.

Balancing the world of work with regards to gender means many things including better gender disaggregated data and adherence to agreed upon policies. Countries within Eastern and Southern Africa have ratified key international and regional documents that should protect the rights of women workers guaranteeing equal pay, social protections and dignity in labour but in reality, many of these provisions are not implemented within institutions. African governments often do not enforce these documents and do not honor their reporting obligations to international treaty organizations thus raising questions as to their commitment to these conventions. The tide is slowly changing and through interventions supported by partners such as Hivos, several attempts at incremental progress continue to plant the seeds that will grow towards a world of work that honours women's labor and their agency.

Sexual harassment at work is no longer an issue to be swept under the table and the global push to address this scourge has translated into concerted efforts to address this within the horticulture sector as a key pillar of the Women@Work Campaign. In several countries, women continue to be sexually harassed at work and this leads to absenteeism and loss of qualified labor including victim blaming. Employers need to develop and enforce sexual harassment policies within the workplace and the absence of research into the corporate cost of sexual harassment emboldens efforts to dismiss its seriousness and extent. Looking to the future and with approaches such as the Hivos anti-sexual harassment lab, Hivos seeks to make sexual harassment a thing of the past and to this end has developed a Model Sexual Harassment policy to serve as a blue print for companies and organizations to design their own sexual harassment policy and develop clear redress mechanisms.

Dignity and respect at work is a right for all and a product only realized through cooperation and solidarity between state parties, employers, people and institutions. Looking forward, key stakeholders need to hold governments and society to account including calling for the ratification of the *ILO Convention and Recommendation on Elimination of Violence and Harassment in the World of Work (ILO C190)*. This widely adopted Convention is the first of its kind to comprehensively address GBV in the world of work. Global ratification of this Convention will create a global workplace as it should be, safe for all. More specifically the world of work should be free of intimidation, unfair practices, violence and harassment. Through adhering to policy, conventions, respect for human rights and gender equality principles this right can be ensured for all to enjoy.

## Colophon

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