



Data Notes

Women, Business and the Law highlights legal gender differences worldwide. Specifically, the report examines laws and regulations that affect women's ability to be entrepreneurs and employees. Legislation can affect women's economic potential directly and indirectly. Thus, the indicators covered in the report capture both laws that directly differentiate between men and women and laws that indirectly have a greater impact on women's ability to earn an income, start a business or get a job. The *Women, Business and the Law* project worked with contributors in each of the economies covered to determine the sources of gender differentiation in the law. Data from the surveys were checked for accuracy by referencing primary legal sources to revise or expand the information collected. The data was collected over a two-year period that ended in April 2015.

With regard to women's rights, different economies reflect different cultural norms and values in their legislation. Though there has been progress toward gender parity, restrictions that limit women's prospects as entrepreneurs and employees remain. This report provides objective, easily comparable data to inform dialogue and research about women's economic rights and opportunities.

Covering 173 economies, *Women, Business and the Law* provides comparable data on the following seven areas:

- **Accessing institutions** explores women's legal ability to interact with public authorities and the private sector in the same ways as men.
- **Using property** analyzes women's ability to access and use property based on their ability to own, manage, control and inherit it.
- **Getting a job** assesses restrictions on women's ability to work, such as prohibitions on working at night or in certain occupations. This indicator also covers laws on work-related maternity, paternity and parental benefits, retirement age, equal remuneration for work of equal value and nondiscrimination in hiring.
- **Providing incentives to work** examines personal income tax credits and deductions available to women relative to men and the provision of childcare and education services.

- **Building credit** identifies the minimum loan thresholds of private credit bureaus and public credit registries and tracks bureaus and registries that collect information from microfinance institutions, utilities and retailers.
- **Going to court** considers the ease and affordability of accessing justice by examining small claims courts, women's ability to testify in court and the incidence of women judges on constitutional courts.
- **Protecting women from violence** examines the existence of legislation on domestic violence, sexual harassment, marital rape, age of marriage and protection orders.

Since the publication of *Women, Business and the Law 2014* there have been methodological changes in the seven indicators, both in the number of questions covered and in the way the previously existing questions were analyzed. The principal methodological changes are summarized at the end of this chapter and new questions are footnoted throughout the text.

Economy coverage and characteristics

The economies covered in this report are listed in table 4.1.

This report is global in scope. It builds on the experience of the *Doing Business* project in developing objective indicators of impediments to entrepreneurship and employment by applying specific analysis to conditions for women. *Doing Business* analyzes regulations in 189 economies that apply to a business throughout its life cycle, including start-up and operations, trading across borders, paying taxes and resolving insolvency. As in the *Doing Business* project, *Women, Business and the Law* uses formal laws as a starting point for analysis.

The report's indicators were constructed using responses from expert country practitioners in family, labor and criminal law: including lawyers, judges, academics and members of civil society organizations working on gender issues. The data were collected through several rounds of interaction with these respondents, including standardized questionnaires, conference calls, written correspondence and visits by the team.

Besides filling out written questionnaires, *Women, Business and the Law* respondents provide references to the relevant

TABLE 4.1

ECONOMIES COVERED BY *WOMEN, BUSINESS AND THE LAW 2016*

Region	Number of economies	Economies by region
East Asia & Pacific	18	Brunei Darussalam; Cambodia; China; Fiji; Hong Kong SAR, China; Indonesia; Lao PDR; Malaysia; Mongolia; Myanmar; Papua New Guinea; Philippines; Singapore; Taiwan, China; Thailand; Timor-Leste; Tonga; Vietnam
Europe & Central Asia	23	Albania; Armenia; Azerbaijan; Belarus; Bosnia and Herzegovina; Bulgaria; Croatia; Georgia; Kazakhstan; Kosovo; Kyrgyz Republic; Latvia; Lithuania; Macedonia, FYR; Moldova; Montenegro; Romania; Russian Federation; Serbia; Tajikistan; Turkey; Ukraine; Uzbekistan
OECD high income	32	Australia; Austria; Belgium; Canada; Chile; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Iceland; Ireland; Israel; Italy; Japan; Korea, Rep.; Luxembourg; Netherlands; New Zealand; Norway; Poland; Portugal; Slovak Republic; Slovenia; Spain; Sweden; Switzerland; United Kingdom; United States
Latin America & Caribbean	32	Antigua and Barbuda; Argentina; Bahamas, The; Barbados; Belize; Bolivia; Brazil; Colombia; Costa Rica; Dominica; Dominican Republic; Ecuador; El Salvador; Grenada; Guatemala; Guyana; Haiti; Honduras; Jamaica; Mexico; Nicaragua; Panama; Paraguay; Peru; Puerto Rico (U.S.); St. Kitts and Nevis; St. Lucia; St. Vincent and the Grenadines; Suriname; Trinidad and Tobago; Uruguay; Venezuela, RB
Middle East & North Africa	19	Algeria; Bahrain; Djibouti; Egypt, Arab Rep.; Iran, Islamic Rep.; Iraq; Jordan; Kuwait; Lebanon; Malta; Morocco; Oman; Qatar; Saudi Arabia; Syrian Arab Republic; Tunisia; United Arab Emirates; West Bank and Gaza; Yemen, Rep.
South Asia	8	Afghanistan; Bangladesh; Bhutan; India; Maldives; Nepal; Pakistan; Sri Lanka
Sub-Saharan Africa	41	Angola; Benin; Botswana; Burkina Faso; Burundi; Cameroon; Chad; Congo, Dem. Rep.; Congo, Rep.; Côte d'Ivoire; Equatorial Guinea; Ethiopia; Gabon; Ghana; Guinea; Kenya; Lesotho; Liberia; Madagascar; Malawi; Mali; Mauritania; Mauritius; Mozambique; Namibia; Niger; Nigeria; Rwanda; São Tomé and Príncipe; Seychelles; Sierra Leone; Senegal; South Africa; South Sudan; Sudan; Swaziland; Tanzania; Togo; Uganda; Zambia; Zimbabwe

laws and regulations. The *Women, Business and the Law* team collects the texts of relevant laws and regulations and checks questionnaire responses for accuracy. Questionnaire responses are verified against codified sources of national law, including constitutions, marriage and family codes, labor laws, passport procedures, citizenship rules, inheritance statutes, tax regulations, land laws, gender equality laws, civil procedure rules, electoral laws, social security codes, criminal laws and laws on violence against women. *Doing Business 2016* surveys were also used to develop some of the questions in the building credit indicator.

Women, Business and the Law requires each legal data point to have a citable legal source, and to ensure transparency of the data the source is provided for every data point on the project website (wbl.worldbank.org). The website also provides more detailed data on each economy, with links to the legal sources used.

The report team welcomes feedback on the methodology and construction of the indicators with the hope of improving both its coverage and scope. Feedback on all aspects of the report can be offered through the project website.

The *Women, Business and the Law* methodology has several useful characteristics:

- It is transparent and uses factual information derived directly from laws and regulations.
- Because the assumptions used when collecting the data are standardized, comparisons are valid across economies.
- The data identify both potential obstacles to women in business and legislative sources that can be changed as a result of the new information.

While *Women, Business and the Law* focuses on written laws, there is often a large gap between law on the books and actual practice. Thus, women do not always have access to the equality they are legally entitled to. What this project attempts to do, however, is to identify areas where there is still formal legal differentiation and clarify how these legal differences affect women.

The following 142 questions were asked about the seven main topics for 173 economies, producing a total of 24,566 data points. Each question is followed by information on how the answers were standardized and made comparable across all economies. Any assumptions are also listed.

ECONOMY CHARACTERISTICS

Gross national income per capita

Women, Business and the Law 2016 reports 2014 income per capita as published in the World Bank's World Development Indicators 2015. For cost indicators expressed as a percentage of income per capita, 2014 gross national income (GNI) Atlas method in current U.S. dollars is used as a denominator. GNI data based on the Atlas method were not available for Austria; Bahrain; Barbados; Belize; Brunei Darussalam; Czech Republic; Djibouti; Finland; the Islamic Republic of Iran; Jamaica; Kuwait; Luxembourg; Malta; New Zealand; Oman; Papua New Guinea; Puerto Rico (U.S.); Saudi Arabia; Slovak Republic; Slovenia; Spain; Suriname; Switzerland; the Syrian Arab Republic; Taiwan, China; Trinidad and Tobago; Tunisia; West Bank and Gaza; and the Republic of Yemen. In these cases GDP or GNP per capita data and growth rates from other sources, such as the International Monetary Fund's World Economic Outlook database and the Economist Intelligence Unit were used.

Region and income group

Women, Business and the Law uses the World Bank regional and income group classifications, available at <http://data.worldbank.org/about/country-and-lending-groups>. Regional averages presented in figures and tables in the *Women, Business and the Law* report include economies from all income groups (low, lower middle, upper middle and high income), though high income OECD economies are assigned the "regional" classification OECD high income.

Female population and labor force participation rate

Women, Business and the Law 2016 reports midyear 2014 female population data as published in the World Bank's World Development Indicators 2015. That publication was also used to obtain data on the female labor force participation rate, as percentage of the female population age 15–64.

Using property

Assumptions

It is assumed that the woman

- Resides in the economy's main business city.
- Has reached the legal age of majority and is capable of making decisions as an adult; if there is no legal age of majority, the woman is assumed to be 30 years old.
- Is sane, competent, in good health and has no criminal record.
- Is a lawful citizen of the economy being examined.
- Where the question assumes that the woman or man is unmarried, she or he has never been married.
- Where the question assumes that the woman or man is married, the marriage is monogamous and registered with the authorities.
- Where the question assumes that the woman or man is married, the marital property regime under which she or he is married is assumed to be the default marital property regime, and it is also assumed that the marital property regime will not change during the course of the marriage.
- Where the answer differs according to the legal system that applies to the woman—as may occur in economies where legal plurality exists—the answer used will be the one that applies to the majority of the population.

The answers to these questions are based on the law as codified in the main business city and not the practice of that law. Therefore, customary law is not taken into account unless it has been codified. Social or cultural norms are also not taken into account.

The questions for the using property indicator are designed to determine what management and control of marital property looks like in the default marital property regime in each economy covered. For all questions relating to the ability of married women to carry out activities independently of their husbands, the key concern is reciprocity. Unequal treatment is counted only where a married man can carry out the activity, and his wife is not able to do so equally.

Marital property regime

The main areas of differentiation between women and men in exercising property rights lie in the rights granted under various marital property regimes: Some of these grant spouses equal treatment in property ownership. Other regimes grant husbands administrative control over jointly owned marital property. Still others grant husbands administrative control over their wives' property. The marital property regime also determines

property ownership and administrative rights when a marriage is dissolved.

Women, Business and the Law identifies the main characteristics of the default marital property regime by asking two questions:

25. What is the default marital property regime?

- **The default marital property regime** is the set of rules that apply to the ownership and management of property within marriage and when the marriage ends, when there is no prenuptial agreement. Default marital property regimes are classified as follows:
- **Separation of property:** All assets and income acquired by the spouses both before they marry and during the marriage remain the separate property of the acquiring spouse. At the time of divorce or the death of one of the spouses, each spouse retains ownership of all assets and income brought to the marriage or acquired during marriage by that person and any value that has accrued to that property.
- **Partial community of property:** Assets acquired before marriage are regarded as the separate property of the acquiring spouse, and assets and income acquired after marriage, with a few exceptions specified by law, are regarded as joint property of the couple. This regime also applies to cases where assets acquired before marriage and assets acquired during marriage are regarded as the separate property of the acquiring spouse but the accrued value of the property acquired by any of the spouses is considered joint property. At the time of dissolution of the marriage by divorce or death, the joint property or its accrued value is divided equally between the spouses.
- **Full community of property:** All assets and income whether brought into the marriage and acquired during the marriage, with a few exceptions specified by law, become the joint property of the couple. If the marriage is dissolved, all joint property is divided equally between the spouses.
- **Deferred full or partial community of property:** The rules of full or partial community of property apply at the time the marriage is dissolved; until then, separation of property applies.
- **Other:** This occurs in economies where the default property regime does not fit any of the four descriptions above.
- **There is no default marital property regime:** This alternative applies in economies where the law requires the spouses to opt into the marital property regime

of their choice—with legal alternatives provided—before or at the time of marriage. In economies where there is no default marital property regime, the most common regime is used instead.

26. Who legally administers marital property?

The answer to this question assumes that the default marital property regime applies and is classified as follows:

- **Original owner:** Each spouse retains administrative power over the assets he or she brings into or acquires during the marriage and their accrued value. No consent is needed from the other spouse for transactions in separate property. This administrative scheme is usually found in separation of property regimes and can also be found in deferred full or partial community regimes. It does not cover special provisions concerning the marital home.
- **Separate with spousal consent:** Each spouse administers his or her separate property but for major transactions needs spousal consent. This administrative scheme is mostly found in separation of property regimes but can also be found in deferred full or partial community and in partial community regimes.
- **Both must agree:** Both spouses have equal rights in administration and transaction of joint property; they perform all acts of administration together and, if one of the spouses has been delegated administrative rights by the other, spousal consent is implied. This administrative scheme is mostly seen in full and partial community property regimes.
- **Husband:** The husband has administrative rights over all property, including any separate property of the wife. This scheme is found only in partial community regimes.
- **Other:** This alternative applies wherever the administrative scheme does not fit into any of the previous categories. It includes, for example, cases in which in principle the law provides for both spouses to administer marital property but if they disagree, either the husband is given the power to ultimately decide, or other members of the family have a say in how the property is administered. Where there is disagreement on how to administer marital property, a court may decide.

Protecting a wife's interests

This subtopic focuses on two areas: (1) legal provisions that limit transactions concerning major assets; and (2) legal recognition of married women's nonremunerated contributions. The related questions are:

27. If the husband administers property, is spousal consent required for major transactions?

- This question is designed to measure whether the law sets limits to the administrative rights granted to the husband over property to prevent deterioration that may be detrimental to the wife.
- The answer is "Yes" where the law requires the wife to give consent to any major transaction in property the husband administers, such as selling or pledging the property as collateral.
- The answer is "No" where there is no legal requirement for the wife to consent to transactions performed by the husband in the property he administers.
- The answer is "N/A" where the husband does not solely administer marital property.

28. Are there special provisions for major transactions concerning the marital home?

- This question is designed to measure specific legal protections concerning the marital home, regardless of the default marital property regime.
- The answer is "Yes" where the law has provisions related to administration of the marital home, such as a requirement that both spouses agree to any major transaction involving the home, including selling or pledging it as collateral, or that the court will intervene when the spouses disagree. Such provisions are particularly relevant where separation or deferred full or partial community are the default regimes.
- The answer is "No" if the general rules on transactions related to property within marriage are followed.

29. Does the law provide for valuation of nonmonetary contributions?

- This question is designed to measure if, at the time a marriage is dissolved, the division of property benefits both spouses. The process of dividing property upon divorce is examined to identify whether caring for minor children, taking care of the family home, or any other nonmonetized contribution from the stay-at-home spouse, usually the wife, is taken into consideration.
- The answer is "Yes"
 - where an explicit legal recognition of such contributions is found and the law provides for equal or equitable division of the property based on the nonmonetary contributions, or
 - when the default marital property regime is full community, partial community or deferred full or partial community, because these regimes implicitly

recognize nonmonetary contributions at the time of property division and benefit both spouses regardless of which of them actually purchased it or holds title to it.

- The answer is “No” where
 - the default marital property regime is separation of property or other, and there is no explicit legal provision providing for equal or equitable division of property based on nonmonetary contributions.

Property rights

This subtopic deals with the following two legal transactions:

30a. Do unmarried men and unmarried women have equal ownership rights to property?

- Ownership rights as used here covers the ability to manage, control, administer, access, encumber, receive, dispose of and transfer property.
- The answer is “Yes” when there is no specific legal restriction related to property applied to single women or men based on gender.
- The answer is “No” when legal restrictions on property ownership are applied to single women or men, based on gender.

30b. Do married men and married women have equal ownership rights to property?

- Ownership rights as used here covers the ability to manage, control, administer, access, encumber, receive, dispose of and transfer property. The answer to this question is based on whether husbands and wives married under the default property regime have equal ownership rights over property.
- The answer is “Yes” when there is no specific restriction or difference in legal treatment applied to married women or men based on gender.
- The answer is “No” when there are gender differences in the legal treatment of spousal property, for example, if husbands are granted administrative control over marital property.

Inheritance rights

This subtopic focuses on the law that applies where there is no will. In economies where codified law applies only to individuals who have affirmatively renounced customary law, the presumption is that an affirmative renunciation has been made.

31. Do sons and daughters have equal rights to inherit assets from their parents?

- This question examines whether there are gender-based differences in the rules of intestate succession (there is no will) for transfer of property from parents to children.
- The answer is “Yes” when the law recognizes children as heirs to property without any restrictions based on gender.
- The answer is “No” when there are gender-based differences in the recognition of children as heirs to property.

32. Do female and male surviving spouses have equal rights to inherit assets?

- For purposes of this question, it is assumed that the deceased spouse left no children or any heirs other than the surviving spouse.
- This question examines whether both spouses have equal rank and rights to inherit assets when there is no will.
- The answer is “Yes” when surviving spouses of either gender have the same legal rights.
- The answer is “No” where there are gender-based differences in inheritance.