

Gender Neutral Laws & Schemes may be Discriminatory against Women and Girls

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Laws and programs may have detrimental effects on women and girls when they appear gender-neutral. Gender based discrimination have two ways to happen; it happens either when laws or policies or programs explicitly restricts, makes preferences or distinguishes between men and women; or when laws, policies or programs have detrimental effects on women and girls even though they appear gender-neutral.

Examples that showcase how gender neutrality to promote discrimination against women and girls:

- A pro-poor health insurance scheme that sets equal amount of premium for both men and women may end up in excluding proportionate number of women from benefiting from health insurance. Why? Because, given women's disproportionate representation among those living in poverty, the greater chance of paying membership premium is with men. However, women's exposure to health complications, as compared to men, is heightened due to poverty, overburden in unpaid care work as well as abuse and violence disproportionately affecting women and girl. Hence, a pro-poor health insurance scheme that does not explicitly integrate affirmative measures to women and girls fails to extend health services to the most at risk women and girls.
- Given women's disproportionate representation among those living in poverty, a credit program that requires mortgage for accessing loan is, in most cases, inaccessible to women—even if the scheme is equally open for both men and women.

Achieving equality between men and women requires taking both historical inequalities and the present conditions of women into account; which may consequently require taking positive actions to address the specific disadvantages and needs of women. The CEDAW's Committee general comment No.5 (1988) & No.25 (2004) recognizing gender neutral laws and programs to have discriminatory effects, recommends on women be given equal start and that they be empowered by an enabling environment to achieve equality.

Hence, achieving equality not only requires eliminating discriminatory laws but also taking positive action or temporary special measures to address the specific disadvantages and needs of women and girls.

