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# Discriminatory Law Reform

How legal barriers affecting women's economic empowerment can be overcome

**Olivia Jenkins and Chris Hearle**

4<sup>th</sup> February 2021



**Query Question:**

1. How might discriminatory laws affect women's economic empowerment – including those that might have a more indirect effect such as health and education.
2. What lessons have been learned about how to eliminate legal barriers to women's full and equal participation in the workforce, enterprise ownership and control over assets, work and work-related decisions, in the short- and medium-term?
3. What examples are there of interventions (strategies and actions) that have proved effective in eliminating legal barriers to women's economic empowerment?

**Authors and institutional affiliations:** Olivia Jenkins and Chris Hearle, Social Development Direct

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## Acronyms

ASEAN	Association of Southeast Asian Nations
CEDAW	Committee on the Elimination of Discrimination against Women
COLIBE	The Individual Freedoms and Equality Commission
CSO	Civil Society Organisation
DEA	Devolution of Estates Act
DFAT	Department of Foreign Affairs and Trade
DVA	Domestic Violence Act
ID	Identification
ILO	International Labour Organisation

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IMF	International Monetary Fund
LIFT	Land Investment for Transformation
LMICs	Low- and Middle- Income Countries
OECD	Organisation for Economic Cooperation and Development
MWAC	Migrant Workers Assistance Center
RCMDA	Registration of Customary Marriage and Divorce Act
SDO	Social Development Officer
WBL	Women, Business, and the Law Annual Index and separate complimentary Report
WEE	Women's Economic Empowerment
WOW	Work and Opportunities for Women
WRO	Women's Rights Organisation

## Executive Summary

This Work and Opportunities for Women (WOW) Helpdesk query aims to find out how discriminatory laws affect women's economic empowerment and what lessons have been learned about how to eliminate legal barriers to women's full and equal participation as employees, managers and business owners, drawing on examples that have proved effective. It will be used for policy work influencing on Women's Economic Empowerment (WEE) and legal reform in the context of G7 response planning. It draws on online searches of recently published material.

**Reforming discriminatory laws is a critical aspect of women's economic participation, although the evidence base is weak.** For example, in a study of 100 countries, the International Monetary Fund (IMF) found that 50% of countries where employment parity laws were passed, women's labour force participation increased by at least 5 percentage points over the following five years (IMF 2015 in Baden et al. 2019). While the business case is strong, the evidence base on the effects of discriminatory laws on women's economic empowerment is limited, although in general there is consensus on the nature of the relationship. There are a notable number of studies which draw on Women, Business and the Law (WBL) data. Literature is also limited on lessons learned, but it is clear that ensuring implementation of and compliance with reforms is crucial, in which social norms play a key role (OECD et al. 2020).

### How discriminatory laws affect Women's Economic Empowerment

The WBL index is commonly used to measure and understand the relationship between women's legal rights and women's economic empowerment. The average global score is 76.1 indicating that women globally have approximately three-quarters the legal rights of men, and scores tend to be lower in low- and middle-income countries (a score of 100 would indicate legal gender parity). Weaker legal rights are associated with lower labour force participation for women, decreased asset ownership, fewer women owned businesses, fewer women as business leaders and a higher gender wage gap (Gonzales et al. 2015, Htun et al. 2019, Islam et al. 2019, Hyland et al. 2020). Women with disabilities, sexual and gender minorities, ethnic minorities and religious groups can face particular restrictions but the WBL index scores are not disaggregated according to these aspects of identity.

The WBL index identifies laws with significant associates with women's economic empowerment, organised around 8 areas: mobility, workplace, pay, marriage, parenthood, entrepreneurs, assets and pensions. Some discriminatory laws are directly related to formal work whereas other discriminatory laws relate to the wider enabling legal environment. This WOW Helpdesk report also looks at where laws may have an indirect impact on women's economic empowerment even though this is not measured by the WBL index.

Legal restrictions on women's **mobility** have a negative impact on women's roles in the labour market. If women's physical mobility is restricted women are less likely to be potential employees and they are seen as less reliable if they need a male relative's permission to work (Muñoz Boudet et al. 2012). Discriminatory mobility laws are more likely to lead to a higher share of women working in the informal economy (Htun et al. 2019).

Discriminatory **workplace** laws negatively affect women's labour force participation, progression into senior management positions and are associated with a higher gender wage gap. Women are less likely to establish a formal business where there is a lack of legal protection against workplace sexual harassment (World Economic Forum, 2018).

Countries that do not explicitly mandate equal remuneration for work of equal value have higher gender **pay** gaps, and job restrictions make it harder for women to gain employment. It is common in industries such as mining and construction, as well as factory work, for there to be restrictions on work available to women.

Women's legal constraints related to **marriage**, such as whether a woman is legally obliged to obey her husband, whether she can legally be the head of her household, as well as legislation on domestic violence, divorce, and the right to remarry, negatively impact women's economic empowerment. Htun et al. (2019) study found that restrictions on women's legal capacity embedded in family and personal status laws are the strongest predictor of women's economic agency. A lack of laws on domestic violence are associated with increased incidence, with consequences on women's labour market participation and performance due to the physical and emotional impact of violence.

The effects of laws around **parenthood** are complex. In Organisation for Economic Cooperation and Development (OECD) countries maternity leave can increase female labour force participation and reduce gender pay gaps, although longer periods outside the labour market can also reduce earnings and employment (Lalive and Zweimuller 2009, Gonzales et al. 2015). In low- and middle-income countries, the impact of parental leave on women's economic empowerment is likely to be less significant, as women tend to work in the informal economy. In the formal economy a focus on maternity leave without similar paternity leave provisions may reinforce the social norm around gendered division of care work (Chopra and Krishnan 2019).

A lack of legislation to ensure women can sign contracts and open bank accounts translates into fewer women **entrepreneurs** and lower female labour force participation rates (Gonzales et al. 2015). Laws that prevent women from accessing credit are strongly correlated with a firm having a male owner, and laws that prohibit gender discrimination in opening a business are strongly positively correlated with the probability of a firm having a woman owner (Islam et al. 2019).

A lack of legal control of **assets**; including property ownership rights, inheritance rights (both for children and surviving spouses), authority over assets during marriage, and valuation of their non-monetary contributions, can deprive women from direct economic benefits such as greater financial security and access to credit (UNHLP 2016). A lack of legal control over assets and inheritance rights are associated with higher gender gaps in labour force participation (Gonzales et al. 2015) Labour force participation gaps are halved in countries with full legal equality in inheritance (Gonzales et al. 2015). In 30% of countries laws on the dissolution of marriage do not recognise non-monetary contributions like unpaid care work, which hinders women's legal right to ownership over marital property (World Bank 2021b).

**Pension** policies can have gendered effects, as women are likely to have worked fewer years than men, earned lower wages, are predominantly in lower paid and informal work due to social norms around childcare and often outlive men. Some countries offer care-related contribution credits which give pensions contributions based on time spent out of the labour market for childcare. While this can be a valuable tool to improve women's pension benefits, they are unlikely to close gender gaps in pension benefits on their own (UN Women 2015).

Discriminatory laws in the fields of **health** and **education** can have an indirect effect on women's economic empowerment. Even though women are better able to contribute to household income if they can access a full range of reproductive health services and can plan and space births, some governments limit the availability of particular contraceptive methods (WHO 2014, ICRW 2020). Women with disabilities often face additional legal or social barriers in accessing reproductive healthcare. Even apparently gender-neutral laws and policies in the education sector can—often owing to prevailing social norms—result in girls being left out of school. For example, where goods

and services targeting girls' needs are not provided or that do not explicitly protect girls' rights to make decisions about their bodies and life choices (OHCHR 2016).

## Lessons learned on how to eliminate legal barriers to WEE

Given extensive contextual differences, including in legal systems, social norms and religious beliefs, there is **no single agreed understanding of how to eliminate discriminatory legal barriers worldwide** (OHCHR 2017). Yet there are various enablers and barriers that emerge in multiple publications, which vary in importance depending on the broad stage of legal reform (emergence, formulation, implementation and review)<sup>1</sup>:

### Enablers

- **Women's political representation:** Quotas can be an important means to increase women's political representation. Quotas for women in parliament in Rwanda, Nepal and Costa Rica have been followed by broader legal reforms to expand women's rights (UN Women 2011).
- The work of **Women's Rights Organisations (WROs):** for example, a campaign by the Fiji Women's Rights Movements has played a key role in the ratification of the International Labour Organisation (ILO) Convention No. 190 in Fiji (Centre for Women's Global Leadership 2021).
- **Building the Evidence Base and Better Data** on which laws are based are important for women's economic empowerment and providing country comparators helps set expectations and evidence of implementation is critical to accountability. WROs and other Civil Society Organisations (CSOs) can play a key role in gathering data.
- **International Conventions** can put peer pressure on countries to reform their own discriminatory laws. Legal reform is often sped up after Committee on the Elimination of Discrimination against Women (CEDAW) ratification. The ILO Convention No. 190 that came into force in June 2021 provides an international treaty to address violence and harassment in the world of work, and at the time of writing, this has been ratified by ten countries (ILO 2022).
- **Social Norms** may change first whilst laws catch up with society, and at other times law reform may precede changes in social norms. The WBL report (World Bank 2021a) suggests that usually legal reforms come before social norms change and improvements in women's economic opportunities and outcomes, with egalitarian laws often a necessary condition for social norm change (Htun et al. 2019). Progressive step changes in laws may have a 'magnet effect', by changing social norms along with legal reform (Aldashev et al. 2012).
- **Shifting Political and Economic Contexts:** Labour shortages or recognition of the economic benefits of a higher female labour force have led to the lifting of restrictions prohibiting women from entering certain professions (European Parliament 2020)
- **Communications and awareness raising:** people who are affected by the reform should be aware of the reform and their legal rights. Information should be disseminated using communication channels most used by women, such as radio.
- **Access to justice:** support and mechanisms to ensure compliance and enforcement is critical to translating formal laws into real outcomes as part of the implementation stage. As part of the ILO's TRIANGLE in Association of Southeast Asian Nations (ASEAN) programme, legal assistance is provided to migrant workers and members of their families.
- **Strategic litigation:** can contribute to legal reform or the enforcement of existing laws. Successful cases of strategic litigation (which lead to reviews to improve legal rights for

<sup>1</sup> We use the stages of legal reform as per the [Law and Justice Foundation \(2010\)](#).

women) are often accompanied by advocacy initiatives and involve multiple stakeholders. Strategic litigation often depends on sustained multi-year funding from donors.

- **A focus on implementation:** implementation; involving compliance and enforcement requires allocating sufficient human and financial resources to implementing bodies, having sound monitoring mechanisms, partnerships with civil society organisations and mainstreaming gender throughout policy areas.
- **Strengthening family and personal status laws:** in LMICs there should be a balance on reducing gender discrimination in labour codes and equitable parental leave for mothers and fathers, with eliminating restrictions on women’s legal capacity embedded in family and personal status laws.

#### *Constraints*

- **Lack of official identification (ID):** Women and girls face more and higher barriers to being registered at birth and obtaining IDs (Hanmer and Dahan 2015). Without official ID, they may not be able to claim their legal rights to open bank accounts, register land and property, claim inheritance rights, or access formal jobs (Hanmer and Dahan 2015).
- **Lack of public funding:** at the law emergence stage, funding is needed to gather evidence and fund action to raise awareness of the issue. At the law enforcement stage, authorities may not have the resources to enforce laws, and may be susceptible to corruption.
- **Discriminatory traditions, customs and religious practices:** these are particularly prevalent around family law, with religious and traditional leaders claiming that law reform touches upon the status of religious and cultural groups.
- **Backlash against women and girls’ rights:** backlash against women and girls’ rights is increasing (Roggeband and Krizsán 2020), and with enough support from mainstream society can hinder progress on tackling discriminatory laws.

### **Examples of interventions that have proved effective in eliminating legal barriers to WEE**

The following examples have been selected to provide an overview of how legal barriers can be eliminated in various contexts. Most of the literature focuses on barriers to full and equal participation in the workforce and asset ownership, with relatively few found concentrating on enterprise ownership and work-related decisions.

1. **The role of CSOs and religious groups in reforming discriminatory laws in Tunisia:** in 2014, WROs worked across political party lines and historical divisions between Islamic and secular women’s rights groups to establish the National Dialogue for Women. The National Dialogue for Women worked with lawyers and scholars to make recommendations on a draft bill to change discriminatory inheritance laws. As a result, Tunisia became the first country in the Arab region to legislate for equal inheritance rights between men and women.
2. **The reform and implementation of ‘the Gender Acts’ in Sierra Leone:** In 2007, the CEDAW Committee made a recommendation to the Sierra Leonian government to prioritize enactment of gender equality legislation. Shortly after the CEDAW Committee’s recommendation, Sierra Leone passed three significant pieces of legislation, known collectively as the “Gender Acts”: the Devolution of Estates Act (DEA) (2007), the Domestic Violence Act (DVA) (2007) and the Registration of Customary Marriage and Divorce Act (RCMDA).
3. **Implementation of women’s land rights through the Land Investment for Transformation (LIFT) programme in Ethiopia:** the UK-aid funded LIFT programme (2014 – 2021) supported



the Government of Ethiopia's efforts to implement legislation that accords women equal land rights with men. The programme introduced Social Development Officers to increase women's awareness of the law and proposed several options for polygamous marriages: either the husband chooses one wife to register as a joint land holder while the co-wives are registered independently with equal shares, or all wives and the husband are registered separately with an equal share of the land size. According to a recent study, 62% of land in *woredas* (districts) covered by the LIFT programme is registered as belonging to a joint holding, and 16% and 21% of land is registered as belonging to an individual male and female holdings respectively.

4. **The role of the private sector in responding to unpaid care work in Turkey:** Turkish labour laws afford women time to feed children during a working day, and companies that have between 100-150 women have to provide a lactation room and companies with over 150 women have to provide a day-care centre. Borusan, an iron-steel producer has provided breastfeeding and lactation rooms in all Group locations, regardless of the number of women employees. As a result of this policy and others, the company has seen greater retention and ability to attract the right talent, including women, as well as reputational gains and enhanced relations with various stakeholders. The obligation to establish a day-care centre has been fulfilled by few businesses in Turkey as most of them are small and medium-sized enterprises with fewer than 150 women employees.
5. **An Accountability Mechanism for Migrant Workers in Thailand:** Migrant workers, particularly women, often do not have access to an effective complaint mechanism in their country of work. The ILO's TRIANGLE in ASEAN programme has supported the operation of Migrant Worker Assistance Centres (MWACs) in Cambodia, the Lao People's Democratic Republic, Malaysia, Myanmar, Thailand, and Vietnam. In Thailand alone, from 2017 - 2019, a total of 124,515 migrant workers (40% women) sought support from the MWACs, mostly for general counselling advice and legal assistance. MWACs were assessed by the ILO to be effective and impactful accountability mechanisms.
6. **Rono v. Rono: Strategic litigation for women's inheritance rights in Kenya:** In 2005, a man in Kenya died without a will leaving two widows. The first wife had three sons and two daughters whilst the second wife had four daughters. The Kenyan High Court awarded a greater percentage of the estate to the household that included sons on the grounds that the daughters would eventually marry and receive assets from their new families. The Court of Appeal overturned the High Court's decision finding that the unequal inheritance distribution was not in accordance with CEDAW. The WOW Helpdesk team could not find any evidence that advocacy initiatives contributed to this outcome. This case of strategic litigation has set a precedent on women's inheritance rights in Kenya.

# 1. Introduction

The Work Opportunities for Women (WOW) Helpdesk is a research advisory and knowledge service launched in March 2018, to support Foreign, Commonwealth and Development Office and wider HMG Economic Development programmes and policies to improve outcomes on women's economic empowerment (WEE). The objective of this query is to provide evidence on the comprehensive mechanisms and processes need to adopt, implement, enforce and monitor laws that advance economic empowerment for women and girls with a focus on reforming discriminatory laws and ensuring equal access to rights for women as employees, managers and business owners.

The query will be used for policy work informing thinking on WEE and legal reform in the context of G7 response planning. The 45th G7 summit was held in Biarritz, France, in 2019. Attendees included leaders of the G7 member states plus representatives of the European Union as well as several guest invitees of various countries. A total of 48 development and development-related commitments were agreed upon by the G7 leaders, in ten thematic areas: aid and aid effectiveness, economic development, health, food security, education, equality, governance, peace and security, environment and energy and human mobility. This WOW Helpdesk query will help inform actions that could be taken by different stakeholders to respond to the equality commitments made in Biarritz. Under the *Biarritz Partnership for Gender Equality*, the G7 Gender Equality Advisory Council (2019) calls on countries to "identify and abolish discriminatory laws".

This rapid research query was conducted using Google and relevant electronic databases (Google Scholar, Science Direct, EBSCO) to search for evidence using key search terms such as: women's rights, discriminatory laws, gender discrimination AND women's economic empowerment, workforce participation, women's enterprise ownership, women's control over assets, women's control over work AND mobility, workforce, pay, marriage, parenthood, entrepreneurship, assets, pensions.

To be eligible for inclusion in this evidence review, studies had to fulfil the following criteria:

- Focus: Data and evidence on (1) the effects of discriminatory legal reform on women's economic empowerment, (2) lessons learned on how to reform discriminatory laws and (3) examples of interventions that have proved effective in reforming discriminatory laws
- Time period: 2011 – 2021
- Language: English
- Publication status: Publicly available (and published online)
- Geographical focus: Low- and Middle- Income Countries (LMICs) with priority to evidence from the Indo-Pacific. Evidence from High-Income contexts could be included only if it was especially relevant and/or where the evidence base from LMICs is thin.

Reforming discriminatory laws is a critical aspect of women's economic participation. For example, in a study of 100 countries, International Monetary Fund (IMF) found that 50% of countries where employment parity laws were passed, women's labour force participation increased by at least 5 percentage points over the following five years (IMF 2015 in Baden et al. 2019). Similarly, the gender gap in labour force participation rates in countries with equal inheritance rights is 50% lower than in countries with unequal inheritance rights (Gonzales et al. 2015).

Yet while the business case is strong, the evidence base on the effects of discriminatory laws on women's economic empowerment is limited, particularly for laws with an indirect effect on women's economic empowerment. However, there are a number of studies that draw upon Women, Business and the Law (WBL) data to analyse the relationship between higher levels of legal discrimination and women's economic empowerment outcomes such as female labour force participation, rates of asset

ownership and gender wage gaps. Literature is limited on the lessons learned and examples of how to eliminate legal barriers to women’s economic empowerment. There is also a lack of evidence that is disaggregated according to different stages of legal reform. It is clear that ensuring implementation of and compliance with reforms is crucial, for which social norms play a key role (OECD et al. 2020).

This query is structured into 4 parts: the first section provides an introduction to the query, its objective and how it will be used; the second section provides an overview of how discriminatory laws can affect women’s economic empowerment, structured largely around the WBL indicators; Section 3 lists key enablers and constraints which influence how legal barriers to women’s work, enterprise ownership and control over assets, work and work-related decisions are eliminated; and Section 4 lists several case studies to illustrate how legal barriers to women’s economic empowerment can be overcome.

## 2. How discriminatory laws affect WEE

**The WBL index is published annually, providing insights into how women’s employment and entrepreneurship are affected by legal gender discrimination.** For each of the 190 economies, data is provided for 35 data points across 8 indicators based on the milestones in a typical woman’s lifetime: mobility, workplace, pay, marriage, parenthood, entrepreneurship, assets, pensions (see Table 1 below). Indicators are chosen based on statistically significant associations with women’s economic empowerment outcomes. WBL index scores are based on the unweighted average mean of the 8 indicators, with a higher score indicating more gender equal laws (see Annex 1 for an example of the scoring). The index measures the presence of laws, and does not consider implementation, compliance or monitoring. It also does not factor in that the laws it measures do not apply to all women in the same way such as for women with disabilities, sexual and gender minorities, and women from ethnic minorities and from particular religious groups. A complementary report is also published annually. The most recent report is *Women, Business and the Law 2021* (World Bank 2021a) based on data from 1<sup>st</sup> October 2020, which we draw on for this WOW Helpdesk report.

Indicator	Measures gender differences, non-discrimination, and good practice in...
Mobility	Legal constraints on freedom of movement
Workplace	Laws affecting decisions to work
Pay	Laws and regulations affecting pay
Marriage	Legal constraints related to marriage
Parenthood	Laws affecting work after having children
Entrepreneurship	Legal restrictions in starting and running businesses
Assets	Property and inheritance laws
Pension	Laws affecting the pension age and benefits

Table 1: Different indicators that comprise the WBL Index (see Annex 1 for more details on how these are scored)

**The WBL 2021 database demonstrates that women have fewer legal rights than men.** The average global score is 76.1 out of 100, indicating that women globally have on average just over three quarter the legal rights of men, and compares to 75.5 in 2019 (World Bank 2021a). There are increases in every regional average score, with the greatest increase in the Middle East and North Africa. Globally, most reforms are in the Pay and Parenthood indicators, whilst there were no changes in the property and inheritance laws measured by the Assets indicator. Only ten economies (Belgium, Canada, Denmark, France, Iceland, Ireland, Latvia, Luxembourg, Portugal, and Sweden) have legal gender parity across all areas measured, with a score of 100 out of 100.

**LMICs tend to have less gender equality in legislation.** The average score for low-income countries is 66.1, whilst the average score for lower-middle income countries is 70.8 (World Bank 2021b). The regional scores for East Asia & Pacific, South Asia, and Sub-Saharan Africa are 71.9, 63.7 and 71 respectively. Despite seeing the greatest increase in its regional score in 2021, the Middle East and North Africa region still has the most unequal laws, with a regional average score of 51.5 (World Bank 2021b).

**Where women’s legal rights are stronger and upheld, positive women’s economic empowerment outcomes are more likely.** Figure 1 below compares the Women, Business and Law index with the Global Gender Gap Index 2019 that measures gendered gaps in economic participation and opportunity, health, educational attainment, and political empowerment. It shows that where women face more legal discrimination, there are higher gender gaps in opportunities and outcomes. The same analysis has also shown that greater legal equality is associated with more women participating in the labour force, and fewer women in vulnerable employment (World Bank 2021a). Other studies also come to the same conclusions. There are correlations between women’s legal rights and increased female labour force participation and a lower gender gap in labour force participation (Htun et al. 2019; Gonzales et al. 2015), higher rates of asset ownership (Htun et al. 2019), higher numbers of women in corporate leadership positions and owners of enterprises (Islam et al. 2019), and a smaller gender wage gap (Hyland et al. 2020).

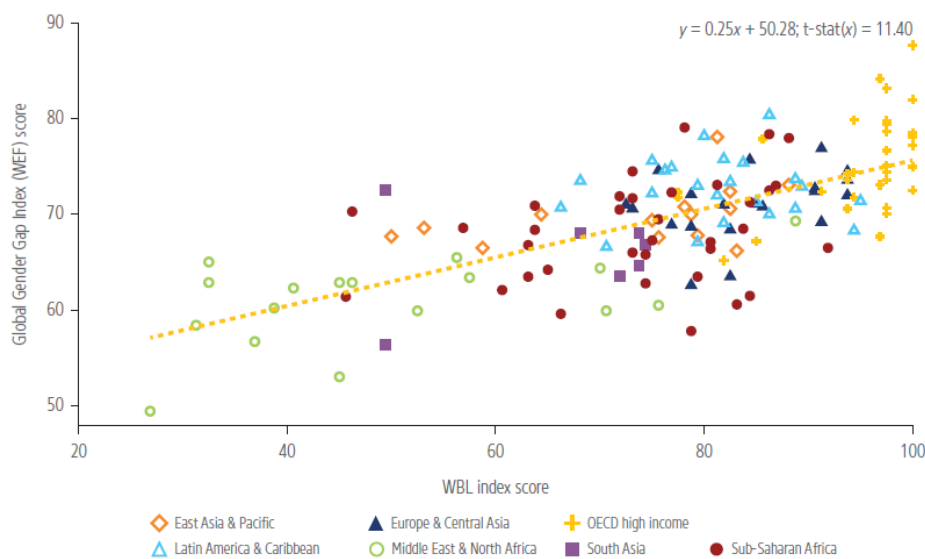


Figure 1: A Comparison of Two Indexes by Region: Legal Gender Equality (WBL) Versus Equality in Opportunities and Outcomes (WEF Index). From World Bank (2021a, p.7) Women, Business and the Law 2021

**Implementation gaps between law and practice have to be closed through stringent monitoring and enforcement if the effect of legal reform is to have any impact on women’s lives** (OECD et al. 2020). Social norms, the implicit and informal rules that most people accept and follow, are particularly important for the implementation of women’s legal rights. Social norms may change first whilst laws catch up with society, or legal reform may precede social norms.

### 2.1 Laws with direct effects on women’s economic empowerment

This section reviews the effects of discriminatory laws on WEE, structured around the 8 indicators measured in the World Bank’s WBL index. Some discriminatory laws mentioned in this section are directly related to formal work, such as restrictions from certain occupations, lack of maternity leave

provision, and a lack of legislation mandating equal pay for work of equal value. Other discriminatory laws relate to the enabling legal environment such as land and inheritance rights, ability to sign a contract, open a bank account, and protection against violence and harassment.

## Mobility

The **Mobility** indicator examines constraints on women's freedom of movement. Laws assessed under this indicator govern a woman's right to choose where to live, obtain a passport, and travel outside the home and country in the same way as a man.

### **Legal restrictions and social norms on women's mobility negatively impact their roles in the labour market.**

Where women's physical mobility is legally restricted, women are likely to be less attractive as potential employees (Muñoz Boudet et al. 2012). Even where they are as qualified as male applicants, women are seen as less reliable employees if they need a male relative's permission to work. There is a lower probability of female business ownership in societies where women cannot travel outside the home in the same way as a man (Islam et al. 2019, p.835). A survey in Pakistan, where women's use of public transport is restricted by social norms rather than law, found that 25% of female respondents would be more likely to take a job opportunity if transport was provided (Sajjad et al. 2018).

In Bangladesh, social norms restricting women from public spaces and unmarried women from working outside the home have a significant negative effect on women's labour force participation.

(Asadullah and Wahhaj, 2016)

### **Discriminatory mobility laws lead to a higher share of women working in the informal economy.**

They are particularly concentrated in family-owned and home-based enterprises where there are less restrictions but which may be unpaid (Htun et al. 2019). Work in the informal economy is more likely to be precarious, with higher gender pay gaps and risks of gender-based violence, and workers are excluded from social protection and labour rights (Hearle et al. 2019).

## Workplace

The **Workplace** indicator analyses laws affecting a woman's decision to work. This indicator considers restrictions on women's ability to get a job, including legislation around discrimination in employment and sexual harassment in the workplace (harassment and associated penalties or civil remedies). In 2021, 141 out of 190 economies have laws that prevent and redress sexual harassment in employment. In contrast, to only 42 economies in 2001 (World Bank 2021b).

**Discriminatory workplace laws negatively affect women's labour force participation.** In countries where women are restricted in getting a job and pursuing a profession, the female labour force participation rate is lower (Gonzales et al. 2015; Amin and Islam 2015). A lower number of workplace restrictions is associated with higher female employment rate and a higher number of women in senior management positions (Islam et al. 2019).

**Discriminatory workplace laws are strongly correlated with a higher gender wage gap** (Htun et al. 2019). Sectors such as the extractives industries have historically discriminated against women due to social norms which deter women from working in dangerous and dirty environments. However, targeting women in these industries can give women access to jobs with higher incomes as well as potentially increasing an extractive company's profitability and relations with the community (World Bank 2015). Customary laws, which disproportionately affect minority ethnic groups, can also impact on which sectors women are employed in. In Afghanistan, customary restrictions on mixing between the sexes and women's mobility has resulted female employment being largely restricted to certain sectors such as private education, healthcare and retail (Nesbitt-Ahmed and MacLean 2017).

In Nepal, a study in 2014 found that women regularly experience harassment in the workplace and during their commute, and many are unaware of their workplace rights. Many women do not report workplace harassment for fear of losing their jobs, and the harassment impacts on their performance at their jobs (Coyle et al. 2014). A new law addressing sexual harassment in the workplace came into effect in 2015 but there is currently no evidence available on its effects.

**Even without discriminatory laws, social norms around women's decision affect women's economic empowerment.** A study in Saudi Arabia found that a majority of young married men in Saudi Arabia privately support women working outside the home, but wrongly believe that their neighbours do not. When this belief was corrected, husbands supported their wives to find formal employment and women were more likely to work outside the home in a higher paying job (Bursztyn et al. 2020).

**Violence and harassment undermine women's economic empowerment by lowering women's economic potential and violating their right to non-discrimination and safety.** A lack of legislation on violence and harassment, coupled with harmful prevailing social norms, is discriminatory. In 49 countries there are no laws on sexual harassment in the workplace (World Bank 2021b). Women are less likely to establish a formal business where there is a lack of legal protection against workplace sexual harassment (World Economic Forum 2018). Even though most countries have labour laws criminalising violence against women (including domestic violence) and harassment, economic violence has yet to be universally recognised (UNHLP 2017). Economic violence includes the denial of funds, refusal to contribute financially, and the denial of food and basic needs such as the control over access to health care, employment and education.

## Pay

The **Pay** indicator measures laws and regulations affecting woman's pay. The assessment includes legislation mandating equal remuneration for work of equal value and whether women are subject to work-related restrictions that are not imposed on men, such as: whether a woman can work at night, can work in a job deemed dangerous and work in an industrial job in the same way as a man. If the law does not explicitly mandate equal remuneration for work of equal value as per the standard set by the International Labour Organisation (ILO), this is counted as a restriction under the WBL index.



**Countries which do not explicitly mandate equal remuneration for work of equal value have higher gender pay gaps.**

Fewer than half the world's economies (90) have mandated equal remuneration for work of equal value, and these are mostly in high income countries (World Bank 2021a). Even when these laws are in place, there is little protection for people working in the informal economy where women tend to be over-represented in lower tiers of the informal work hierarchy (Hearle et al. 2019). These women are often trapped in low-paying, unsafe working environments, and lack the legal rights to social protection. These poor conditions for women workers perpetuate the gender pay gap (UN Women 2020). There is some evidence to show that legally enforced minimum wages can reduce gender pay gaps, but these are unlikely to influence informal workers (Grimshaw and Miozzo 2003).

Until the Labour Code was reformed in 2021, Vietnamese women were denied access to 77 different jobs. Prohibited jobs included occupations that are heavy and hazardous such as in construction, mining, and fisheries, perpetuating stereotypes of women as weak.

(Investing in Women 2019)

**Job restrictions make it harder for women to gain employment.** A total of 72 economies around the world have some form of job restrictions on women's work, for instance in industries such as mining, and construction, and in factories (World Bank 2021a). Women are prevented from entering professions which match their talents and interests, and consequently career progression is likely to be negatively affected.

## Marriage

The **Marriage** indicator assesses constraints related to marriage. Issues covered under this indicator are whether a woman is legally obliged to obey her husband, whether she can legally be the head of her household, as well as legislation on domestic violence, divorce, and the right to remarry.

**Basic restrictions on women's legal capacity in family and personal status law are the strongest predictor of women's economic agency** - measured by women's bank account ownership, women's firm ownership, female labour force participation, the share of

In 2000, Ethiopia made comprehensive changes to its family law, including issuing women authority to administer marital property, allowing women the right to work without their husbands' permission, and increasing the marriage age to 18 years. These changes had a markedly positive outcome on women's workforce participation in jobs that are likely to be better paid. The effect was stronger on young, single women, which suggests a strong effect from the increase in marriage age.

(Hallward-Driemeier and Gajigo 2013)

working women in the informal sector, and the gender pay gap (Htun et al. 2019). In countries where women predominantly work in the informal sector, labour laws and parental leave laws are likely to have less effect on women's lives than laws governing their marriage (Htun et al. 2019). Based on research from 143 economies, Gonzales et al. (2015) finds a negative relationship between restrictions placed upon women's rights within their households and women's labour force participation.

**A lack of legislation preventing and responding to domestic violence also hinders women's economic empowerment.** Women's performance at work may be compromised because of the physical and emotional impact of domestic violence. This happens, for instance, when an abusive partner follows the survivor to her place of work, uses work-related phone or computer technologies

to intimate, harass or control her, or prevents her from leaving home to go to work. Domestic violence intensifies gender inequalities in labour market participation (ILO 2019a).

## Parenthood

The **Parenthood** indicator examines laws that affect women's work after having children. It covers the provision and administration of paid maternity leave as well as legislation on paternity and parental leave and the treatment of pregnant workers. Positive scores are awarded to economies that mandate a minimum of 14 weeks of paid maternity leave and where the government administers 100 percent of maternity leave benefits. Positive scores are also awarded where paternity or parental leave are legally mandated and the dismissal of pregnant women is prohibited. Lastly, parental leave must be available to both parents.

**Parenthood is the indicator with the lowest score globally, with an average of 54.8 out of 100** (World Bank 2021a). Only 44 countries have paid parental leave, although this is likely to increase soon due a new European Union directive to rebalance parental leave and childcare responsibilities. Two LMICs reformed parental leave legislation during the period covered by the WBL 2021 index: Ethiopia increased paid maternity leave to 120 days and guaranteed 3 days paid paternity leave, whilst Suriname introduced paid parental leave for the first time, with 16 weeks maternity and 8 weeks paternity leave (World Bank 2021a).

The Manpower Law in Indonesia stipulates that maternity leave lasts for three months. During maternity leave, the employee is entitled to a full wage and medical reimbursement/insurance, as applicable, paid by the employer. Fathers are entitled to two days of paternity leave. Parental leave provisions enshrined in Indonesian law can act as a disincentive for employers to formally hire women because of the difference in maternity and paternity leave allocations, and because parental leave is paid by the employer.

(DFAT et al. 2017).

**The effects of laws around parental leave on women's economic empowerment are complex.** Maternity leave has been found to significantly increase female labour force participation and reduce gender gaps in earnings (Gonzales et al. 2015). However, longer periods outside the labour market risk reducing women's short-run earnings (Lalive and Zweimuller 2009; Gonzales et al. 2015). Improvements to maternity leave can contribute to employers discriminating against women, even where this is illegal (Gonzales et al. 2015; Chopra and Krishnan 2019). A focus on maternity leave without similar paternity leave provisions may reinforce the social norm around gendered division of care work, which can negate the positive impact of maternity leave and lead to lower female labour force participation (Chopra and Krishnan 2019).

**The balance between informal and formal work is important when advocating for parental leave to improve women's economic empowerment.** Parental leave legislation will only lower gender pay gaps where there is a substantial formal economy (Htun et al. 2019, p.195). Parental leave will have more limited impact on women's economic empowerment in LMICs where a majority of women work in the informal economy. Using data for 173 economies, Htun et al. (2019) find that access to paid parental leave is not a significant predictor of women's economic agency. However, when only observing countries with a smaller informal economy as well as relatively high levels of legal enforcement, they find that higher paid parental leave days are strongly correlated with a smaller



gender pay gap. Childcare is not currently part of the index, though the WBL 2021 report presents childcare as a new area of study.

### Entrepreneurship

The **Entrepreneurship** indicator assesses constraints to women starting and running a business. Captured under this indicator is legislation mandating non-discrimination in accessing credit as well as laws that govern women's ability to sign a contract, register a business, and open a bank account.

**Research has found that a lack of legislation ensuring women can sign a contract and open a bank account is associated with lower female labour force participation rates** (Gonzales et al. 2015). Women are unlikely to be able to access employment roles in the formal economy. Accessing credit is particularly important for women to start and invest in their own enterprise. The total finance gap for women-owned micro-, small- and medium-sized enterprises is estimated at \$1.7 trillion, over 6% of global Gross Domestic Product (IFC 2017a). Without being able

to formally access credit, women business owners may need to rely on family and social networks, or informal lenders with prohibitively high interest rates. Recent research indicates that providing financial literacy training alongside bank accounts positively impacts women's account ownership (Koomson et al. 2020).

**Restrictions around entrepreneurship impact on women in senior leadership roles and as business owners.** Laws that prevent women's access to credit are strongly correlated with a firm having a male owner and weakly positively correlated with the probability of a firm having a male in senior leadership (Islam et al. 2019, p.835). Laws that prohibit gender discrimination in opening a business are strongly positively correlated with the probability of a firm having a woman owner but have no significant impact on having a woman senior manager (Islam et al. 2019).

### Assets

The **Assets** indicator covers property ownership rights, inheritance rights (both for children and surviving spouses), authority of assets during marriage, and valuation of non-monetary contributions.

**Not having control of land or housing can deprive women from direct economic benefits.** Access to land rights encourages women to increase the productive use of their land assets. When women own land and property women experience greater financial security, access to formal credit, and can engage in self-employment such as farming or home-based work (UNHLP 2016). Evidence from Ghana found that secure land rights can improve efficiency in the allocation of resources, increasing women's business profits (Agyei-Holmes et al. 2020).

**More equal property and inheritance rights are associated with lower gender gaps in labour force participation** (Gonzales et al. 2015). Labour force participation gaps are halved in countries with full legal equality in inheritance (Gonzales et al. 2015). Equal property rights are also significantly correlated with higher numbers of women in senior leadership in businesses (Islam et al. 2019).

**Recognition of non-monetary contributions is important during the dissolution of marriage because it can grant women access to a share of the marital property.** Women are more likely to perform unpaid activities that benefit the household such as childcare or elder care. They typically have fewer

Unless an explicit prenuptial contract is signed, women in Eswatini continue to require their husband's approval and consent for many legal activities. The husband is the automatic administrator of a joint estate and over his wife's separate estate. Married women cannot sign contracts, represent themselves in civil suits, or register property in their own name without the assistance of her husband. This impacts a woman's ability to access credit and loans.

(OECD 2019).

monetised contributions than men, and so acquire fewer assets during marriage (World Bank 2019). In 30% of countries divorce laws do not recognise non-monetary contributions like unpaid care work, which hinders women's legal right to ownership over marital property (World Bank 2021b). If there is community of property, then there is implicit recognition of non-monetary contributions at the time of property division and benefit both spouses regardless of who purchased the property or holds the title. Marriage in community of property is the default Matrimonial Property Regime in South Africa.

### Inheritance Rights in India

In India, a legislative reform that granted unmarried daughters equal inheritance rights has been associated with a range of positive outcomes, including greater investment in girls' education, delayed age of marriage, increased financial inclusion, and more investment in sanitation.

Nonetheless, other studies have uncovered some unintended consequences of this reform. These include parents circumventing the law so that daughters will not receive an inheritance, higher female infant mortality and feticide, and a higher suicide rate driven by a rise in marital conflicts.

(World Bank 2021a)

**Customary laws may prevent women from owning assets in practice.** In some cases, customary practice means only a husband's name can be on a land use certificate even though women can legally jointly own the land (Nesbitt-Ahmed and MacLean 2017). In some countries, such as Cameroon, only the head of household (usually a man) can exert control over household finances such as accessing credit (Nesbitt-Ahmed and MacLean 2017).

### Pensions

The **Pensions** indicator captures the equalisation of retirement ages (with full and partial benefits as well as the mandatory retirement age) and whether periods of absence from employment due to childcare

are accounted for in pension benefits. With regards to legislation on retirement ages, the WBL index registers no discrimination if there is no explicit reference to gender.

In Cambodia and Vietnam, the statutory retirement age for men is 60, while women can retire five years earlier at the age of 55. This means that women receive lower monthly pension benefits because they have fewer years of work to accumulate contributions.

ILO (2019b)

**Women are more likely to live longer whilst having worked and contributed for fewer years and earned lower wages.** As a result of these socio-economic and demographic differences, the same pension policy may have different effects on men and women and pension reform can have important gender effects (James et al. 2012). Women are more likely to leave the job market for several years due to social norms around childcare, and during this time will not receive a pension. Women also tend to outlive men, and therefore will need to rely on a pension for longer. Therefore, gender neutral pension policies can in fact discriminate against women.

**Care-related pension contribution credits have some positive impacts on women's pensions.** These credits give pensions contributions based on time spent out of the labour market for childcare. For example, in some Latin American countries such as Bolivia, mothers now benefit from a pension credit equivalent to one year of contributions per child (UN Women 2015). While contribution credits can be a valuable tool to improve women's pension benefits, they are unlikely to close gender gaps in pension benefits on their own and should be part of a wider package of pension measures (UN Women 2015).

## 2.2 Laws with indirect effects on women’s economic empowerment

Some discriminatory laws may have an indirect effect on WEE, although there is limited evidence to draw on in the literature.

### Reproductive Health

**When women lack access to reproductive health services and cannot plan and space births, they are less able to contribute to household income and improve their wellbeing** (ICRW 2020). Some governments limit the availability of particular contraceptive methods, such as emergency contraception through their laws, policies and practices (WHO 2014). In a study drawing on evidence from United States, women’s participation in the workforce overall is decreased in states where abortion is illegal (IWPR 2019). According to the Center for Reproductive Rights, 24 countries do not permit abortion under any circumstances, 42 countries only permit abortion when a woman’s life is at risk, 51 countries only permit abortion based on health or therapeutic grounds,<sup>2</sup> 13 countries permit abortion under a broad range of socioeconomic circumstances and 73 countries permit abortion on request (Center for Reproductive Rights 2021). Women with disabilities are particularly likely to face legal and social barriers in accessing their sexual and reproductive health rights. These barriers can range from social norms infantilising women with disabilities (Addlakha et al. 2017) to forced sterilisation which is legal in some instances (Public Health Program 2011).

### Education

**Several countries have laws and policies that discriminate women and girls in accessing education, which affects their future labour market prospects.** Prior to 2017, in Saudi Arabia, women could only access government-provided education without the need of permission from a guardian and in 2021 the Taliban in Afghanistan announced that Afghan women can study in universities but not in the same room as men and will not be taught by male teachers, which restricts their ability to learn and network with peers (Mishra 2021). Even apparently gender-neutral laws and policies can—often due to social norms—result in out-of-school girls, such as those that do not provide goods and services targeting girls’ needs or that do not explicitly protect girls’ rights to make decisions about their bodies and life choices. These include laws and policies that allow child marriage, permit discriminatory school admission criteria, such as excluding pregnant girls, and restrict girls’ freedom of movement (OHCHR 2016).

## 2.3 Intersectionality

**Women are not a homogenous group, and even in the same country, they may face different legal discrimination due to differing identities.** Only 45 countries have anti-discrimination disability laws (UN DESA 2021), meaning that people with disabilities are often discriminated against in the labour market and elsewhere. As of 2019, there were 68 countries with laws that explicitly criminalise consensual sexual relations between partners of the same sex, including 11 where this is punishable by death (UN Women 2019). Some countries may also legally discriminate against ethnic minorities, whilst in others a decentralised government means that women’s rights vary across the country (whilst the WBL only reviews national laws). Religions, customs, and traditions often have discriminatory laws, whether official or unofficial social norms, attached to them, meaning that women from different

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<sup>2</sup> The World Health Organisation advises that countries permitting abortion on health grounds should interpret “health” to mean “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity”.

religions and customs need to adhere to further rules. Customary laws can directly affect women's access to finance, land rights, entrepreneurship and access to justice (Nesbitt-Ahmed and MacLean 2017). Without reforming laws for additional marginalised groups, many groups of women may be left out of the gains of discriminatory legal reform.

### 3. Lessons learned on how to eliminate legal barriers to WEE

Given extensive contextual differences, including in legal systems, social norms and religious beliefs, there is no single agreed understanding of how to eliminate discriminatory legal barriers worldwide (OHCHR 2017). Evidence on the lessons learned on how to eliminate legal barriers to WEE is weak. In particular, little evidence was found that disaggregates lessons learned according to stages of legal reform. However, some key enabling and constraining factors for eliminating legal barriers to WEE emerge in multiple reports (such as Hallward-Driemeier et al. 2013; European Parliament 2020; OECD et al. 2020; Htun et al. 2019), a combined list of which is drawn together in Section 3.1. This list of enablers and constraints casts light on lessons learned on how to eliminate legal barriers to women’s economic empowerment, but social norms can mediate the effect of legal reform, and vice versa.

Table 2 below indicates which enablers and constraints may be most relevant at each broad stage of legal reform. This is based on the authors’ own analysis based on evidence and examples found for each enabler and constraint. We use the same stages of reform as the Law and Justice Foundation.<sup>3</sup>

*Table 2: Stages of legal reform and key enablers/barriers (based on Law and Justice Foundation 2010 and authors’ analysis)*

<i>Stage of Legal Reform</i>	<i>Key Activities</i>	<i>Enablers</i>	<i>Constraints</i>
<b>Emergence</b> Everything leading up to law reform issue being placed on executive’s legislative agenda.	<ul style="list-style-type: none"> <li>• Initiation</li> <li>• Initial research and evidence building</li> <li>• Pre-consultations</li> <li>• Consultations</li> <li>• Activism</li> </ul>	<ul style="list-style-type: none"> <li>• Women’s Political Representation</li> <li>• Women’s Rights Organisations</li> <li>• International Conventions</li> <li>• Shifting Political and Economic Contexts</li> </ul>	<ul style="list-style-type: none"> <li>• Discriminatory traditions, customs and religious practices</li> </ul>
<b>Formulation</b> Once law reform issue on agenda, until legislation is enacted by parliament or the issue fails to pass parliament.	<ul style="list-style-type: none"> <li>• Formulation of draft legislation</li> <li>• Public consultation on draft legislation</li> </ul>	<ul style="list-style-type: none"> <li>• Women’s Political Representation</li> <li>• Women’s Rights Organisations</li> </ul>	<ul style="list-style-type: none"> <li>• Backlash on women’s rights</li> </ul>

<sup>3</sup> [Law and Justice Foundation - 2.3 How law reform occurs \(lawfoundation.net.au\)](https://www.lawfoundation.net.au/2010/02/23/how-law-reform-occurs/)

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<p><b>Implementation</b> From enactment of legislation until its review.</p>	<ul style="list-style-type: none"> <li>• Enforcement/compliance</li> <li>• Accountability mechanisms and demand</li> </ul>	<ul style="list-style-type: none"> <li>• Communication and awareness raising</li> <li>• Access to justice</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of official identification (ID)</li> <li>• Lack of funding</li> <li>• Opposing social norms</li> <li>• Discriminatory traditions, customs and religious practices</li> </ul>
<p><b>Review</b> From commencement of a review until legislation is amended, remade or repealed.</p>	<ul style="list-style-type: none"> <li>• Monitoring and review</li> </ul>	<ul style="list-style-type: none"> <li>• Strategic litigation</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of funding</li> </ul>

### 3.1. Key enablers for the elimination of discriminatory legal barriers

- **Women’s political representation:** Better women’s political representation increases the likelihood that discriminatory laws are removed (Hallward-Driemeier et al. 2013). In the Middle East and North Africa, women’s leadership has led to private sector initiatives in support of women’s economic empowerment (OECD et al. 2020). Quotas can be an important means to increase women’s political representation. Quotas for women in parliament in Rwanda, Nepal and Costa Rica have been followed by broader legal reforms to expand women’s rights (UN Women 2011).
- **Women’s Rights Organisations:** Throughout history, Women’s Rights Organisations (WROs) have played a crucial role in eliminating legal barriers to WEE. Recently, WROs have been playing a key role in the ratification of the ILO Convention No. 190 (C190), an international treaty on violence and harassment in the world of work. In Fiji, after a 2016 study found that 1 in 5 women had experienced sexual harassment in the workplace, the Fiji Women’s Rights Movement initiated the ‘Not OK: Stop Sexual Harassment’ campaign which included publishing and disseminating infographic posters and resources on stopping sexual harassment (Centre for Women’s Global Leadership 2021). This campaign was part of a successful lobby of the Fijian government to ratify ILO Convention 190. At the time of writing, Fiji was one of only ten countries globally where C190 is ratified (ILO 2022).
- **Building the Evidence Base and Better Data:** Building the evidence base is crucial for advocating for discriminatory legal reform, including on women’s economic empowerment. The Women Business and Law data and report have been critical in increasing the focus on particular laws, setting expectations and increasing pressure on governments. However, there is still a lack of gender-disaggregated data on key women’s economic empowerment outcomes such as women in informal employment, entrepreneurship and unpaid work (Data 2X 2020). WROs and other Civil Society Organisations (CSOs), as well as donor funded programmes, can play a key role in gathering data to be used for advocacy and monitoring implementation. The Sustainable Development Goals have also acted as a lever to gather data. Well-timed and evidence-based advocacy campaigns have the potential to eliminate discriminatory laws (OECD et al. 2020).
- **International Conventions:** International conventions on women’s rights can put peer pressure countries to reform discriminatory laws. Hallward-Driemeier et al. (2013) find that the average pace of legal reform is almost double within the first five years after Committee on the Elimination of Discrimination against Women (CEDAW) ratification compared with fifteen years prior to CEDAW ratification, and this positive effect was stronger in countries with lower incomes. Ratification itself is strongly correlated with international events such as the 1985 Nairobi Third World Conference and the 1995 Beijing Fourth World Conference on Women. The ILO Convention No. 190 provides an international treaty to address violence and harassment in the world of work, and at the time of writing has been ratified by ten countries (ILO 2022). The Convention was adopted in June 2019 and came into force on 25 June 2021.
- **Shifting Social Norms:** Social norms often need to be shifted in line with more egalitarian laws. At times, social norms may change first whilst laws catch up with society, and at other times law reform may precede social norms. The WBL report (World Bank 2021a) suggests that usually legal reforms come before social norms change and improvements in women’s economic opportunities and outcomes, with egalitarian laws often a necessary condition for social norm change (Htun et al. 2019). Understanding of how social norms interact with legal reform is crucial in understanding compliance to the law.

Laws that are in strong conflict with social norms may lead to more law breaking, whereas gradually changing laws may be more effective as they change social norms with them. Acemoglu

and Jackson (2014) find that whether laws are adhered to depends partly on social norms. Particularly where resources for authorities to enforce the law are low, enforcement depends on some level on whistleblowing. Where laws are in opposition to social norms, people are less likely to whistle-blow on lawbreakers. Progressive step changes in laws may have a ‘magnet effect’, by changing social norms along with legal reform (Aldashev et al. 2012). Promising approaches to shift social norms, which may then lead to legal reform, include community-, school- and workplace-based education on gender equality, equal care roles and the prevention of violence; the use of mass and social media to build momentum for norm change; and the development of good quality, affordable childcare services (Harper et al. 2020).

- **Shifting Political and Economic Contexts:** These shifts often accelerate discriminatory legal reform. Labour shortage in male-dominated industries or a recognition of the economic benefits of higher female labour force participation are some of the main reasons for lifting restrictions prohibiting women from entering certain professions (European Parliament 2020). Wars, government transitions, and the increasing role of technology can also often cause governments to reform discriminatory laws.
- **Communications and awareness raising:** People who are affected by the reform should have information and be aware of the issues and need for reform. Where governments do not communicate the reform, WROs and other CSOs can play a key part in ensuring women understand their economic rights and how to claim them. Communications and awareness raising of reforms should be done in a gender-responsive way, ensuring that information is disseminated using communications channels which women use. For example, women may be more likely to listen to the radio rather than watch television or read newspapers, or have access to digital technologies.
- **Access to justice:** At the enforcement stage access to justice (e.g. access to courts or complaints procedures in the workplace) is critical to translating formal laws into real outcomes. In many countries there is a ‘justice gap’ whereby women are less able than men to access justice (World Bank 2021a). Common factors limiting access to justice are affordability, cumbersome procedures, and lack of awareness of rights. These are compounded by gendered factors such as lower literacy rates, lower incomes, lower mobility, and less extended digital and social networks. If women cannot claim and enforce their rights, discriminatory legal reform will have limited impact on their economic activity.
- **Strategic litigation:** Strategic litigation can contribute to legal reform or the enforcement of existing laws. Successful cases of strategic litigation (which lead to reviews to improve legal rights for women) are often accompanied by advocacy initiatives and involve multiple stakeholders such as victims, lawyers, judicial operators, government authorities, CSOs, United Nations entities, donors, academics, journalists, politicians, artists, etc. (UN OHCHR 2019).<sup>4</sup> Strategic litigation often depends on sustained multi-year funding from donors.
- **A focus on implementation:** in addition to addressing inconsistencies in the laws themselves, to generate greater economic opportunities for women it is crucial to ensure that legal reforms are fully implemented. Implementation requires allocating sufficient human and financial resources to implementing bodies, sound mechanisms to monitor implementation, coordinating with civil society and other regional/international organisations and mainstreaming gender throughout policy areas, including gender budgeting (OECD 2018).

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<sup>4</sup> Advocacy initiatives could involve media campaigns or social activism programmes.



- **Family and personal status laws:** in LMICs there should be a balance on reducing gender discrimination in labour codes and equitable parental leave for mothers and fathers (which affect women already working in the formal economy) with eliminating restrictions on women's legal capacity embedded in family and personal status laws. This is because in LMICs there are large numbers of women working in the informal economy, for whom labour laws and parental leave laws have less relevance than marriage laws (Htun et al. 2019).

### 3.2. Key constraints to the elimination of discriminatory legal reforms

- **Lack of official ID:** When women and girls do not have IDs, they are unlikely to be able to claim their legal rights. Women and girls face more and higher barriers to being registered at birth and obtaining IDs (Hanmer and Dahan 2015). Without official ID, in many countries they are not able to open bank accounts, register land and property, claim inheritance rights, access social protection, access the justice system, access formal jobs or exercise basic citizenship rights such as voting (Hanmer and Dahan 2015).
- **Lack of public funding:** At the law emergence stage, funding is needed to gather evidence and fund activism to raise awareness of the issue and ensure the legal reform is on the agenda. Funding is a key problem for strategic litigation (UN OHCHR, 2019). At the law enforcement stage, authorities may not have the resources to enforce laws and, especially when on a low salary, may be susceptible to corruption from wealthy elites. Where the rule of law is weak, laws shaping women's economic agency may not have much effect and women may have more or less freedom than the law intends (Htun et al. 2019).
- **Discriminatory traditions, customs and religious practices:** these are particularly prevalent around family law such as marriage and divorce and makes them particularly difficult to reform. Religious and traditional leaders often frame family law as a matter of national and cultural identity. They claim that family law reform touches upon the status of religious and cultural groups, the public standing of religion, and other aspects of religion–state relations, and resist its reform to defend the status quo in these other areas (Htun et al. 2019). Consequently, some countries, for example Israel, reform some discriminatory laws such as workplace laws, but resist reforming family laws (Htun et al. 2019).
- **Backlash against women and girls' rights:** Moderate step changes in discriminatory legal reform may be more effective than more sudden reforms as they are less likely to be subject to backlash against women and girls' rights (Aldashev et al. 2012). Backlash against women's rights has become more vocal, global and better organised in recent years (Roggeband and Krizsán 2020). Backlash is occurring at the national level by grassroots men's groups and political actors, as well as at the international level in multilateral fora. For example, rollback of women's rights has been attempted over the past few years in fora such as European Parliament, United Nations Commission on the Status of Women and the UN Human Rights Council (Birchall 2020). With enough support from mainstream society, conservative backlash could hinder discriminatory legal reform.

## 4. Examples of interventions that have proved effective in eliminating legal barriers to WEE

The following examples have been selected to provide an overview of how legal barriers can be eliminated in various contexts. Most of the literature focuses on barriers to full and equal participation in the workforce and asset ownership, with relatively few concentrating on enterprise ownership and work-related decisions. Fewer examples were found on communication and awareness raising, enforcement/compliance and monitoring/accountability mechanisms and demand.

### 1. The role of CSOs and religious groups in reforming discriminatory laws in Tunisia

Civil society played a key role in the reform of discriminatory laws in Tunisia:

- In 2014, WROs worked across political party lines and historical divisions between Islamic and secular women's rights groups to establish the National Dialogue for Women. An inclusive platform where women could express their demands for the new constitution, being debated at the time.
- WROs broadcast the proceedings from the constitutional assembly via social media to increase transparency.
- The Individual Freedoms and Equality Commission (COLIBE), composed of scholars, lawyers and feminists made recommendations on a draft bill in 2018 to change discriminatory inheritance laws. Islamic feminists argued that inheritance laws needed to keep up with changes in family life where men were often no longer the sole breadwinners.

#### Changes to the law:

- In 2018, Tunisia became the first country in the Arab region to legislate equal inheritance rights between men and women.
- WROs spread awareness of sexist language in the draft constitution, putting pressure on parliament and resulting in more egalitarian language.
- The Law on Eliminating Violence Against Women has been passed. This repealed the penal code provision that allowed a rapist to escape punishment if they married their victim.
- As part of the new constitution, Muslim women are now legally permitted to marry non-Muslims.

(UN Women 2019; Tamaru et al. 2018)

Stage of Legal Reform: Emergence / Formulation

## 2. The reform and implementation of ‘the Gender Acts’ in Sierra Leone

In 2007, the CEDAW Committee recommended the prioritisation of the enactment of gender equality legislation to the Sierra Leone Government. In addition to mounting international pressure due to the CEDAW recommendation, the government wanted to appeal to women voters before the upcoming national Parliamentary elections. Sierra Leone passed three significant pieces of legislation, known collectively as the “Gender Acts” on the back of the CEDAW Committee recommendation.

- The Devolution of Estates Act (DEA) (2007) which promotes equal inheritance rights.
- The Domestic Violence Act (DVA) (2007) which obligates the state to protect victims of domestic violence and defines violence to encompass marital rape.
- The Registration of Customary Marriage and Divorce Act (RCMDA) (2009) which requires consent from both parties to the marriage and sets the minimum age for marriage at 18.

### Implementation successes

- The DEA specifically refers to privately owned land, but in some instances the law has also been observed on customary land.
- Public recognition of domestic violence as a crime has increased due to public information campaigns on the DVA.
- There are examples of expanded access to the RCMDA register partly as a result of promotional exercises on International Women’s Day.
- Women are more aware of the benefits of marriage registration such as increased security in the home and greater protection after the husband’s death.

### Implementation challenges

- For many women and children customary law is more accessible than formal justice institutions. None of the Gender Laws provide guidance on the roles of Customary and Traditional Leaders, or of the Local Courts.
- Due to social norms, male relatives frequently attempt to bypass the DEA and dominate inheritance decision making processes.
- GBV survivors are often encouraged towards mediation rather than prosecution. No risk assessments are made for the personal safety of survivors.
- Despite efforts to expand access, RCMDA registration rates are low. For example, from 2009 to 2017, the Freetown City Council recorded only 259 customary marriage registrations and 130 divorce registrations.
- There are high regional variations in the way the RCMDA is implemented, with differences in fees and requirements.
- The RCMDA states that the legal age for marriage is 18 years of age; but marriages can be arranged for ages less than 18 if the parents or a Magistrate give consent. This contradicts the Sierra Leone Child Rights Act 2007.

(Bond 2014; Irish Working Group on Gender Based Violence 2018)

Stage of legal reform: Formulation / Implementation

### 3. Implementation of women's land rights through the UK funded Land Investment for Transformation (LIFT) programme in Ethiopia

The Ethiopian Constitution accords women equal rights with men regarding the use, transfer, administration, and control over land, the inheritance of property and the disposition of marital property. Under the family code, spouses' personal property shall remain their own unless they decide otherwise. However, most property in Ethiopia is acquired by inheritance under customary rather than constitutional rules, which tend to favour male heirs due to social norms. Therefore, in reality, the family code combined with customary practices often leads to sole ownership of property by husbands. Women in male-headed households can lose their land rights during marriage, divorce or widowhood. Female headed households often face land encroachment due to a lack of male protection. Polygamous marriages pose further challenges.

The UK-aid funded LIFT programme (2014 – 2021) supported the Government of Ethiopia's efforts to implement land rights legislation. It developed several responses to address these challenges:

- Introducing a Social Development Officer (SDO) role in response to women's lack of access to land certification information and low participation in the certification process. SDOs were available in each *woreda* and responsible for increasing women's awareness of the programme. SDOs also strengthened the gender-related capacity of the field teams through training and technical support.
- LIFT proposed two options for land registration for polygamous marriages. Either the husband chooses one wife to register as a joint land holder while the co-wives are registered independently with equal shares, or all wives and the husband are registered separately with an equal share of the land size.

A mixed-methods study found that the combination of different strategies, coupled with enabling conditions (such as a positive legislative framework, strong institutional support, sufficient financial resources, and time), helped to achieve improved land tenure security for women in the LIFT programme *woredas* (districts). Out of the 7.1 million certified land parcels considered for the study, 77% listed women either as joint (55%) or as individual (22%) land holders. A total of 62% of land in programme *woredas* is under joint holding, while 16% and 21% of registered land belongs to individual holding for male and female, respectively.

(Mekonen et al. 2019)

Stage of legal reform: Implementation

#### **4. The role of the private sector in responding to unpaid care work in Turkey**

As per Article 74 of Labour Law No. 4857, female employees are allowed one and a half hours nursing leave a day to feed children under the age of one. As part of the “Work Conditions of Pregnant or Nursing Women, Lactation Rooms and Child Care Units Article 13”, a lactation room must be provided by the employer who employees between 100-150 women and a day-care centre for children aged 0-6 years old must be established for companies with over 150 women workers.

Established in 1944 as an iron-steel producer, Borusan is one of Turkey’s leading industrial conglomerates. Going beyond statutory requirements, Borusan has put in place breastfeeding and lactation rooms at all Group locations, regardless of the number of female employees. Borusan provides its employees with breaks for breastfeeding and additional flexibility of using this entitlement to take one day off per week, instead of daily breaks. The Group’s activities on childcare are geared to keeping employee satisfaction high, and facilitating women’s participation in the labour market a sector that accounts for only 16% of female employment across the country. As a result of this policy and others, the company has seen greater retention and ability to attract the right talent, including women, as well as reputational gains and enhanced relations with various stakeholders.

The obligation to establish a day-care centre has been fulfilled by few businesses in Turkey as most of them are small and medium-sized enterprises with fewer than 150 women employees.

IFC (2017b); ILO (2021)

Stage of legal reform: Implementation

### 5. An Accountability Mechanism for Migrant Workers in Thailand

Migrant workers, particularly women, often do not have effective mechanisms to address unequal and discriminatory practice in their country of work. Since 2011, the **ILO's TRIANGLE in ASEAN programme**, funded by Australia Government Department of Foreign Affairs (DFAT) and Canada, has supported the operation of Migrant Worker Assistance Centres (MWACs) in Cambodia, the Lao People's Democratic Republic, Malaysia, Myanmar, Thailand, and Vietnam. Legal assistance, advice and counselling is provided to migrant workers, as well as provision of emergency shelter and coordination of case referrals. MWACs support migrants to seek redress for recruitment and employment abuses, and access available social protection benefits.

In Thailand, 10 MWACs were established in 2016. From 2017 - 2019, a total of 124,515 migrant workers (40% women) sought support from the MWACs. Roughly 60% of clients sought general counselling advice and legal assistance, and 38% had recruitment and employment-related requests.

The MWACs were assessed to be an effective and impactful accountability mechanism for migrant workers in Thailand as they have enhanced access to information, services and assistance in an accessible and approachable manner. However, the ILO assessment also made several recommendations, including:

- Develop gender-sensitive procedures to address the differing needs of men and women migrant workers. Thai law includes a provision on non-discrimination of female workers, but the MWACs do not have a clear strategy on how to enforce compliance.
- MWACs should add outreach activities into their action plan and programme each year to create better links with CSOs and government departments. Adequate funding should be allocated to MWACs and CSOs for them to strengthen their coordination.

(ILO 2017c; ILO 2020)

Stage of legal reform: Implementation

**6. Rono v. Rono: Strategic litigation for women's inheritance rights in Kenya**

In 2005, a man in Kenya died without a will leaving two widows. The first wife had three sons and two daughters whilst the second wife had four daughters. The Kenyan High Court awarded a greater percentage of the estate to the household that included sons on the grounds that the daughters would eventually marry and receive assets from their new families. This ruling was based on customary law.

During an appeal process, the Court of Appeal overturned the High Court's decision. The Court of Appeal found that the unequal inheritance distribution violated the Constitution's prohibition against sex discrimination in accordance with CEDAW and other international law. It was ruled that the property should be divided equally amongst the wives and children. The WOW Helpdesk team could not find any evidence that advocacy initiatives contributed to this outcome.

This case of strategic litigation has set a precedent on women's inheritance rights in Kenya. Since 2005, further inheritance cases based on customary law have been ruled by the Court of Appeal to be discriminatory, and decisions have been reversed to uphold women's inheritance rights.

(UN Women 2017)

Stage of legal reform: Review

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## Annex 1: Example of how the WBL index is constructed, Ecuador, 2021 snapshot<sup>5</sup>

Indicator	Question	Ecuador Example of scoring	
		Answer	Indicator Score (out of 100)
Mobility	1. Can a woman choose where to live in the same way as a man?	Yes = 1	100
	2. Can a woman travel outside her home in the same way as a man?	Yes = 1	
	3. Can a woman apply for a passport in the same way as a man?	Yes = 1	
	4. Can a woman travel outside the country in the same way as a man?	Yes = 1	
Workplace	1. Can a woman get a job in the same way as a man?	Yes = 1	100
	2. Does the law prohibit discrimination in employment based on gender?	Yes = 1	
	3. Is there legislation on sexual harassment in employment?	Yes = 1	
	4. Are there criminal penalties or civil remedies for sexual harassment in employment?	Yes = 1	
Pay	1. Does the law mandate equal remuneration for work of equal value?	Yes = 1	100
	2. Can a woman work at night in the same way as a man?	Yes = 1	
	3. Can a woman work in a job deemed dangerous in the same way as a man?	Yes = 1	
	4. Can a woman work in an industrial job in the same way as a man?	Yes = 1	
Marriage	1. Is there no legal provision that requires a married woman to obey her husband?	Yes = 1	100
	2. Can a woman be head of household in the same way as a man?	Yes = 1	
	3. Is there legislation specifically addressing domestic violence?	Yes = 1	
	4. Can a woman obtain a judgment of divorce in the same way as a man?	Yes = 1	
	5. Does a woman have the same rights to remarry as a man?	Yes = 1	
Parenthood	1. Is paid leave of at least 14 weeks available to mothers?	No = 0	40
	2. Does the government administer 100% of maternity leave benefits?	No = 0	

<sup>5</sup> This is the same example as used in the WBL 2021a.

	3. Is paid leave available to fathers?	Yes = 1	
	4. Is there paid parental leave?	No = 0	
	5. Is dismissal of pregnant workers prohibited?	Yes = 1	
Entrepreneurship	1. Does the law prohibit discrimination in access to credit based on gender?	No = 0	75
	2. Can a woman sign a contract in the same way as a man?	Yes = 1	
	3. Can a woman register a business in the same way as a man?	Yes = 1	
	4. Can a woman open a bank account in the same way as a man?	Yes = 1	
Assets	1. Do men and women have equal ownership rights to immovable property?	Yes = 1	100
	2. Do sons and daughters have equal rights to inherit assets from their parents?	Yes = 1	
	3. Do male and female surviving spouses have equal rights to inherit assets?	Yes = 1	
	4. Does the law grant spouses equal administrative authority over assets during marriage?	Yes = 1	
	5. Does the law provide for the valuation of nonmonetary contributions?	Yes = 1	
Pension	1. Is the age at which men and women can retire with full pension benefits the same?	Yes = 1	100
	2. Is the age at which men and women can retire with partial pension benefits the same?	Yes = 1	
	3. Is the mandatory retirement age for men and women the same?	Yes = 1	
	4. Are periods of absence due to childcare accounted for in pension benefits?	Yes = 1	
	WBL Economy score		<b>89.4</b>

Replicated from WBL 2021 Table 1.1. (World Bank, 2021a p.4)