



PROFESSIONAL INSIGHTS

Women, business and the law: measuring legal gender parity for entrepreneurs and workers

Women,
business and
the law

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Syed Zamberi Ahmad

*Marketing & Management Department, College of Business Administration,
Abu Dhabi University, Abu Dhabi, United Arab Emirates*

Abstract

Purpose – Given the importance of legal parity between women and men in today's world and lack of research in this domain, the purpose of this paper is to identify gender-based distinctions in formal laws and institutions that may directly or indirectly affect women's prospects as entrepreneurs and employees.

Design/methodology/approach – Covering 128 economies, it establishes six indicators of gender differences in formal laws and institutions: accessing institutions; using property; getting a job; dealing with taxes; building credit; and going to court. The first three indicators capture laws that have direct gender dimensions and are based on a reading of such laws from the perspective of individual women. The fourth indicator examines the direct and indirect gender implications of tax policy from the perspective of four standardised families with varying tax liabilities. The last two indicators examine the ease of access to credit bureaus and courts to examine the indirect effects that microfinance institutions and dispute resolution have on women, who are more likely to rely on non-traditional financial services. The questions used to construct each indicator were chosen based on data availability, economic relevance and variation of regulation across economies.

Findings – The findings of the study pointed out that every region contains economies with unequal rules for men and women, with the extent of inequality varying by region.

Research limitations/implications – This research does not test or analyse outcome variables of gender inequality; it simply identifies whether the law is equal for women and men, which can be a potential source of inequitable gender outcomes.

Practical implications – This research offers valuable practical insights for employees and entrepreneurs to improve understanding of how legal and regulatory environments shape opportunities for women and contribute to more informed policy discussions.

Originality/value – The paper provides interesting insights into research on linkages between legal differentiation and outcomes for women, and helps inform policy dialogue on things governments can do to expand women's opportunities. It is the first attempt to measure the gender gap in policy variables using quantitative and objective data.

Keywords International economic policies, Gender, Entrepreneurialism, Women, Legal parity

Paper type Research paper

Introduction

Improving the condition of women can have benefits for society that transcend the direct benefits to individual women. Women's independent earnings improve the well-being of families and communities, reduce poverty and stimulate economic growth. Higher income for women and better access to and control over their resources



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also translate into better health and nutrition for children. Though there has been much progress towards legal parity between women and men, important distinctions still exist that may constrain women's capacity to improve their own and their families' well-being by working or by running a business. This report looks at gender-based distinctions in formal laws and institutions that may directly or indirectly affect female workers and entrepreneurs. It establishes six indicators of gender differences in formal laws and institutions, with details as follows:

- (1) accessing institutions – explores women's legal ability to interact with public authorities and the private sector in the same ways as men;
- (2) using property – analyses women's ability to access and use property based on their capacity to own, manage, control and inherit it;
- (3) getting a job – assesses restrictions on women's work such as prohibitions on working at night or in certain industries. This indicator also covers laws on work-related maternity and paternity benefits and on retirement ages;
- (4) dealing with taxes – examines personal income tax liabilities, taking into account tax credits and deductions available to women relative to men;
- (5) building credit – identifies minimum loan thresholds in private credit bureaus and public credit registries and tracks bureaus and registries that collect information from microfinance institutions; and
- (6) going to court – considers the ease and affordability of accessing justice by examining small claims courts.

Summary of study data and methodology: the data in this report were collected over two years ending in October 2009. The report's indicators were constructed using codified sources of national law such as constitutions, marriage and family codes, labour codes, passport procedures, citizenship rules, inheritance statutes, tax regulations, land laws and social security codes as well as responses from country practitioners. Wherever possible, data were gathered directly from the text of laws. The Gender Law Library and other online sources were used to access laws. The report indicators complement a number of existing sets of gender indicators such as the *Global Gender Gap Index*, published by the World Economic Forum, the Social Institutions and Gender Index and the United Nations Gender Info. In addition, responses from the *Doing Business 2010* (World Bank, 2009) surveys were used to develop the indicators for dealing with taxes, building credit and going to court. This report collected data on 128 economies. A complete study report – including executive summaries, links to the legal sources used, the complete survey instrument and bibliography – is available online at <http://wbl.worldbank.org>

Gender equality and economic outcomes for women

Only 20 of the 128 economies set equal rights for women and men in nine key areas (excluding parental benefits). Interestingly, none of the 20 is in South Asia, the Middle East and North Africa or Eastern Europe and Central Asia. Only one (Botswana) is in Sub-Saharan Africa. Two are in East Asia and the Pacific which is Hong Kong (China) and Taiwan (China), and four are in Latin America and the Caribbean: the Dominican Republic, Peru, Puerto Rico and Uruguay. The remaining 13 are OECD high-income economies such as in Canada, Denmark, Finland, France, Iceland, Ireland, New Zealand, Norway, Portugal, Spain, Sweden, the UK and the USA.

Table I shows the average percentage of female participation in ownership and management in economies where women and men have equal rights under the law in four areas.

Every region contains economies with unequal rules for men and women, with the extent of inequality varying by region (see Table II). In Sub-Saharan Africa all economies except Botswana impose unequal rules for men and women in at least one of the following areas: accessing institutions, using property, getting a job or dealing with taxes. This is also the region where the smallest percentages of economies have small claims courts or credit bureaus that collect information from microfinance institutions.

The picture is similar in the Middle East and North Africa, where all economies have some gender-differentiated rules in one or more of accessing institutions, using property, getting a job or dealing with taxes. Moreover, this region has one of the smallest shares of economies providing the services described in building credit and going to court. In South Asia differentiation between men and women is common in accessing institutions, using property and getting a job. There is no direct gender differentiation in dealing with taxes, and small claim courts are common in the region. But in only one of the region's five economies covered by this report does The Public Credit Bureau collect information from microfinance institutions. In East Asia and the Pacific there are different rules for men and women in ten of 13 economies in one or more of accessing institutions, using property, getting a job or dealing with taxes.

In Latin America and the Caribbean legal differentiation between men and women exists in 16 of the 20 economies covered in one or more of accessing institutions, using property or getting a job. But none of the economies differentiates between men and women on inheritance rights or dealing with taxes. Moreover, this region has the highest percentage of economies where credit bureaus collect information from microfinance institutions. None of the economies in Eastern Europe and Central Asia and in OECD high-income differentiates between men and women in accessing institutions, using property or dealing with taxes. The Republic of Korea is an exception in that its personal income tax laws impose a lower tax liability on women through specific deductions that apply only to working women. Otherwise, all the legal differentiations between men and women in these two regions focus on labour regulations.

Areas	Percentage of firms			
	Female top manager		Female participation in ownership	
	Economic with equal gender rights	Economic with unequal gender rights	Economic with equal gender rights	Economic with unequal gender rights
Industry restrictions (%)	22	18	36	30
Ownership rights (%)	21	14	34	27
Inheritance rights (%)	21	14	37	22
Capacity by law (%)	21	14	37	22

Sources: Women, Business and the Law database; World Bank Enterprise Surveys database

Table I.
Equal rights are
associated with more
businesses owned or
managed by women

Table II.
Economies with gender
differentiated laws across
nine questions

Questions	East Asia and Pacific	Eastern Europe and Central Asia	OECD high- income countries	Latin America and Caribbean	Middle East and North Africa	South Asia	Sub-Saharan Africa
Where do men and women not have equal capacity by law?	Indonesia, Malaysia, Philippines	None	None	Chile, Jamaica	Algeria, Egypt, Arab report, Iran, Islamic report, Jordan, Kuwait, Lebanon, Morocco, Oman, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen, report	Bangladesh, Nepal, Pakistan, Sri Lanka	Benin, Burkina Faso, Cameroon, Congo, Dem. report, Côte d'Ivoire, Ghana, Guinea, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Niger, Nigeria, Rwanda, Senegal, Sudan, Tanzania, Togo, Uganda
Where do married men and married women not have equal capacity by law?	Indonesia, Malaysia, Philippines	None	None	Chile, Jamaica	Algeria, Egypt, Arab report, Iran, Islamic report, Jordan, Kuwait, Lebanon, Morocco, Oman, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen, report	Bangladesh, Nepal, Pakistan, Sri Lanka	Benin, Burkina Faso, Cameroon, Congo, Dem. report, Côte d'Ivoire, Ghana, Guinea, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Niger, Nigeria, Rwanda, Senegal, Sudan, Tanzania, Togo, Uganda

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Questions	East Asia and Pacific	Eastern Europe and Central Asia	OECD high-income countries	Latin America and Caribbean	Middle East and North Africa	South Asia	Sub-Saharan Africa
Where do men and women not have equal ownership rights over movable and immovable property?	Indonesia, Philippines	None	None	Chile, Jamaica	None	Nepal, Sri Lanka	Cameroon, Congo, Dem. report, Mauritania, Togo
Where do men and women not have equal inheritance rights over movable and immovable property?	Indonesia, Malaysia, Philippines, Singapore	None	None	None	Algeria, Egypt, Arab report, Iran, Islamic report, Jordan, Kuwait, Lebanon, Morocco, Oman, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen, report	Bangladesh, India, Nepal, Pakistan, Sri Lanka	Guinea, Kenya, Malawi, Mali, Mauritania, Nigeria, Senegal, Sudan, Tanzania, Togo, Zambia
Where can women not work the same night hours as men?	Papua New Guinea, Philippines	Montenegro, Slovenia, Turkey, Ukraine	None	Costa Rica, Jamaica	Algeria, Egypt, Arab report, Jordan, Kuwait, Oman, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen, report	Bangladesh, Nepal, Pakistan, Sri Lanka	Cameroon, Chad, Congo, Dem. report, Madagascar, Mali, Mauritania, Nigeria, Senegal, Sudan
Where can women not work in all industries?	China, Malaysia, Mongolia, Papua New Guinea, Thailand, Vietnam	Bosnia and Herzegovina, Montenegro, Russian Federation, Serbia, Slovenia, Turkey, Ukraine, Uzbekistan	Belgium	Bolivia, Colombia, Ecuador, Guatemala, Jamaica, Panama	Egypt, Arab report, Iran, Islamic report, Jordan, Kuwait, Lebanon, Morocco, Oman, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen, report	India, Pakistan	Benin, Cameroon, Chad, Congo, Dem. report, Côte d'Ivoire, Ethiopia, Guinea, Kenya, Lesotho, Mali, Mauritania, Niger, Nigeria, Senegal, Sudan

(continued)

Table II.

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Questions	East Asia and Pacific	Eastern Europe and Central Asia	OECD high-income countries	Latin America and Caribbean	Middle East and North Africa	South Asia	Sub-Saharan Africa
Where can pregnant and nursing mothers not work the same hours and in the same industries as men and other women?	China, Indonesia, Lao PDR, Mongolia, Thailand, Vietnam	Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Estonia, Georgia, Kyrgyz Republic, Moldova, Montenegro, Russian Federation, Serbia, Slovenia, Turkey, Ukraine, Uzbekistan	Austria, Belgium, Czech Republic, Germany, Hungary, Italy, Japan, Korea, report, Netherlands	Chile, Colombia, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Venezuela, R. B.	Israel, Jordan	None	Angola, Benin, Cameroon, Chad, Congo, Dem. report, Côte d'Ivoire, Ethiopia, Ghana, Guinea, Madagascar, Mali, Mauritania, Namibia, Niger, Rwanda, Senegal, Tanzania, Togo
Where are women expected by law to retire at an earlier age than men in the private sector?	China, Malaysia, Mongolia, Vietnam	Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Croatia, Estonia, Georgia, Kazakhstan, Kyrgyz Republic, Latvia, Lithuania, Moldova, Montenegro, Poland, Romania, Russian Federation, Serbia, Turkey, Ukraine, Uzbekistan	Australia, Austria, Czech Republic, Greece, Italy, Slovak Republic, Switzerland	Argentina, Brazil, Chile, Colombia, Costa Rica, El Salvador, Honduras, Jamaica, Panama, Venezuela, R. B.	Algeria, Iran, Islamic report, Jordan, Lebanon, Oman, Saudi Arabia, Syrian Arab Republic, Yemen, report	Pakistan, Sri Lanka	Congo, Dem. report, Madagascar, Mauritania, Nigeria, South Africa
Where do women face higher personal income tax liability than men?	Indonesia	None	None	None	Lebanon	None	Burkina Faso, Côte d'Ivoire

Laws are changing to increase equality

In recent years, a number of the 128 economies have adopted formal laws aimed at equalising the status of women and men. Table III illustrated several examples that reflect the types of changes being made around the world.

Future research directions

This report will seek to expand coverage to additional economies and expand or refine the current indicators. The indicator on accessing institutions will be disaggregated to provide more detailed understanding of the extent of inequality in this area and enable better comparisons of the differences in unequal treatment across regions and income groups. The reports will also consider expanding the indicator on getting a job to cover equal pay for equal work and non-discrimination in employment, as well as regulations on part-time employment. Further work is planned on options for addressing customary law. As progress is monitored on the six indicators, it will become possible to identify which economies are more active in changing laws on women's economic rights. Thus, future research direction of this report will contain more detail on legal changes and the processes associated with those changes.

Countries	Events
Botswana	In 1996, the country amended its Employment Act and Mines and Quarries Act to lift restrictions on the industries where women can work. In addition, retirement ages were set at 65 for both men and women. The country also amended its Deeds Registry Act, enabling women to execute deeds and other legal documents without their husbands' consent. In 2004 Botswana passed the Abolition of Marital Power Act, eliminating the husband's position as head of household and giving spouses equal rights in managing and administering joint property
Finland (2002), the Kyrgyz Republic (2008) and Moldova (2003)	These countries are among the economies that have recently changed legislation to allow fathers to take extended parental leave. A growing number of economies are also instituting paternity leave policies, allowing fathers to take time off at the birth of their children
Ecuador (2009)	Instituted new paternity leave laws. Such laws may encourage more equitable division of childrearing responsibilities and enable women to pursue career opportunities that might not otherwise be open to them
Morocco	In 1995, the country revised its commercial and contract law to give women the right to start businesses and get jobs without their husbands' approval. In 2004 it changed the Family Code to equalise the status of women within the family. Before the code went into effect, Moroccan men were the heads of households and women were bound by their decisions. Now spouses jointly manage family responsibilities
Kuwait and Nigeria	Recently ruled as unconstitutional laws requiring married women to get spousal consent to obtain passports

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Table III.
Changing in laws in
several countries to
increase equality

Table III.

Countries	Events
Bolivia	In 1996, the country began a systematic land titling effort that recognised men's and women's equal rights to land. But the equalising legislation did not significantly increase women's land titles, so the implementing agency amended its procedures to promote joint titling, as opposed to titling under the head of household. Bolivia has since seen a sustained increase in joint titles, while individual titling to women has tapered off
Vietnam	There is recognition that earlier statutory retirement ages for women result in shorter working lives and thus lower pension accruals through pension contributions. To offset this difference, women in Vietnam whose statutory retirement age is 5 years lower than men's receive an additional transfer of resources to supplement their pensions at retirement relative to their contribution levels. In addition, the Vietnamese government is working to rise the female retirement age from 55 to 60
India	In 2005, the country amended the Hindu Succession Act to give daughters equal inheritance rights over joint family property. Previously, separate property could pass equally to male and female descendants, but joint family property or ancestral property could only pass through the male line. Agricultural land was also included in the amended act. Before, agricultural land had largely been exempt and was governed by a kaleidoscope of state laws, several of which restricted women's ability to inherit such land. Other amendments to the act included allowing married daughters to live in their parental homes. Previously, married daughters could not legally reside in their parental homes unless they were separated, deserted or widowed. In addition, all daughters, regardless of their marital status, have been granted the ability to demand a partition of joint family property a right that had formerly been granted only to the male line. Restrictions were also lifted on the ability of certain widows to inherit if they remarried

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About the author

Syed Zamberi Ahmad holds a PhD from the Hull University Business School (HUBS), UK. His research interests include firm evolution and growth strategies including alliance, market entry and internationalisation strategies of SMEs and multinational firms. He is currently an Associate Professor of International Business and Entrepreneurship Management at College of Business Administration, Abu Dhabi University, United Arab Emirates. Prior to entering academia, he had several years' industrial experience in international banking and treasury of several reputable banks in Malaysia. He has served several universities in Malaysia, Yemen, and Saudi Arabia. Syed Zamberi Ahmad can be contacted at: drszamberi@yahoo.com