**Measuring the Legal Environment in Practice**

The *Women, Business and the Law* implementation and enforcement pilot presents a new conceptual framework for indicators that can be analyzed to gain a broader understanding of the ways in which the law functions on the ground. The goal of this research is to build on the solutions presented by the current *Women, Business and the Law* indicators and contribute to making gender equality a reality not only by law, but also through its implementation and enforcement. The pilot is comprised of two components examining not only the legal frameworks and good practices that create an enabling environment for working women, but also measuring expert opinions of implementation and progress toward de factogender equality. Taken together, it is hoped that this research can complement the de jure data presented by the *Women, Business and the Law* index, providing a complete picture of the life cycle of legislation and encouraging economies toward more efficient and comprehensive implementation of the law.

*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, is in good health and has no criminal record.
* is a lawful citizen of the economy being examined.
* is a cashier in the food retail sector in a supermarket or grocery store that has 60 employees.
* is a cisgender, heterosexual woman in a monogamous first marriage registered with the appropriate authorities (de facto marriages and customary unions are not measured).
* is of the same religion as her husband.
* is in a marriage under the rules of the default marital property regime, or the most common regime for that jurisdiction, which will not change during the course of the marriage.
* is not a member of a union unless membership is mandatory. Membership is considered mandatory when collective bargaining agreements cover more than 50 percent of the workforce in the food retail sector and when they apply to individuals who were not party to the original collective bargaining agreement.

*Economy Coverage:*

Albania; Argentina; Brazil; Canada; Cote d’Ivoire; Egypt, Arab Rep.; Ethiopia; France; Hong Kong SAR, China; India; Indonesia; Lebanon; Oman; Panama; Peru; Portugal; South Africa; Tajikistan; Thailand; Tunisia; Turkey; Uganda; Ukraine; United Kingdom; and Vietnam.

**I. Supportive Frameworks for Primary Legislation**

The first component measures the presence of known good practices related to the implementation and enforcement environment around the eight indicators presented by the index. Similar to the composition of the *Women, Business and the Law* index, thirty-two data points correlated across the existing indicators and composed of three to six binary questions were piloted. The data was collected via desk research and through follow up with current *Women, Business and the Law* local experts, and is current as of October 1, 2021.

**Mobility**

1. Has the government issued a standard rental lease that contains no differences in requirements, steps, or procedures for women and men?
	* The answer is “Yes” if a standard rental lease agreement has been issued by a relevant governing body in the main business city and contains no gender differences.
	* The answer is “No” if a standard rental lease agreement has been issued but contains gender differences.
	* The answer is “No” if a standard rental lease agreement has not been issued.
2. Have the requirements, application process, and period of issuance for an ordinary passport been made available with no gender differences?
	* The answer is “Yes” if clear and specific laws, regulations, or national policies/guidelines establish the requirements, application process, and period of issuance for an ordinary passport with no gender differences.
	* The answer is “No” if such information is readily available, but contains gender differences in requirements, processes, or period of issuance.
	* The answer is “No” if such information is not readily available.
3. Is there an online option for passport applications?
	* The answer is “Yes” if an online system for passport applications has been introduced and is functional.
	* The answer is “Yes” if applicants can submit documents online but must also prove their identity in person.
	* The answer is “No” if passport applications cannot be completed online.

**Workplace**

1. Does the law establish an anti-discrimination commission?
	* This question looks at institutions that have been established in addition to courts but are state bodies with a constitutional and/or legislative mandate to protect and promote principles of equality. Although they are part of the state apparatus and funded by the state, they operate and function independently from the government.
	* Commissions are specialized, independent bodies tasked with receiving complaints of gender discrimination. The bodies considered may take such forms as women’s commissions, ombudspersons, or national human rights institutions.
	* The answer is “Yes” if the commission is mandated to receive complaints of gender discrimination by public and private actors.
	* The answer is “No” if there is no such commission, or if the body in question does not receive complaints of gender discrimination by public and private actors.
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?
	* The answer is “Yes” if the law provides protective measures for complainants, victims, witnesses, or whistleblowers to gender discrimination or sexual harassment in employment.
	* The answer is “No” if the law does not provide protective measures for complainants, victims, witnesses, or whistleblowers to gender discrimination or sexual harassment in employment.
	* The answer is “No” if protective measures are triggered only at the request of the complainant, victim, witness, or whistleblower.
	* The answer is “No” if there is no legislation on gender discrimination or sexual harassment in employment.
3. If a plaintiff makes a prima facie case of sexual harassment, does the burden of proof move to the defendant?
	* A prima faciecase is made when the plaintiff presents enough evidence to support a verdict in their favor.
	* The answer is “Yes” if law or binding judicial precedent moves the burden of proof to the defendant after a plaintiff makes a prima facie case of sexual harassment.
	* The answer is “No” if no law or binding judicial precedent moves the burden of proof to the defendant after a plaintiff makes a prima facie case of sexual harassment.
	* The answer is “No” if there is no legislation on sexual harassment in employment.
4. Can gender discrimination cases be brought as class-action lawsuits?
	* A class-action lawsuit allows the plaintiff(s) to file a lawsuit on behalf of a large group, or class.
	* The answer is “Yes” if law or binding judicial precedent allows gender discrimination cases to be brought as class-action lawsuits.
	* The answer is “No” if no law or binding judicial precedent allows gender discrimination cases to be brought as class-action lawsuits.
	* The answer is “No” if gender discrimination in employment is not prohibited.

**Pay**

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?
	* The answer is “Yes” if clear and specific laws, regulations, or national policies/guidelines define “work of equal value” as it relates to equal remuneration.
	* The answer is “No” if “work of equal value” has not been defined.
	* The answer is “No” if the law does not mandate equal remuneration for work of equal value.
2. Have wage transparency laws or measures to address the pay gap been introduced?
	* The answer is “Yes” if wage transparency laws or other measures have been introduced to address the pay gap, including any measures designed to address the undervaluation of women’s work.
	* The answer is “No” if wage transparency laws or other measures have not been introduced.
3. Have gender-sensitive occupational health and safety measures been adopted?
	* The answer is “Yes” if gender-sensitive occupational health and safety measures have been adopted, including but not limited to policies on women’s occupational health and safety, the establishment of a national research institute that examines gender issues in occupational health and safety, or addressing specific risks that disproportionately affect working women.
	* The answer is “No” if gender-sensitive occupational health and safety measures have not been adopted.
	* The answer is “No” if the law prohibits women from working in certain jobs or industries, or during certain hours, as measured by the *Women, Business and the Law* index.
4. Have occupational health and safety inspections and/or investigations been established?
	* The answer is “Yes” if regular occupational health and safety inspections and/or investigations have been established, including through labor inspectorates, public health authorities, or other competent bodies.
	* The answer is “No” if no such means of inspection and/or investigation have been established.

**Marriage**

1. Is there a specialized court or procedure for cases of domestic violence?
	* The answer is “Yes” if the law
		+ establishes a court with exclusive jurisdiction on matters related to domestic violence, or
		+ provides revised rules of civil procedure or specially trained judges for matters related to domestic violence in a nonspecialized court, or
		+ establishes special procedures for protection or restraining orders for cases of domestic violence.
	* The answer is “No” if there are no special courts, procedures, or protection or restraining orders for cases of domestic violence.
2. Are there dedicated and specialized family courts?
	* The answer is “Yes” if there are dedicated and specialized courts that concentrate in issues of family law, such as marriage, divorce, custody, and alimony.
	* The answer is “Yes” if there is a chamber within a court that is dedicated to issues of family law.
	* The answer is “Yes” if there are judges that receive specialized training in family law issues and concentrate on those cases.
	* The answer is “No” if there is a family court but significant exceptions to coverage of issues exist.
	* The answer is “No” if a dedicated or specialized family court or chamber is available only at the highest level.
3. Does the law mandate legal aid in civil or family matters?
	* The answer is “Yes” if the constitution or another law establishes the right to legal aid or assistance in civil and/or family matters.
	* The answer is “No” if the constitution or another law provides for legal aid and assistance, but civil and/or family matters are not eligible.
	* The answer is “No” if the constitution or another law establishes only the right to counsel or the mandatory presence of an attorney in civil matters.
4. Does legislation mandate the establishment of support services for women survivors of violence?
	* The answer is “Yes” if the law mandates the government to establish comprehensive and integrated support services to assist survivors of violence.
	* The answer is “Yes” if the law establishes at least the following minimum standards of availability of support services for complainants/survivors:
		+ One national women’s phone hotline where all complainants/survivors of violence may get assistance by phone around the clock and free of cost and from where they may be referred to other service providers;
		+ Shelter/refuge;
		+ Women’s advocacy and counselling center, which provides proactive support and crisis intervention for complainants/survivors, including legal advice and support, as well as long-term support for complainants/survivors, and specialized services for particular groups of women (such as specialized services for immigrant survivors of violence, for survivors of trafficking in women or for women who have suffered sexual harassment at the workplace), where appropriate;
		+ Rape crisis center(s);
		+ Livelihood support under the form of vouchers, food stamps, financial support, vocational training, etc.; and
		+ Access to health care, including reproductive health care and HIV prophylaxis.
	* The answer is “No” if:
		+ The law does not mandate the government to establish comprehensive and integrated support services to assist survivors of violence; or
		+ The law does not establish the availability of specific support services for complainants/survivors (hotlines, shelters, counselling centers, legal aid, rape crisis centers, health care).

**Parenthood**

1. Have the requirements, application process, and period of issuance for maternity leave and benefits been made available?
	* The answer is “Yes” if clear and specific laws, regulations, or national policies/guidelines establish the requirements, application process, and period of issuance for maternity leave and benefits.
	* The answer is “No” if such information is not readily available.
	* The answer is “No” if paid maternity leave is not available to mothers.
2. If maternity benefits are administered by the government, is there an online option to apply to receive such benefits?
	* The answer is “Yes” if an online system for maternity benefits has been introduced and is functional.
	* The answer is “No” if there is no online system to apply for maternity benefits.
	* The answer is “No” if the government does not administer maternity benefits.
3. Are there policies in place that promote fathers’ uptake of paternity or parental leave?
	* The answer is “Yes” if laws or policies are in place that promote fathers’ uptake of paid paternity or parental leave, including but not limited to bonus payments, additional paid leave, and days reserved for each parent.
	* The answer is “No” if there are no laws or policies in place that promote fathers’ uptake of paid paternity or parental leave.
	* The answer is “No” if there is no paid paternity or parental leave available to fathers.
4. Does a worker have to formally notify her employer that she is pregnant to be protected against dismissal?
	* The answer is “Yes” if the law mandates pregnant employees to formally notify their employers to be protected against unfair dismissal.
	* The answer is “No” if employees are not obligated to formally notify their employers of pregnancy to be protected against unfair dismissal.
	* The answer is “No” if the dismissal of pregnant workers is not prohibited.

**Entrepreneurship**

1. Is there a small claims court or fast-track procedure for small claims?
	* Small claims courts hear only civil cases between private litigants involving relatively small amounts of money; though the names of such courts vary by jurisdiction, common features generally include relaxed rules of civil procedure, the appearance of adversaries without legal representation, the use of plain language, and relaxed evidentiary rules. Fast-track and simplified procedural rules for small claims operate similarly, but cases are tried in courts of more general jurisdiction.
	* The answer is “Yes” if
		+ there is either a small claims court or a fast-track procedure for civil claims of small value, and there is a maximum value of cases that may be heard in a small claims court or fast-track procedure, and
		+ the small claims court or fast-track procedure has jurisdiction to hear at least general civil cases.
	* The answer is “No” if
		+ there is a small claims court or fast-track procedure, but it is competent only to hear commercial claims, not all civil claims, or
		+ only a few types of civil disputes are within the jurisdiction of the small-claims court (e.g., rent disputes only), or
		+ there is no small claims court or fast-track procedure.
2. Does a woman's testimony carry the same evidentiary weight in court as a man's?
	* The answer is “Yes” if the law does not differentiate between the evidentiary value of women’s and men’s testimony in all types of cases.
	* The answer is “No” if the law explicitly differentiates between the evidentiary value of women’s and men’s testimony in any type of case.
3. Is there a national financial inclusion plan or strategy that promotes women’s access to credit?
	* The answer is “Yes” if there is an official, government-issued national financial inclusion strategy, plan, or policy currently in force that lists women’s financial inclusion as a main objective, or if women’s financial inclusion is targeted in other legal instruments.
	* The answer is “No” if there is no official, government-issued national financial inclusion strategy, plan, or policy currently in force, or the strategy in force does not include women’s financial inclusion as a main objective.
4. Are banks or other financial institutions required to submit anonymized, sex-disaggregated data as part of their reporting obligations?
	* The answer is “Yes” if clear and specific laws, regulations, or other binding national policies/guidelines mandate banks to submit anonymized, sex-disaggregated data as part of their reporting requirements.
	* The answer is “No” if banks are not legally required to submit anonymized, sex-disaggregated data as part of their reporting requirements.
	* The answer is “No” if banks do submit anonymized, sex-disaggregated data as part of their reporting requirements but are not legally required to do so.

**Assets**

1. Are there dedicated and specialized land courts?
	* The answer is “Yes” if there are dedicated and specialized courts that concentrate in issues of land and property.
	* The answer is “Yes” if there is a chamber within a court that is dedicated to issues of land and property.
	* The answer is “Yes” if there are judges that receive specialized training in land issues and concentrate on those cases.
	* The answer is “No” if there is a land court but significant exceptions to coverage of issues exist.
2. Are there policies or programs in place that mandate or promote women’s land ownership?
	* The answer is “Yes” if there are government-sponsored policies or programs in place that mandate or promote women’s land ownership.
	* The answer is “No” if there are no policies or programs in place that mandate or promote women’s land ownership.
3. Have the requirements, application process, and time line for land registration and allocation been made available with no gender differences?
	* The answer is “Yes” if clear and specific laws, regulations, or national policies/guidelines establish the requirements, application process, and timeline for land registration with no gender differences.
	* The answer is “No” if such information is not readily available.
	* The answer is “No” if such information is readily available but contains gender differences.
4. Are there administrative bodies responsible for the administration and adjudication of inheritance claims?
	* The answer is “Yes” if there is a specialized body or agency tasked with administering inheritance claims.
	* The answer is “No” if no such body exists.
5. Is there binding legal precedent set by state or federal courts related to the recognition of nonmonetary contributions?
	* Nonmonetary contributions include caring for minor children, taking care of the family home, or any other nonmonetized contribution from a stay-at-home spouse.
	* The answer is “Yes” if binding legal precedent set by state or federal courts gives clear and specific guidance on the calculation of nonmonetary contributions at the time of divorce.
	* The answer is “No” if there is no such binding legal precedent set by state or federal courts.
	* The answer is “No” if the law does not provide for the valuation of nonmonetary contributions.
6. Have guidelines been issued that define how to calculate nonmonetary contributions?
	* The answer is “Yes” if the government has issued clear and specific guidelines on the calculation of nonmonetary contributions at the time of divorce.
	* The answer is “No” if no such guidelines have been issued.
	* The answer is “No” if the law does not provide for the valuation of nonmonetary contributions.

**Pension**

1. Have the requirements, application, and period of issuance for pension benefits been made available with no gender differences?
	* The answer is “Yes” if clear and specific laws, regulations, or national policies/guidelines establish the requirements, application, and period of issuance for pension benefits with no gender differences.
	* The answer is “No” if such information is not readily available.
	* The answer is “No” if such information is readily available but contains gender differences.
	* The answer is “No” if there is no mandatory pension system, or it is not in force.
2. Is there an online option for pension benefit applications?
	* The answer is “Yes” if an online system for pension benefits has been introduced and is functional.
	* The answer is “No” if there is no online system for pension benefits.
	* The answer is “No” if there is no mandatory pension system, or it is not in force.
3. Does the government collect anonymized, sex-disaggregated data on employees’ actual retirement ages?
	* The answer is “Yes” if the government collects and publishes anonymized, sex-disaggregated data on private sector employees’ actual retirement ages.
	* The answer is “No” if the government does not collect and publish such data.
	* The answer is “No” if there is no mandatory pension system, or it is not in force.

**II. Expert Opinions of Laws in Practice**

The second component of *Women, Business and the Law*’s implementation exercise pilots a study of expert opinion on the operation of the laws measured by the index, whether good practice or discriminatory. The questionnaire aims to gauge the opinions of existing *Women, Business and the Law* local experts on the effectiveness of the laws in achieving their stated goals and the uptake of the legal rights and discriminatory provisions measured by the eight indicators in the index.

Reflecting the 35 questions currently comprising the *Women, Business and the Law* index, the expert opinion questionnaire presents generalized statements before asking respondents the extent to which they agree or disagree. Respondents are then prompted to select the level to which they agree, taking into consideration their familiarity with the current applicable laws relating to this question. All answers are scored on a scale from 1 (strongly disagree) to 5 (strongly agree) for ease of analysis. For those that are unsure, a 0 option is also available.

This preliminary format sought to understand experts’ opinion of the implementation (or absence) of the law. It also allowed the scale to remain consistent across questions, whether they focus on the absence of a restriction, enforcement of a right, or provision of benefits. Respondents were encouraged to choose the answer that best reflects how the corresponding restriction, principle, or provision operates in practice. The table below lists the *Women, Business and the Law* data points with their corresponding expert opinion statement.

0: Not sure

1: Strongly disagree

2: Disagree

3: Neither agree nor disagree

4: Agree

5: Strongly agree

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| --- | --- | --- |
| Indicator | *Women, Business and the Law* Data Point | Expert Opinion Statement |
| 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.  |
| 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 inheritance 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 valuating 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. |

More detailed data on each economy included in this report appear on the project website at <https://wbl.worldbank.org>. The full dataset for the Measuring the Legal Environment in Practice pilot exercise is also available for download. The team welcomes feedback on the methodology and construction of this set of indicators, and it looks forward to improving their coverage and scope. Comments can be offered by contacting the *Women, Business and the Law* team at wbl@worldbank.org.