

**CHAPTER 3**

# Measuring the Legal Environment in Practice

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In 2015 Kenya enacted the landmark Protection Against Domestic Violence Act, the country's first law to specifically address family violence. While the *Women, Business and the Law* index captured this historic reform, it did not reflect the delay in its implementation and enforcement. Funding was not immediately allocated to the provision of support services for survivors, and comprehensive procedural regulations and reporting mechanisms were left to be defined at a later stage (Heinrich-Böll-Stiftung 2015). In fact, it would be five years before such rules were adopted by the chief justice in 2020.

Examples like this reveal a common gap between laws on the books and actual practice. All over the world, improper implementation or weak enforcement of laws is a critical barrier to the full realization of women's rights and opportunities. However, although *Women, Business and the Law* has analyzed the laws and regulations that affect women's economic inclusion for more than a decade, it has not measured the operation of such laws in practice.

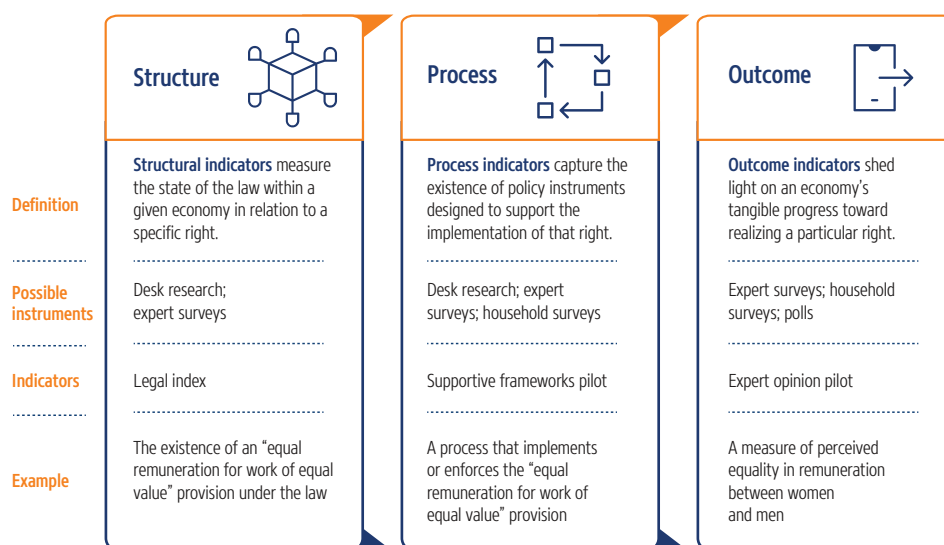
To present a fuller picture of the environment for women in economies around the world, this year *Women, Business and the Law* introduces a new conceptual framework for measuring the implementation gap and undertakes complementary analyses to the legal index. The "structure-process-outcome" method, often used to configure indicators that monitor compliance with human rights, was helpful in the development of this approach (OHCHR 2006). Currently, *Women, Business and the Law* does not make full use of each type of indicator, examining only structural indicators that take written legislation into account. However, classifying indicators along three axes shows

that there is room to build on the legal index by conducting a more sequential analysis of the implementation of laws (figure 3.1). The pilot exercise described in this chapter examines both the supportive frameworks that create an enabling environment for working women and the expert opinions of progress made toward achieving gender equality on the ground. Each approach has strengths and limitations and is meant to be considered together with other data on the subject.

Previous *Women, Business and the Law* analysis has revealed the extent to which laws affect economic outcomes, demonstrating that more equal laws are positively correlated with more equal labor market outcomes, including higher female labor force participation and smaller wage gaps (World Bank 2020). Yet this research does not account for the imperfect implementation of laws, which may shed more light on the causal links between gender equality and women’s economic inclusion. This exercise aims to address a clear set of knowledge gaps, including the lack of cross-country evidence on the role that implementation of laws protecting women’s rights plays in ensuring their economic empowerment. Like the index itself, it serves as a proxy representation, or indirect measure, of the environment in which women move through their lives and careers (box 3.1). It is designed with the core qualities of the *Women, Business and the Law* index in mind, including global coverage, comparability across regions and economies, and feasibility of annual data collection.

The following sections present the background research that informed the pilot exercise as well as preliminary findings and analysis of the data collected. This effort is *Women, Business and the Law*’s first attempt to cover the application of laws, and the team welcomes candid feedback on the methods and measurements used here. It is hoped that these measures will provide a more complete picture of the life cycle of legislation and encourage economies to implement laws more efficiently and comprehensively.

**FIGURE 3.1 | THE STRUCTURE-PROCESS-OUTCOME FRAMEWORK, AS APPLIED TO WOMEN, BUSINESS AND THE LAW**



Source: *Women, Business and the Law* team.

### BOX 3.1 “IMPLEMENTATION” IN THE CONTEXT OF *WOMEN, BUSINESS AND THE LAW*

There is no standard, widely accepted measure of implementation of laws or a “one size fits all” definition of successful implementation. Various factors could be considered as relevant to such a study, including enforcement, compliance, perceptions, and expert opinions. Social norms and culture also play a role in the ability of laws to have their intended effect.

Different approaches to the study of implementation have assessed the legal environment in various contexts. Some, such as the Global Findex database, use nationally representative surveys to draw conclusions on how adults save, borrow, make payments, and manage risk (Demirgüç-Kunt et al. 2018). Others, like the Food and Agriculture Organization’s Gender and Land Rights database, combine legal data with related statistics to measure inequality.<sup>a</sup> Similarly, the OECD Development Centre’s Social Institutions and Gender Index measures discrimination against women in social institutions by taking into account laws, social norms, and practices, with data collected via outside sources that vary by country (OECD 2019). To measure the level of corruption in the public sector, Transparency International aggregates data from various sources to quantify the perceptions of business people and country experts.<sup>b</sup> These are just a few examples of the ways in which the implementation of laws can be measured, with each project presenting data through a different lens.

To measure the implementation of its de jure indicators, *Women, Business and the Law* considered several avenues, including both legal and programmatic supportive frameworks, good practices, and expert opinions. Like similar projects collecting data describing on-the-ground operations, this chapter presents a new conceptual framework whose measures approximate de facto implementation without being in and of itself a perfect representation of how the law functions. Instead, these measures are proxies that can be correlated with de jure indicators and intended outcomes to identify good practices and lessons learned in the context of gender equality. Together with the canon of implementation-based projects, the data can serve as a research, advocacy, and evidence-based tool for policy makers and the development community at-large.

Source: *Women, Business and the Law* team.

a. <https://www.fao.org/gender-landrights-database/en/>.

b. <https://www.transparency.org/en/cpi/2020/index/>.

## Gender equality beyond the law

Several factors could explain the divergence between laws and their application. While laws can mandate the equal treatment of women as employees and entrepreneurs, poor implementation due to weak political and legal institutions, flawed design, or low capacity can limit women’s access to the equality that formal laws establish. Thus, laws must be accompanied by resources and administrative procedures to ensure their effective operation. Even in countries that prohibit discrimination based on gender in employment, for example, employers frequently discriminate in favor of men, who are more often unencumbered with childcare responsibilities, and against women, who are perceived as secondary breadwinners (Kabeer 2009). Equal implementation and enforcement of the law are therefore critical to women’s economic empowerment and to economic growth overall. Indeed, where legal institutions are ineffective, improvements in the law may have limited impact. A study of the transitioning economies of Eastern Europe and the former Soviet Union between 1992 and 1998 finds that reforms in

corporate and bankruptcy laws had little effect on the development of financial institutions. Instead, improvements began only when the legal institutions themselves became more efficient (Pistor, Raiser, and Gelfer 2000).

What defines the efficient and effective application of laws, however, depends on a variety of factors. Several prominent themes emerged during the study of good practices in the area of women’s economic empowerment, particularly in the topics covered by the *Women, Business and the Law* index (table 3.1). The list of themes does not include every factor essential to the successful implementation of laws; rather, it is intended to highlight some of the areas that are most pertinent to guaranteeing women’s economic inclusion and that are broadly comparable across economies.

One theme relates to the *sequencing of legislation*, the critical steps that must be taken after laws are passed to ensure that they are actualized. Implementing regulations, processes, and procedures that put legal provisions into practice could include planning, program adjustments, budget decisions, or reporting requirements by responsible ministries and regulatory bodies. Canada, for example, introduced its government-wide Gender Results Framework to ensure that resources are allocated properly after legislation is passed. The framework provides a whole-of-government tool for measuring progress toward gender equality and understanding where the greatest gaps remain, including several objectives and indicators to guide policy discussions and ministerial decision-making with regard to gender budgeting. Such an approach is recommended because it allows for inputs from relevant stakeholders, provides steps toward implementation, and has political validity. However, no economy in the Organisation for Economic Co-operation and Development (OECD), including Canada, yet qualifies as having “advanced” practices in this area; more elements are needed to round out implementation and deliver on national policy goals. In any case, the gender budgeting process alone is not enough to guarantee full legal implementation. There is mixed evidence on its usefulness, especially in lower-income or reduced-capacity economies. A holistic strategy, dependent on context and involving all of the elements of sequencing, must be undertaken to achieve the desired results (Downes and Nichol 2020).

<b>TABLE 3.1</b>		<b>FACTORS THAT DEFINE THE EFFICIENT AND EFFECTIVE IMPLEMENTATION OF LAWS</b>	
<b>Category</b>	<b>Example of implementation measure</b>		
Sequencing of legislation	Budget allocation; executive branch supervision		
Regulations and procedures	Health and safety measures; operational restrictions, including in documentation or official guidance		
Strong justice sector institutions	Access to justice, including structure of the judicial system, availability of services and processes, accessibility by women, and overall quality		
Institutions separate from judiciary	Agencies or bodies dedicated to specific issues; oversight boards		
Government-sponsored programs	Incentives for complying with laws; national plans and strategies; citizen engagement programs		
Ease and efficiency	Processes and procedures that ensure ease of access; online availability		

Source: *Women, Business and the Law* team.

Other examples show that additional *regulations and procedures* are necessary to ensure women's rights. These legal or administrative instruments are designed to provide concrete directions to put policies in practice. In the area of employment, for instance, legislation should provide men and women with equality of opportunity. To make equal opportunity a reality, however, occupational health and safety regulations that are mindful of gender differences and offer safety precautions to all workers are also needed (Arrigo, Casale, and Fasani 2011; Casale and Fasani 2012; ILO 2013). Similarly, the persistence of wage differentials indicates that equal pay legislation by itself may not be enough to narrow the wage gap (Gow and Middlemiss 2011; Kulow 2013; Polachek 2019). Such laws must therefore be followed by regulations that clarify the meaning of work of equal value and offer opportunities for recourse. For mothers, clear and specific policies and guidelines are important to ensure that all workers can benefit from their rights regarding leave and unfair dismissal (Addati, Cassirer, and Gilchrist 2014). Even when working mothers are legally protected against unlawful dismissal due to pregnancy, aspects such as the time frame for notification of pregnancy or the possibility that employers will claim lack of knowledge of the pregnancy can hinder women's ability to remain in the workforce (US EEOC 2015; Ushakova 2015). Conversely, when such provisions are defined and sequenced properly, primary legislation is better equipped to serve its intended purpose.

Ensuring the rule of law by enforcing rights also contributes to the successful application of legislation affecting equality of opportunity. Primarily, *strong justice sector institutions* are essential to ensuring economic inclusion. Women's ability to seek redress is critical to translating formal laws into real outcomes, including economic development and sustained growth. Governments can facilitate access to justice through various interventions. The presence of specialized justice institutions, for instance, is associated with women's full enjoyment of their economic and social rights and is an important component of their security, voice, and agency (World Bank 2012). Family and domestic violence courts, where the majority of cases are initiated by women, are particularly useful because they are easy to identify by name and location and, if well resourced, are better equipped to meet women's specific needs (UN Women et al. 2018). Court rules and procedures also help women to enforce their rights. For example, reversing the burden of proof once a prima facie case of discrimination is shown and allowing class action lawsuits in cases of discrimination can encourage women to bring their claims forward (CJEU 1989; Selmi 2002). In contrast, legal formalities and the cost of litigation, both direct and incidental, may discourage women from accessing courts (Gloppen and Kanyongolo 2007). Simplified procedures such as those in small claims courts can be ideal for small businesses, many of which are owned by women. Finally, limited representation in judicial institutions hinders women's access to justice (box 3.2).

*Institutions separate from the judiciary* also have a role to play in upholding principles of gender equality. In discrimination cases, for instance, one recognized good practice is to establish an agency or body dedicated specifically to the issue of discrimination based on gender (UN Women et al. 2018). These antidiscrimination commissions are independent from the justice system and responsible for protecting, monitoring, and promoting fundamental rights. Often, they advise governments on policy issues such as occupational segregation, the gender wage gap, and women's labor force participation. Administrative bodies in charge of executing and adjudicating inheritance claims are also important tools for securing women's rights to property. In order to guarantee women's inheritance rights effectively, however, such bodies must have clear guidelines on the

### BOX 3.2 WOMEN'S REPRESENTATION IN JUDICIAL INSTITUTIONS

Women judges play a vital role in the effective implementation of laws and enforcement of rights. Particularly important in enforcing laws that guarantee access to justice, women's representation in the court system can improve the quality of decision-making and of justice itself (O'Connor and Azzarelli 2011).

*Women, Business and the Law* data examining women justices on constitutional courts reveal that 75 percent of the 190 economies covered have at least one female justice. The absence of more women on high courts signals exclusionary legal processes, which may erode public trust in the judiciary and the integrity of decisions (Escobar-Lemmon et al. 2021). In 24 economies across five regions, no women are represented on constitutional courts. While this finding applies only to high courts, it suggests a lack of representation at all levels of the judiciary.

Indeed, just 15 economies have achieved parity in women's representation. For instance, 50 percent of justices on the constitutional court are women in Vanuatu, and 80 percent are women in Suriname. Thirty-three economies are just one woman justice away from either achieving gender equality in representation or having a female majority.

Although women's representation in judicial institutions seems to be rising internationally, very few women justices currently hold the highest positions: just 31 economies worldwide have a woman chief justice. Recent examples include the Honorable Madam Chief Justice Michelle Aran, who was appointed the first female chief justice of Belize in 2020, and Justice Martha Koome, who was appointed chief justice of the supreme court of Kenya in 2021, becoming the first female to head any branch of the Kenyan government.

*Source: Women, Business and the Law database.*

procedures, steps, and requirements for enforcing inheritance claims. For example, in Malawi, although district assemblies are recognized administrative bodies that process inheritance claims, a lack of enforcement mechanisms and unclear bureaucratic guidelines make it difficult for women to exercise their full rights to inheritance (Chiweza 2005).

Similarly, *government-sponsored programs* and initiatives can make foundational legislation actionable. Among the areas of law covered by the *Women, Business and the Law* index, research shows that such strategies are particularly helpful for encouraging the equitable sharing of childcare responsibilities, operationalizing antidiscrimination legislation, and boosting women's landownership. Fathers, for example, tend to take paternity or parental leave only when it is highly compensated and allocated specifically to them (Marynissen et al. 2019). As such, incentives such as "bonus periods," where parents may qualify for extra periods of leave if the father uses a portion of shareable leave, bonus payments, and flexible leave arrangements can encourage fathers' uptake of leave and support the effective implementation of leave policies (Raub et al. 2018).

Like paid leave, to be effective, antidiscrimination legislation requires a clear and public commitment by the government to promote women's access to formal financial services. This commitment can be achieved through the development of a national financial inclusion plan or strategy, coupled with the means and requirements for financial institutions to submit sex-disaggregated data on a regular basis for monitoring purposes (Emara and El Said 2021; Pearce and Ortega 2012). Land allocation plans

and programs also contribute to women's increased ownership of assets and financial security. In Ethiopia, land certificates may increase women's access to microfinance or informal loans, particularly for female-headed households (Persha, Greif, and Huntington 2017). And in West Bengal, India, beneficiaries of a land allocation program that made wives joint titleholders with husbands used agricultural credit more than nonbeneficiaries (Santos et al. 2014).

A final contributor to the uptake of laws is the *ease and efficiency* through which a law's stated benefits can be accessed. This access includes making certain services available online and limiting or removing any procedures that prove burdensome for women employees and entrepreneurs. When discussing the need for stronger civil registration of births, for instance, the World Health Organization argues that electronic registration systems can help to mitigate issues in registration processes by detecting duplicate records of the same event, archiving documentation inexpensively, and reducing administrative burdens on citizens by making procedures easier and faster (WHO 2013). Similarly, digital technology can improve living conditions for women. Although external factors like social norms and affordability can influence access, information and communication technology offers a concrete, tangible opportunity to tackle long-standing gender inequalities in low- and middle-income countries, including access to employment, income, education, and health services (Hilbert 2011).

Beyond the practices listed here, the literature notes the difficulty of monitoring and assessing the implementation and enforcement of rights. It also calls for more public data on the issues facing women in the application of laws, especially in the world of work, in order to explore the relationship between *de jure* and *de facto* equality of opportunity (World Bank 2021). A measure of the practice of laws affecting women's economic inclusion is therefore needed to understand whether the environment in which the laws measured by the *Women, Business and the Law* index function is conducive to women's employment and entrepreneurship.

## **The *Women, Business and the Law* index in practice**

Measuring these and other *de facto* constraints on gender equality in employment and entrepreneurship at the global level could take several forms. Using the research reviewed here as a starting point, one method is to collect documentation of supportive frameworks for primary legislation as presented in the literature and tailored to the *Women, Business and the Law* index. While this approach requires additional legal measurements, it goes beyond the foundations established by the index to determine whether the laws are operational in practice. Another avenue is to seek evidence of such practices from experts on the ground.

Both approaches were explored as part of the pilot exercise. The first component entailed a series of binary questions that measure supportive frameworks in the eight topic areas covered by *Women, Business and the Law*, providing process indicators. Similar to the legal index, what constitutes such practices may differ depending on the legislation being examined and the context, and compromises must be made to reconcile the discrepancy between comprehensive analysis of a given economy and the need for a global measurement. Thus, the practices chosen here are broadly applicable and allow for comparability. They are meant to highlight some of the steps necessary to ensure that economic inclusion can be achieved after primary legislation is passed.

The second component entailed collection of expert opinions on how the laws measured by the index operate—whether they are good practice or discriminatory—providing outcome indicators of the lived experience of persons within a particular legal environment. Together, the data provide a measurement of the uptake of legal rights and discriminatory provisions measured by the current *Women, Business and the Law* index.

Each approach was piloted in 25 economies as a means of gathering baseline data and determining the feasibility of conducting such an exercise at the global level, resulting in two data sets that can be analyzed both separately and together with the legal index (table 3.2). Excluding high-intensity conflict and fragile economies, the pilot was representative of every region and income group. It also included some of the larger economies, such as Brazil, India, and Indonesia, capturing close to 40 percent of the world’s working-age female population in the initial sample. These economies also have varying rates of female labor force participation, a strong base of *Women, Business and the Law* local experts for future questionnaire administration, and a variety of languages spoken. The data were collected via desk research and follow-up with local experts and are current as of October 1, 2021. The standard *Women, Business and the Law* assumptions, including that the woman resides in the economy’s main business city, were applied.

The following sections detail the preliminary findings of the pilot, including trends, areas of improvement, and initial data analysis. Each component has strengths and limitations: while both provide insight into where economic rights may be restricted in practice, equal opportunities for working women depend on a variety of factors and not all nuances can be captured. However, in conjunction with the current *Women, Business and the Law* indicators, this research is a first step toward determining the areas of the law where more work needs to be done and where gaps are evident between what is written in the law and what occurs in practice.

### ***Supportive frameworks for primary legislation***

The supportive framework test of implementation entailed collection and analysis of data to understand what governments are doing to institutionalize, operationalize, and enforce their laws, producing the process indicators of the conceptual framework

<b>TABLE 3.2</b>	<b><i>WOMEN, BUSINESS AND THE LAW</i> IMPLEMENTATION PILOT ECONOMIES</b>
<b>Region</b>	<b>Pilot economies</b>
East Asia and Pacific	Hong Kong SAR, China; Indonesia; Thailand, Vietnam
Europe and Central Asia	Albania; Tajikistan; Turkey; Ukraine
OECD high income	Canada; France; Portugal; United Kingdom
Latin America and the Caribbean	Argentina; Brazil; Panama; Peru
Middle East and North Africa	Egypt, Arab Rep.; Lebanon; Oman; Tunisia
Sub-Saharan Africa	Côte d’Ivoire; Ethiopia; South Africa; Uganda
South Asia	India

Source: *Women, Business and the Law* database.

Note: OECD = Organisation for Economic Co-operation and Development.



described previously. Relevant literature and country examples were consulted to determine the questions that would be included as part of the initial data collection exercise. For example, measures of implementation related to the enforcement of rights could be focused on access to justice, while those related to absence of restrictions could pertain to safety regulations. Finally, executing the provision of benefits may involve online access or clear procedural guidelines.

Binary questions were then selected to measure the *Women, Business and the Law* indicators in practice (table 3.3). Questions were chosen to measure the overall

TABLE 3.3 SUPPORTIVE FRAMEWORK QUESTIONS, BY INDICATOR	
Indicator	Questions
Mobility	<ol style="list-style-type: none"> <li>1. Has the government issued a standard rental lease that contains no differences in requirements, steps, or procedures for women and men?</li> <li>2. Have the requirements, application process, and period of issuance for an ordinary passport been made available with no gender differences?</li> <li>3. Is there an online option for passport applications?</li> </ol>
Workplace	<ol style="list-style-type: none"> <li>1. Does the law establish an antidiscrimination commission?</li> <li>2. In cases of discrimination based on gender or sexual harassment in employment, does the law provide any form of protection for complainants, victims, witnesses, or whistle-blowers?</li> <li>3. If a plaintiff makes a prima facie case of sexual harassment, does the burden of proof move to the defendant?</li> <li>4. Can gender discrimination cases be brought as class action lawsuits?</li> </ol>
Pay	<ol style="list-style-type: none"> <li>1. Has "work of equal value" been defined, for instance, by establishing criteria for work performed by women and men, such as skills, responsibility, effort, or working conditions?</li> <li>2. Have wage transparency laws or measures to address the pay gap been introduced?</li> <li>3. Have gender-sensitive occupational health and safety measures been adopted?</li> <li>4. Have occupational health and safety inspections or investigations been established?</li> </ol>
Marriage	<ol style="list-style-type: none"> <li>1. Is there a specialized court or procedure for cases of domestic violence?</li> <li>2. Are there dedicated and specialized family courts?</li> <li>3. Does the law mandate legal aid in civil or family matters?</li> <li>4. Does legislation mandate the establishment of support services for women survivors of violence?</li> </ol>
Parenthood	<ol style="list-style-type: none"> <li>1. Have the requirements, application process, and period of issuance for maternity leave and benefits been made available?</li> <li>2. If maternity benefits are administered by the government, is there an online option to apply to receive such benefits?</li> <li>3. Are there policies in place that promote fathers' uptake of paternity or parental leave?</li> <li>4. Does a worker have to formally notify her employer that she is pregnant to be protected against dismissal?</li> </ol>
Entrepreneurship	<ol style="list-style-type: none"> <li>1. Is there a small claims court or fast-track procedure for small claims?</li> <li>2. Does a woman's testimony carry the same evidentiary weight in court as a man's?</li> <li>3. Is there a national financial inclusion plan or strategy that promotes women's access to credit?</li> <li>4. Are banks or other financial institutions required to submit anonymized, sex-disaggregated data as part of their reporting obligations?</li> </ol>
Assets	<ol style="list-style-type: none"> <li>1. Are there dedicated and specialized land courts?</li> <li>2. Are there policies or programs in place that mandate or promote women's landownership?</li> <li>3. Have the requirements, application process, and time line for land registration and allocation been made available with no gender differences?</li> <li>4. Are there administrative bodies responsible for the administration and adjudication of inheritance claims?</li> <li>5. Is there binding legal precedent set by state or federal courts related to the recognition of nonmonetary contributions?</li> <li>6. Have guidelines been issued that define how to calculate nonmonetary contributions?</li> </ol>
Pension	<ol style="list-style-type: none"> <li>1. Have the requirements, application, and period of issuance for pension benefits been made available with no gender differences?</li> <li>2. Is there an online option for pension benefit applications?</li> <li>3. Does the government collect anonymized, sex-disaggregated data on employees' actual retirement ages?</li> </ol>

Source: *Women, Business and the Law* database.

implementation of each area of the law measured by the eight indicators; they do not constitute a de facto measure of each of the 35 legal index questions. Of course, every feature of successful legal implementation could not be measured. Nonlegal and informal structures, social norms and attitudes, and the behavior of stakeholders involved in implementation can all influence de facto gender equality but are difficult to calculate. In addition, topics like the financing of programs for implementation were not examined because such information is not always readily available. Budget data are also difficult to make comparable across economies because of differences in programs and procedures with varying financial needs. Although engaging directly with people affected by laws is critical, campaigns to communicate and disseminate legal information to relevant stakeholders were not included. Success in changing discriminatory behaviors and attitudes with sensitization before, during, and after reform is also dependent on context and not feasible for global data collection.

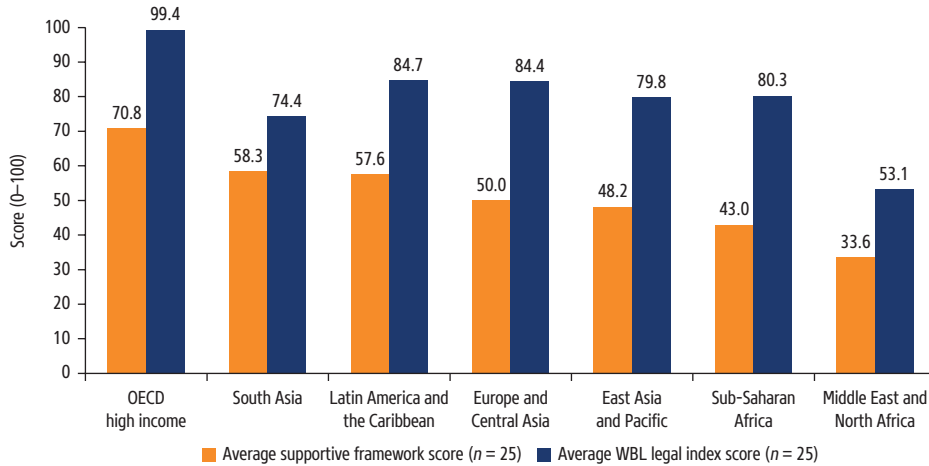
Each indicator contains between three and six supportive framework questions. Data collection required an examination of the presence of courts, administrative bodies, institutions, implementing regulations, and publicly available guidelines or procedures. This broad approach, particularly for the pilot exercise, was intended to improve understanding of how comprehensively the laws measured by *Women, Business and the Law* are applied in practice and to gain lessons for future refinement, including identifying any data that are predictive of relevant outcomes.

Based on available information or official documentation, each pilot economy was given a binary answer (yes or no) to each supportive framework question. Following the established methodology of the *Women, Business and the Law* index, questions were then aggregated across eight indicators. To facilitate data analysis, an overall score was calculated by taking the average of the indicator scores, with 100 representing the highest possible score. This score indicates each economy's share of the supportive frameworks measured. While not part of the index itself and containing only preliminary results, this method allowed for comparison with the legal index as well as indicator- and region-level analysis. Primary data collection also provided country-specific examples, including practices that can serve as inspiration for future research.

Among the pilot economies included in this exercise, the average score for supportive frameworks is 50.8, meaning that, on average, only half of the identified measures are present in the sample. This is substantially lower than the average legal index score of 80.1 for this set of economies. All of the pilot economies have room to strengthen the legal environment for women employees and entrepreneurs in practice. Even in economies that score 100 on the *Women, Business and the Law* index, some supportive frameworks are often missing. France, for instance, does not have 6 of the 32 practices identified. At the regional level, OECD high-income economies receive the highest scores, followed by South Asia and Latin America and the Caribbean, with Middle East and North Africa economies scoring the lowest (figure 3.2). Although other regions vary in placement, the highest- and lowest-scoring regions reflect the trends seen in the *Women, Business and the Law* legal index.

Among indicators, there is also a gap between the legal index scores and the supportive framework scores across the board. The highest-scoring areas are Marriage, Mobility, and Entrepreneurship, suggesting that more economies have components of implementation in these areas than in the other indicators (figure 3.3). Conversely,

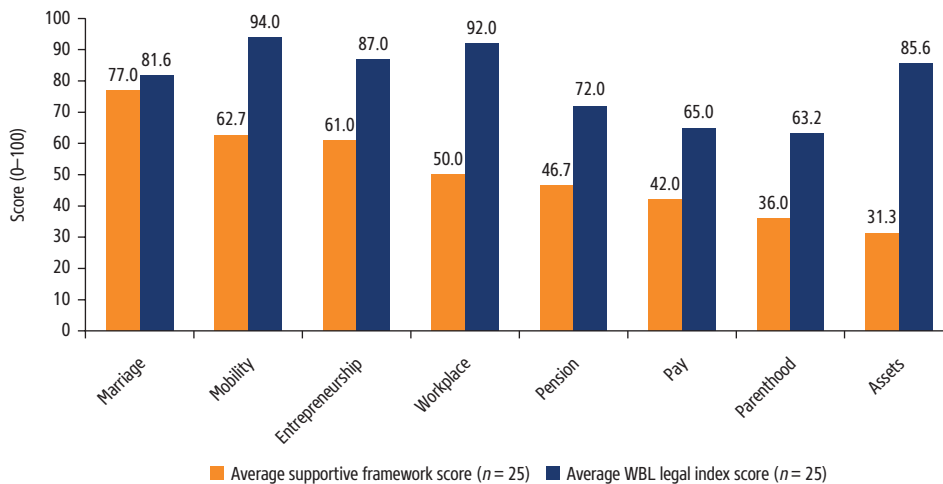
**FIGURE 3.2 | GAP BETWEEN THE PASSAGE OF LAWS AND THEIR SUPPORTIVE FRAMEWORKS ACROSS REGIONS**



Source: Women, Business and the Law (WBL) database.

Note: OECD = Organisation for Economic Co-operation and Development.

**FIGURE 3.3 | GAP BETWEEN THE PASSAGE OF LAWS AND THEIR SUPPORTIVE FRAMEWORKS ACROSS INDICATORS**



Source: Women, Business and the Law (WBL) database.

the lowest-scoring indicators are Assets and Parenthood. This finding does not exactly match the legal index scores for the pilot economies. Rather, the highest-scoring legal indicators are Mobility, Workplace, Entrepreneurship, and Assets, and the lowest-scoring legal indicators are Pay and Parenthood. The implication is that, although some of these areas have strong foundational legal frameworks, implementation and enforcement of laws are lacking.

A deeper dive into each indicator offers additional insight into how the pilot economies have actualized the laws covered by each indicator. Under Mobility, for example, just seven economies have implemented all of the practices identified, including issuing a standard lease with no gender differences, making passport procedures readily available, and allowing passport applications to be completed online. In one economy, the Arab Republic of Egypt, passport procedures are readily available but unequal, requiring women to provide additional documentation that men do not have to provide.

Workplace is among the indicators with large gaps between the legal index and implementation scores, with only half of the supportive frameworks, on average, present in the sample of economies (table 3.4). France is the only economy to have all of the good practices identified under this indicator. Still, a majority of economies have antidiscrimination commissions and protections for whistle-blowers. In Argentina, for instance, the Law of Integral Protection of Women directs state agencies to guarantee protection and privacy for women who have made a complaint of violence, including sexual harassment, as well as to maintain the confidentiality of their actions. Conversely, very few economies allow the burden of proof to move to the defendant after a prima facie case of sexual harassment is made. Turkey is an exception: Article 5 of the labor code states that, once a worker establishes facts that support the presumption that harassment has occurred, the employer must prove that there has been no breach of the principle of equal treatment.

Analysis of the supportive frameworks under the Pay indicator signals that legislation designed to narrow the gender wage gap has not been applied actively. While all economies have established means of occupational health and safety inspections or investigations, very few have adopted regulations on gender-sensitive occupational health and safety, wage transparency, or the meaning of equal remuneration for work of equal value. South Africa and the United Kingdom are two countries that have acted in this area. In South Africa, the Employment Equity Act contains provisions on dealing with noncompliance with equal pay for equal value, even outlining the relevant procedures for investigation and provisions regarding the role of a supervisory body. The United Kingdom's Equality Act 2010 clearly describes the meaning of work of equal value through an innovative illustration of two model workers. In addition, the act

TABLE 3.4		EXAMPLES OF SUPPORTIVE FRAMEWORKS UNDER THE WORKPLACE INDICATOR
Supportive framework	Number of economies	Example
Antidiscrimination commission	19	The National Human Rights Council in <i>Côte d'Ivoire</i> performs advisory functions, conducts consultations and assessment missions, makes proposals, and receives complaints of violations of women's rights.
Protections for complainants, victims, witnesses, or whistle-blowers	16	<i>Thailand</i> prohibits employers from terminating or carrying out any act that may result in an employee being unable to continue working as a result of filing a complaint, submitting a demand, negotiating or instituting a lawsuit, or being witness or producing evidence to competent officials.
Burden of proof shifts to defendant after prima facie case of sexual harassment is made	5	In <i>Albania</i> , after the employee presents facts that prove harassment, the burden of proof moves to the person to whom the complaint is addressed, who then has to prove that his or her actions did not constitute harassment.
Gender discrimination cases can be brought as class action lawsuits	10	<i>Vishaka and Ors v. State of Rajasthan</i> (1997) set a precedent for class action gender discrimination cases in <i>India</i> , with the Supreme Court declaring that women have the fundamental right to freedom from sexual harassment in the workplace and issuing guidelines intended to protect them until legislation was passed.

Source: Women, Business and the Law database.

describes the procedures to be followed by the employment tribunal to assess whether work is of equal value.

The Marriage indicator has the highest share of good practices identified. Nearly all of the pilot economies have a specialized court or procedure for domestic violence and dedicated and specialized family courts. A majority also mandate legal aid in civil or family matters. In India, for example, any woman or child who has to file or defend a case is entitled to legal services. Additionally, more than half of the pilot economies mandate the establishment of support services for survivors of violence, a critical component of women’s safety in vulnerable situations (box 3.3). In Brazil, for instance, one study shows that women’s police stations are associated with a reduction in femicide of 17 percent overall and more than 50 percent among women ages 15–24 (Perova and Reynolds 2017). In Indonesia, the Law Regarding Elimination of Violence in Household calls for the provision of support services, including having a special service room at police stations, providing health personnel and social workers, and protecting witnesses, friends, and families of survivors.

Parenthood, in contrast, receives the second-lowest score among all indicators in the areas measured. This indicator also has the lowest average score on the legal index. While 19 economies have made the requirements and application process for maternity benefits available, other initiatives are lacking. Just seven economies, for instance, have an online option for applying to receive such benefits. In Portugal, maternity benefits can be requested online or in person, with a government website including detailed instructions of the documents required, steps, and time line for application. Only three

### BOX 3.3 PROVIDING CRITICAL SERVICES TO SURVIVORS OF VIOLENCE

Providing services for women survivors of violence is crucial to relieving the negative impact that a survivor experiences both before and after violent episodes. Indeed, women who have survived violence make much greater use of support services than women who have not been abused, even years after violence has ended (Bonomi et al. 2009). Expanding its pilot in this area, *Women, Business and the Law* collected data on legislation mandating the provision of health care services, psychological support, legal aid, shelter, specialized trained police officers or stations, phone hotlines, and livelihood support for women survivors of violence in 190 economies. The data show that 102 economies have legislation mandating the establishment of support services for women survivors of violence. This group includes more than half of the economies in the East Asia and Pacific, Europe and Central Asia, Latin America and the Caribbean, and South Asia regions. While 88 percent of economies in South Asia and 83 percent of economies in Europe and Central Asia have enacted such laws, only 17 of the 34 high-income economies in the Organisation for Economic Co-operation and Development have legislation on this topic.

With regard to services provided, 77 economies worldwide have enacted legislation providing shelter for women victims of violence. Legal aid, psychological support, and health care services are also widespread and legally mandated in 72, 70, and 67 economies, respectively. Although efforts to provide different kinds of support are distributed unevenly, six countries that mandate a whole package of services—Argentina, Mongolia, Panama, the Philippines, Portugal, and Spain—provide some hope amid global efforts to protect women survivors of violence and set a good example for legal reforms elsewhere.

Source: *Women, Business and the Law* database.

countries—Canada, France, and Portugal—have policies in place to promote fathers’ uptake of paternity or parental leave. In Canada, when parents apply for and share parental benefits, together they may be eligible for up to 69 weeks of paid leave.

Entrepreneurship has a gap of more than 25 points between the legal index score and the incidence of supportive frameworks. Perhaps reflective of global gaps in women’s financial inclusion, this difference indicates a lower level of implementation in economies where laws have been passed. The pilot economies, however, do perform quite well in some areas. Almost all, for instance, have a small claims court, with many introducing innovative ways of streamlining procedures that could be particularly beneficial to working women (table 3.5). With regard to rules of evidence, Oman is the only economy to allocate a different weight to women’s testimony. Such discrimination can affect the distribution of resources among women and men, particularly in cases where economic rights are at issue.

While the Assets indicator is one of the highest-scoring indicators on the *Women, Business and the Law* index, it receives the lowest score for implementation. Very few economies have any of the practices measured, reflecting difficulties in ensuring women’s access to ownership of assets and land, even in the presence of laws that guarantee equality. Twenty economies, however, have made available the requirements and application process for land registration. Others have instituted programs to boost women’s landownership. In conjunction with development partners, Ethiopia has undertaken one of the largest low-cost land certification programs in Sub-Saharan Africa. Some economies have also encouraged women’s ownership of assets by issuing guidelines for calculating nonmonetary contributions. In Panama, for instance, the law clearly states, “When the difference between the final and initial patrimonies of one and the other spouse yields a positive result, the spouse whose patrimony has experienced the least increase will receive half of the difference between his increase and that of the other spouse.”

The Pension indicator also has a wide gap between the legal index scores and measures of implementation. Although most economies make the requirements and application process for pension benefits available, one country has made the process more burdensome for women. In Albania, where both full and partial retirement ages for men and women are already unequal, women are required to submit additional

TABLE 3.5		EXAMPLES OF SIMPLIFIED PROCEDURES IN SMALL CLAIMS COURTS
Economy	Example	
Argentina	All deadlines are 3 days, and hearings take place within 10 days of when a claim has been appealed.	
Brazil	Procedural acts are open to the public and may be held at night.	
Hong Kong SAR, China	Small claims proceedings may be conducted in the evening hours, on Sundays, or other days off, unless a party objects.	
Indonesia	Decisions must be rendered within 25 business days of the first hearing.	
Thailand	Kwaeng courts have the power to examine or issue any order for which a single judge is competent.	
Uganda	On the day and time of the hearing, parties to a small claim must appear in person with all relevant documents and exhibits and must ensure that any witnesses are present.	

Source: *Women, Business and the Law* database.

documentation to receive their pension benefits, which men do not have to submit. Such documentation includes a marriage certificate and a notarized copy of a university diploma. Differences like these not only make the process of obtaining pension benefits more difficult for one partner, but also exacerbate gender inequality in old age. Just 11 economies allow applicants for pension benefits to complete the process online. In Uganda, for example, applications to receive pension benefits can be submitted via the National Social Security Fund app.

The findings presented here offer a glimpse of the rich body of data that can be collected on these topics. *Women, Business and the Law* hopes to refine and expand on this area of the pilot in the future, with the expectation that doing so can provide a clearer picture of the operation of the laws measured by the index.

### ***Expert opinions of laws in practice***

To represent the outcome component of the implementation framework, expert opinions on the application of the law were also collected. This approach went beyond the measure of supportive frameworks by seeking opinions related to laws captured by the index. The questionnaire sought to draw on the observations of in-country legal experts and gain a broader understanding of gender equality on the ground. It was intended to showcase the perspective of a narrow set of individuals with specialized knowledge rather than to yield a broader sample of representative responses. Overall, the exercise was meant to gauge the effectiveness of the laws measured in achieving their stated goals. To do so, it analyzed not only the implementation of good-practice legislation, such as protections against discrimination and the provision of benefits, but also whether restrictions on women's economic inclusion are upheld in practice.

After defining these objectives, several steps were taken to design and conduct the expert opinion survey. Primarily, the aim was to draft simple and clear questions to meet the objectives and maximize the response rate (OECD 2012). To begin this process, *Women, Business and the Law* looked to other widely available, cross-country expert opinion and perception-based surveys, including the Africa Integrity Indicators, the Human Rights Measurement Initiative, the United Nations E-Government Survey, the World Justice Project Rule of Law Index, and the World Values Survey. Each survey provided valuable insight into the formulation of the *Women, Business and the Law* expert opinion questionnaire (figure 3.4).

Replies were solicited from current *Women, Business and the Law* contributors. Respondents included lawyers, judges, civil society representatives, and public officials in the 25 economies covered, each with expertise in one or more of the following subject areas: labor and employment, family law, or violence against women. An agree-to-disagree format for answers was used to assess the expert opinions. While answers could be tied closely to the corresponding statement, clear instructions indicated exactly what the survey was hoping to gather. The potential for survey response bias—and specifically acquiescence bias—was mitigated by giving respondents the option to decline to respond and by asking them to justify their responses by explaining the relevant context in their economy. The gender of the respondents was not collected; however, any future iterations of this exercise will aim to collect this information and use it to inform the analysis.

### FIGURE 3.4 | EXAMPLES OF OTHER CROSS-COUNTRY EXPERT OPINION AND PERCEPTION SURVEYS



#### ***Africa Integrity Indicators***

The Africa Integrity Indicators project examines how policies are implemented to support governments, citizens, and civil society by assessing key social, economic, political, and anticorruption mechanisms at the national level across all 54 countries of the African continent. The project seeks to capture data pertaining to legislation that addresses particular issues and whether laws are being enforced in practice. Researchers who answer the questionnaires must provide a fact-based rationale to substantiate the scores chosen for each indicator, including through interviews, verified reports, news articles, and trusted blog posts.

— For more information:  
<https://www.africaintegrityindicators.org/>



#### ***World Justice Project Rule of Law Index***

Covering 128 countries, the Rule of Law Index relies on national surveys of more than 130,000 households and 4,000 legal practitioners and experts to measure how the rule of law is experienced and perceived around the world. It provides 40 questions for respondents to answer based on their perception of how laws are being applied in practice within their country.

— For more information:  
<https://worldjusticeproject.org/our-work/research-and-data/wjpi-rule-law-index-2020>



#### ***United Nations E-Government Survey***

The E-Government Survey analyzes and ranks countries' digital transformation progress. The survey does not use a scale, instead allowing respondents to submit short answers to questions. It provides a snapshot of the relative measurement of e-government development in all United Nations member states. The survey primarily gathers data from other sources, including the Telecommunications Infrastructure Index, the Human Capital Index, and the Online Service Index, to construct its results.

— For more information:  
<https://www.un.org/development/desa/publications/publication/2020-united-nations-e-government-survey>



#### ***World Values Survey***

The World Values Survey seeks to help scientists and policy makers understand changes in the beliefs, values, and motivations of people throughout the world. The survey includes a common questionnaire that is administered to individuals across nearly 100 countries. It uses a combination of different types of questions, each of which employs its own phrasing and scale. Questions are not aligned in structure or format, although response scales are typically numerical.

— For more information:  
<https://www.worldvaluessurvey.org/wvs.jsp>



#### ***Human Rights Measurement Initiative***

The Human Rights Measurement Initiative produces economic and social rights data for around 200 countries. Information is collected via an expert opinion survey administered to human rights researchers and practitioners who are monitoring events in each country. The data are then used to summarize human rights performance and monitor how people are treated.

— For more information:  
<https://humanrightsmasurement.org/>

Sources: Global Integrity, World Justice Project, United Nations, World Values Survey Association, and Human Rights Measurement Initiative.

The final questionnaire included 35 questions that constitute the current *Women, Business and the Law* index, presenting a generalized statement and asking respondents to indicate the extent to which they agree or disagree (table 3.6). For example, for the question, “Can a woman choose where to live in the same way as a man?” the corresponding expert opinion statement was, “Women choose where to live in the same way as men in practice.” Respondents were then prompted to select the level to which they agree with this statement, taking into consideration their familiarity with the laws relating to this question. All answers are scored from 1 (strongly disagree) to 5 (strongly agree). This approach allows the scale to remain consistent across questions, whether they focus on the absence of a restriction, enforcement of a right, or provision of benefits.



<b>TABLE 3.6 WOMEN, BUSINESS AND THE LAW INDEX AND CORRESPONDING EXPERT OPINION STATEMENTS</b>		
<b>Indicator</b>	<b>Question</b>	<b>Expert opinion statement</b>
Mobility	Can a woman choose where to live in the same way as a man?	Women choose where to live in the same way as men in practice.
	Can a woman travel outside her home in the same way as a man?	Women travel outside their homes in the same way as men in practice.
	Can a woman apply for a passport in the same way as a man?	Women apply for passports in the same way as men in practice.
	Can a woman travel outside the country in the same way as a man?	Women travel outside the country in the same way as men in practice.
Workplace	Can a woman get a job in the same way as a man?	Women do not face any additional restrictions compared to men when getting a job in practice.
	Does the law prohibit discrimination in employment based on gender?	The principle of nondiscrimination based on gender in employment is implemented in practice.
	Is there legislation on sexual harassment in employment?	Protection measures are in place to prevent sexual harassment in the workplace in practice.
	Are there criminal penalties or civil remedies for sexual harassment in employment?	a. Civil remedies for sexual harassment in employment are implemented in practice. b. Criminal penalties for sexual harassment in employment are implemented in practice.
Pay	Does the law mandate equal remuneration for work of equal value?	The principle of equal remuneration for work of equal value is implemented in practice.
	Can a woman work at night in the same way as a man?	There are no restrictions on women working at night in practice.
	Can a woman work in a job deemed dangerous in the same way as a man?	There are no restrictions on women working in jobs deemed dangerous in practice.
	Can a woman work in an industrial job in the same way as a man?	There are no restrictions on women working in the following industries in practice: mining, construction, factories, agriculture, energy, water, transportation, other.
Marriage	Is there no legal provision that requires a married woman to obey her husband?	Women are not expected to obey their husbands in practice.
	Can a woman be head of household in the same way as a man?	Women can be heads of their households in the same way as men in practice.
	Is there legislation specifically addressing domestic violence?	The principle of protection from domestic violence is implemented in practice.
	Can a woman obtain a judgment of divorce in the same way as a man?	Women obtain judgments of divorce in the same way as men in practice.
	Does a woman have the same rights to remarry as a man?	Women remarry in the same way as men in practice.
Parenthood	Is paid leave of at least 14 weeks available to mothers?	At least 14 weeks of paid leave to mothers is provided in practice.
	Does the government administer 100% of maternity leave benefits?	The government administers maternity leave benefits in practice.
	Is paid leave available to fathers?	Paid leave to fathers is provided in practice.
	Is there paid parental leave?	Paid parental leave is provided in practice.
	Is dismissal of pregnant workers prohibited?	The principle of prohibiting dismissal of pregnant workers is implemented in practice.
Entrepreneurship	Does the law prohibit discrimination in access to credit based on gender?	The principle of nondiscrimination based on gender in access to credit is implemented in practice.
	Can a woman sign a contract in the same way as a man?	Women sign contracts in the same way as men in practice.
	Can a woman register a business in the same way as a man?	Women register businesses in the same way as men in practice.
	Can a woman open a bank account in the same way as a man?	Women open bank accounts in the same way as men in practice.

(Table continues next page)

<b>TABLE 3.6</b>   <b>WOMEN, BUSINESS AND THE LAW INDEX AND CORRESPONDING EXPERT OPINION STATEMENTS (continued)</b>		
<b>Indicator</b>	<b>Question</b>	<b>Expert opinion statement</b>
Assets	Do men and women have equal ownership rights to immovable property?	Men and women have equal ownership rights to immovable property in practice.
	Do sons and daughters have equal rights to inherit assets from their parents?	The right of sons and daughters to inherit assets equally from their parents is implemented in practice.
	Do male and female surviving spouses have equal rights to inherit assets?	The right of male and female surviving spouses to inherit assets equally is implemented in practice.
	Does the law grant spouses equal administrative authority over assets during marriage?	The principle of equal administrative authority over assets during marriage is implemented in practice.
	Does the law provide for the valuation of nonmonetary contributions?	The principle of valuation of nonmonetary contributions is implemented in practice.
Pension	Is the age at which men and women can retire with full pension benefits the same?	Women retire with full pension benefits at the same age as men in practice.
	Is the age at which men and women can retire with partial pension benefits the same?	Women retire with partial pension benefits at the same age as men in practice.
	Is the mandatory retirement age for men and women the same?	Women retire at the same age as men in practice.
	Are periods of absence due to childcare accounted for in pension benefits?	The principle of accounting for periods of absence due to childcare in pension benefits is implemented in practice.

Source: *Women, Business and the Law* database.

On average, 6.32 responses were received for each of the 25 pilot economies, representing varied opinions. For example, the average response value for Uganda for the data point, “Women are not expected to obey their husbands in practice” is 2 (disagree). However, the individual responses range across the spectrum of answers, with 3 of the 10 respondents choosing 5 (strongly agree) and 7 selecting 1 (strongly disagree) or 2 (disagree). Similarly, in Oman, respondents selected opposite answers for the statement, “Women retire with partial pension benefits at the same age as men in practice,” with 1 respondent selecting 1 (strongly disagree) and 1 selecting 5 (strongly agree). In some cases, expert responses were aligned. For instance, 7 respondents in Vietnam said that they mostly disagree with the statement, “There are no restrictions on women working in jobs deemed dangerous in practice,” with only one responding that he or she neither agrees nor disagrees. While response rates were generally high across economies and data points, the Assets and Pension indicators are an exception. For example, in 14 out of 25 economies, response rates were lower for the data point, “The principle of accounting for periods of absence due to childcare in pension benefits is implemented in practice.” For South Africa, only 1 out of 4 respondents responded to this statement. For India, 6 out of 10 respondents provided an answer. This finding may be due to survey fatigue, as these were the last questions posed, or perhaps even a lack of topical expertise in these more specialized areas.

Addressing both varied and lack of responses in future iterations of the questionnaire will require additional research, empirical evidence, and consultations with experts in the field. One option is to use vignettes to define concepts and focus answers for respondents with different experiences within the same economy. Another option is to pose a narrower set of questions to each group of experts or to focus on economy-specific or regional perceptions of gender equality. To reach a convergence of opinion,

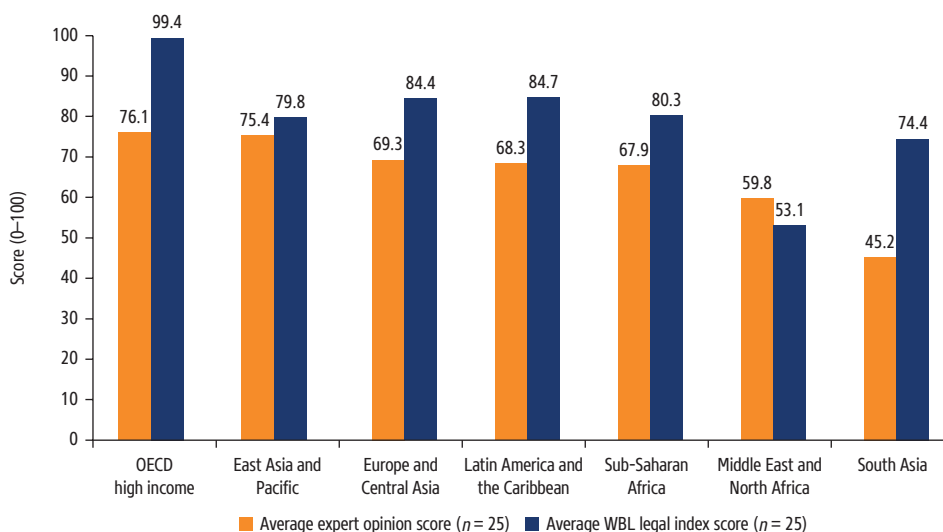
it may also prove useful to conduct multiple rounds of questionnaires when responses are varied.

Still, the data collected through the expert opinion questionnaire provided important comparisons with the legal index. While again not part of the index and representing only preliminary analysis, scoring these data and normalizing scores to 100 yielded helpful insights. Economies in the OECD high-income region have the highest average scores, similar to the legal index (figure 3.5), followed by East Asia and Pacific, Europe and Central Asia, and Sub-Saharan Africa. The Middle East and North Africa and South Asia regions have the lowest average scores.

However, the Middle East and North Africa is the only region where expert opinions indicated more gender equality in practice than the legal index scores imply. Oman and Egypt have the largest positive difference between their expert opinion and legal index scores, with Oman's average expert opinion score more than 30 points higher than the legal index score. Given this result, it is possible that the discriminatory laws captured by the legal index are not implemented widely in practice in these economies. Conversely, Canada, India, Peru, Portugal, and South Africa substantially underperform their legal index scores in practice.

Indeed, several respondents identified specific gaps in implementation of the law, even in economies that score above average on the legal index (table 3.7). In Argentina, for example, respondents highlighted a discrepancy in whether a woman can get a job in the same way as a man. While this data point does not capture any legal barriers, most of the experts who responded to the questionnaire said that they disagree or strongly disagree that in practice a woman can get a job in the same way as

**FIGURE 3.5 | DISPARITY BETWEEN LEGAL INDEX AND EXPERT OPINION SCORES IN ALL REGIONS BUT THE MIDDLE EAST AND NORTH AFRICA**



Source: Women, Business and the Law (WBL) database.

Note: OECD = Organisation for Economic Co-operation and Development.

TABLE 3.7 SELECT EXPERT OPINIONS OF GAPS IN IMPLEMENTATION OF LEGISLATION		
Country	Indicator	Select examples from legal experts
Brazil	Entrepreneurship	"While there are laws and public policies trying to boost women's businesses, in general, we see more unregistered women entrepreneurs than men."
Canada	Pay	"Studies show that women are still not remunerated equally with men, despite work of equal value. There are no restrictions on women working in any field, although systemic barriers continue to exist and women are underrepresented in many fields."
Ethiopia	Workplace	"Gender discrimination and sexual harassment still exist widely in most government offices."
Lebanon	Mobility	"Women's mobility is affected by various factors, especially social rules and customs depending on social and religious affiliation ... there are many disparities between Lebanese women depending on their social and religious context."
India	Marriage	"We are still highly patriarchal, and disobeying the husband is not possible in most households. Domestic violence is very high, and most matters go unreported."
South Africa	Assets	"There is the issue of men still very much being regarded as the head of the household and women's unpaid contributions not being valued."  "The laws in South Africa do not permit discrimination with regard to property and succession. However, this occurs in practice."

Source: *Women, Business and the Law* database.

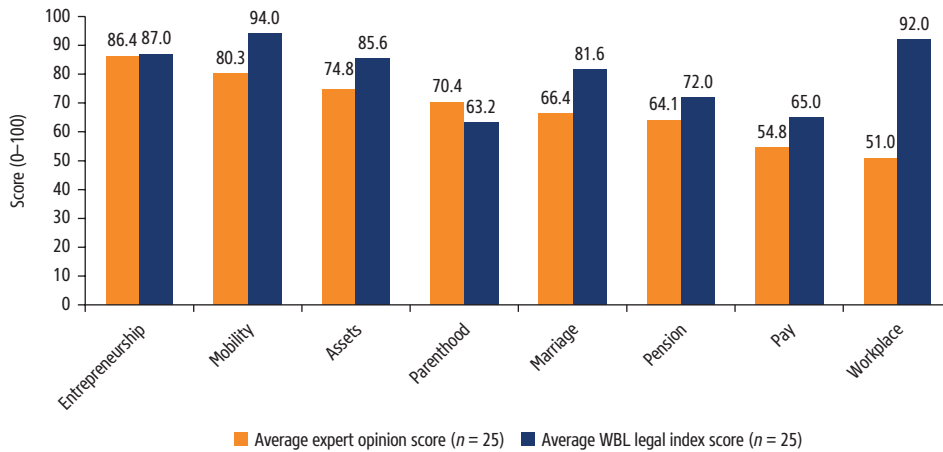
a man. In Portugal—1 of 12 economies to score 100 on the *Women, Business and the Law* index—a majority of experts surveyed said that legislation addressing domestic violence is not implemented effectively, with 1 respondent noting, "Law and practice are distinct. Legal protection is extremely positive, but the practical implementation of legislation is what is really needed."

This sentiment is also evident at the wider indicator level, as all indicators have gaps between laws and expert opinions of their implementation and enforcement in practice. Mobility, Entrepreneurship, and Assets are the areas where respondents were more likely to say that they agree or strongly agree with the statements presented to them. Entrepreneurship is the area where respondents agree the most, suggesting that women do have access in practice to similar entrepreneurship opportunities and freedom of movement as men. For example, nearly 90 percent of respondents said that they agree or strongly agree that in practice women register businesses and open bank accounts in the same way as men.

For Workplace and Pay, the data are more neutral to slightly disagree. Workplace has the lowest average score of all indicators, which is particularly interesting because it also has one of the highest averages in the legal index (92.0) among the pilot economies (figure 3.6). However, only about one-third of all respondents indicated that they agree or strongly agree that women are treated equally as men in this area. Workplace thus may present greater gender disparity in practice.

The expert opinions of laws in practice provide important insights into the ways in which the law may function on the ground in *Women, Business and the Law* economies. This real-world perspective grounds the legal data by examining the de facto opinions of those living it each day. Together with the study of supportive frameworks, these data create a fuller picture of the ways in which gender equality can be furthered, whether legally or societally. It also allows *Women, Business and the Law* to take the first steps toward measuring how the law operates in practice.

**FIGURE 3.6 | DISPARITY BETWEEN LEGAL INDEX AND EXPERT OPINION SCORES IN ALL INDICATORS**



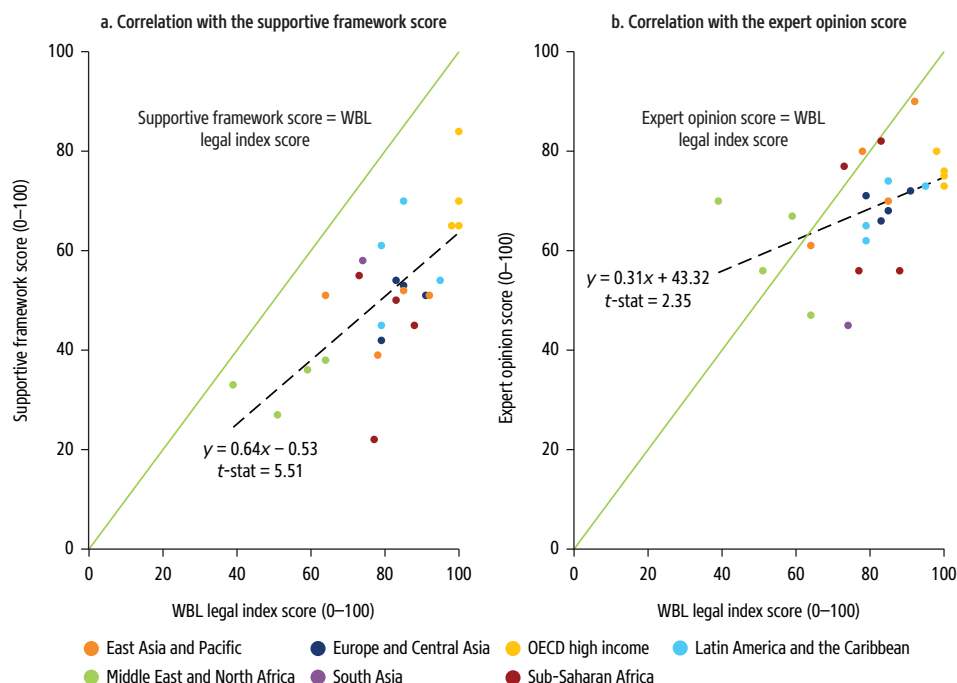
Source: *Women, Business and the Law* (WBL) database.

## The state of implementation

Taken together, these two measures approximate the process and outcome indicators of the implementation framework, illustrating the extent to which different factors influence the state of gender equality on the ground. This approach to scoring is not final, and caution should be taken not to generalize the results over the 190 economies covered by the *Women, Business and the Law* index. However, for this pilot exercise, the legal index scores show a correlation with the supportive framework scores and have a correlation coefficient of 0.70 (figure 3.7, panel a). Thus, stronger laws on the books tend to be associated with stronger supportive frameworks in the pilot economies. This result aligns with expectations—the supportive framework scores measure factors that are often similar in kind to those covered by the *Women, Business and the Law* legal index. The aspects covered tend to be within the power of governments to enact, establish, or otherwise carry out. However, as shown by the difference between the regression line and the 45-degree line in figure 3.7, panel a, the relationship is not one-for-one. Even though they are within the direct control of governments, differences with the legal index persist because supportive frameworks typically require several additional inputs, such as time, funding to establish and run institutions, institutional capacity to put forward and carry out subsidiary programs, rules, procedures, and more.

At the same time, the legal index scores show a weaker correlation with expert opinion scores, with a correlation coefficient of 0.45 (figure 3.7, panel b). This may be attributed partly to the results in the Middle East and North Africa, where expert opinion scores outperform the legal index. Still, relative to the supportive framework scores, the aspects measured by the expert opinion score are more distant from the aspects measured by the legal index score. This finding may imply that the *de facto* measure weakens as the analysis moves from structural indicators to process and, finally, to outcome. Qualitative comments collected from the experts reveal a range of other factors at play, including societal, cultural, and religious norms. Nevertheless,

**FIGURE 3.7 | CORRELATION BETWEEN LEGAL INDEX AND SUPPORTIVE FRAMEWORK AND EXPERT OPINION SCORES, BY REGION**



Source: *Women, Business and the Law* (WBL) database.

Note: The figure depicts two correlations: (1) between the supportive framework and legal index scores and (2) between the expert opinion and legal index scores. Each point represents a single economy. A fitted regression line is also included. The relationship remains positive and statistically significant after controlling for income per capita. A 45-degree line (in green) is also included for ease of comparability. OECD = Organisation for Economic Co-operation and Development.

the correlation suggests that any gender equality promised by the law is distinct from equality in practice.

The state of gender equality on the ground is thus different than the laws on the books. The results, while only preliminary, confirm that laws alone are not enough to improve gender equality, indicating that these gaps should be explored further. More work is needed to advance not only the implementation and enforcement of the law, but also the attitudes that shape the operation of laws each day. In particular, Pay and Pension require better implementation across both the supportive framework and expert opinion pilots.

## Addressing challenges and moving forward

While the data presented in this chapter contain interesting results, they constitute only the first attempt by *Women, Business and the Law* to study how laws are executed. Although they provide valuable observations and identify trends, these methods of studying implementation and enforcement of the law must be vetted more vigorously. Neither the questions included in the supportive framework and expert opinion pilots

nor the scoring methodology is final. As such, both the results and challenges of this analysis are presented here for feedback and proposals for refinement.

Crafting a measure of implementation that meets the necessary criteria presents many challenges. As stated above, any approach will need to maintain representative qualities of the *Women, Business and the Law* index, including coverage of 190 economies, comparability through the use of standardized assumptions, and feasibility of annual data collection and analysis using available resources. It will need to balance these requirements with the kind of granular information that can present a real picture of the enabling environment for working women in the economies covered.

In their current form, both approaches have drawbacks. For example, in the study of supportive frameworks, the emphasis is once again on *de jure* rather than *de facto* data. While evidence of supportive frameworks does provide insight into the operation of laws, the approach may not capture exactly how the implementation environment functions. It also may not be viewed as a complete and cross-cutting measure for every economy, as there will always be more areas to consider and more sequencing of the life cycle of legislation to be done. Binary questions, while ideal for comparability, also do not showcase further detail or supportive evidence at the economy level. Finally, the approach in its current form does not match up with the index at the level of individual data points.

The expert opinion questionnaire also has challenges. The questionnaire was administered to current *Women, Business and the Law* legal experts who may not be well versed in the practice of all of the areas covered, making it likely that observations are based more heavily on their own personal experiences than on those of the majority. Sample and survey response bias are also concerns; the results cannot be generalized to the entire population of each economy. Responses are likely influenced by a variety of market and nonmarket forces that are not directly related to laws or their implementation, including preferences, social norms and traditions, and market incentives. Future iterations of this exercise will rely more heavily on research related to controlling bias and subjectivity in questionnaire responses and will seek advice on statistical techniques that can be used to improve the reliability of expert responses. One option to consider is the Delphi method, in which experts receive feedback that represents the group response and are given the opportunity to discuss and revise answers to reach consensus. The sample size, both of experts and of 25 economies, also needs to be expanded to draw more meaningful conclusions.

Despite these challenges, this set of measures provides a starting point for continued focus on this work. Ideas for improving them are already being formulated. For instance, it may make more sense to align the expert opinion survey questions with the supportive framework questions. Doing so will allow the implementation data to function more sequentially with the legal index and within the structure-process-outcome framework. Although global coverage like that of the *Women, Business and the Law* index is rare, these data could be correlated further with other research to ascertain conclusions about the state of gender equality, even if only at the regional or country level. Finally, it would be helpful to add a cross-cutting measure of implementation that can be studied across all indicators. Doing so will require further research to ascertain the elements of a measure that applies to the implementation of all eight topics.

The objectives of this work going forward will be to build on the solutions presented by the current *Women, Business and the Law* indicators and to offer countries concrete

examples of the proper implementation of laws. The overarching goal is to contribute to making gender equality a reality not only by law, but also through its appropriate implementation and enforcement. Continuing to improve these measures in subsequent years, *Women, Business and the Law* hopes to deliver a fully developed framework that will allow more women to enforce their rights, boosting economic inclusion and labor force participation worldwide.

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