

# EQUALITY WITHIN OUR LIFETIMES

*How Laws and Policies  
Can Close—or Widen—  
Gender Gaps in  
Economies  
Worldwide*

Jody Heymann  
Aleta Sprague  
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Jody Heymann, Aleta Sprague, and Amy Raub

*Foreword by  
Hema Swaminathan*



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*To Jennifer Scott, whose immense gifts, inner strength,  
and deep commitment made this work possible.*

*And to everyone who finds a path to advancing equality.*





*Gender equality is the goal that will help abolish poverty, that will create more equal economies, fairer societies, and happier men, women, and children.*

—GRAÇA MACHEL



## CONTENTS

<i>List of Figures</i>	<i>x</i>
<i>List of Tables</i>	<i>xii</i>
<i>Foreword</i>	<i>xiii</i>
<i>Acknowledgments</i>	<i>xvii</i>
1. Introduction	1
2. Gender Discrimination at Work	21
3. Equal Rights at Work for Women Must Mean All Women	54
4. Why Ending Sexual Harassment Is Integral to Ending Gender Discrimination	83
5. Putting Nondiscrimination into Practice: Realizing the Promise of Gender Equality Laws	109
6. How Laws and Policies Reinforce Inequality in Caring for Children	146
7. How the Law's Neglect of Caregiving across the Life Course Fuels Inequality	180
8. Education: Investing in Girls to Advance Equality Long-Term	212
9. Civil Society as a Powerful Source for Change	237
10. Achieving Gender Equality in the Economy in Our Lifetimes	272
<i>Index</i>	<i>289</i>

## LIST OF FIGURES

1. Do countries comprehensively prohibit gender discrimination at work? 32
2. Do countries prohibit at least some aspect of caregiving discrimination at work? 44
3. Have countries strengthened prohibitions of gender discrimination and caregiving discrimination at work? 46
4. Do countries prohibit discrimination at work based on both race/ethnicity and social class, in addition to gender? 60
5. Is there at least some prohibition of discrimination at work based on both migration status and gender? 64
6. Is there at least some prohibition of discrimination at work based on both sexual orientation and gender identity? 64
7. Do countries prohibit discrimination at work based on both disability status and age, in addition to gender? 68
8. Are countries increasingly prohibiting multiple sources of workplace discrimination against women? 71
9. How comprehensive are countries' protections against sexual harassment? 94
10. Have countries strengthened laws prohibiting sexual harassment at work? 100
11. Can employees seek justice through an independent body for gender discrimination? 125
12. Do countries prohibit retaliation for reporting sexual harassment and gender discrimination at work? 128
13. Are employers required to take steps to prevent workplace sexual harassment and gender discrimination? 132

14. What responsibilities do independent bodies have for preventing workplace gender discrimination? 135
15. Is paid leave available to parents of infants? 159
16. Are more countries guaranteeing at least 14 weeks of paid leave to mothers and fathers of infants? 165
17. Is paid leave available to meet children's serious health needs? 191
18. How much paid leave is available to workers to meet a parent's serious health needs? 192
19. Is paid leave available to meet the health needs of all adult family members? 193
20. Do national policies, laws, or constitutions make education tuition-free and compulsory? 217
21. Are gender discrimination and sexual harassment prohibited in education? 219
22. Do laws prohibit early marriage and ensure girls have as much legal protection as boys when loopholes are taken into account? 223
23. Have low- and middle-income countries increased the minimum age of marriage to 18 years old with parental consent? 224

## LIST OF TABLES

1. Legal prohibitions of gender discrimination at work, by country income level 47
2. Legal prohibitions of multiple sources of gender discrimination at work, by country income level 76
3. Comprehensiveness of legal prohibitions of sexual harassment at work, by country income level 101
4. Legal approaches to access to justice for workplace gender discrimination and sexual harassment, by country income level 137
5. Legal approaches to paid leave during early childhood, by country income level 170
6. Legal approaches to paid leave to meet family health needs across the life course, by country income level 202
7. Legal approaches to supporting girls' education, by country income level 230

## FOREWORD

Hema Swaminathan

Across countries, men continue to hold the majority of leadership positions and economic power. Around the world, only a quarter of parliamentarians<sup>1</sup> and less than a third of senior managers<sup>2</sup> are women. Women hold just 32 percent of private wealth globally,<sup>3</sup> and sizeable wage gaps persist in nearly every country. While much progress has been made in alleviating gender inequality, we still have critical challenges to overcome.

More often than not, governments are complicit in maintaining gender inequality. We largely assume that governments no longer openly discriminate against women, at least not in certain geographies of the world. Focusing on economic structure and the labor market, this book systematically shatters that myth by arraying together a wide range of evidence, including primary data analysis, literature review, case law research, and interviews with diverse stakeholders. The study is painstakingly thorough and presented to the readers in lucid prose. The authors persuasively argue that explicit discrimination by the state has by no means ceased to exist, even as it has lessened. Further, professedly gender-neutral policies are also regressive if they contribute to stereotyping women's and men's work. The modern workplace continues to be stifled by restrictive gender norms. While much has improved, true gender equality remains elusive.

Gender inequality is pervasive in the economic and social domains. These inequalities reinforce each other, leading to a vicious cycle of disempowerment and inequality. Economic empowerment is foundational to empowerment in all spheres of life. Economic dependence for women has material and nonmaterial implications. Compared to men, women are more likely to be in poverty and less likely to own property and other assets, which leads to lower wealth.



The labor market is a gendered institution in which laws and social mores interact to produce structural inequalities with immense reach. The patriarchal perspective underpins several essential functions of the labor market. First, the valuation and, by extension, the undervaluation of specific skills, activities, and jobs—and in particular, the devaluation of care and “women’s work.” According to the International Labour Organization, women’s unpaid caregiving contributes around \$8 trillion in value to the global economy each year; meanwhile, paid care work is often marked by low pay and poor working conditions.<sup>4</sup> Second, how the labor market perceives men and women and how this perception translates into hiring, promotion, and other employment-related decisions. For example, studies show that presumptions about women’s care responsibilities undermine women’s paid work opportunities and advancement; at the same time, women who do move up in the workplace face backlash if they adopt stereotypically “male” leadership styles but are perceived as ineffective if they don’t. Finally, the instituted workplace policies reflect both government legislation and gendered roles.

Shifting our gaze from gender inequalities in the population to gender inequalities within the household, we see how discrimination in the labor market plays out within the intimacy of the home. Across countries, there exists gender inequality in economic resources within households. Our recent global survey of intrahousehold gender inequality analyzed couples’ labor market earnings in forty-five different countries across a four-decade period (1973–2016), using detailed microdata from 2.85 million households.<sup>5</sup> We find that earnings inequality between couples is systemic and prevalent across disparate economies. Using more recent data, our research demonstrates that when both members of the couple are employed, there is not a single country where wives earn as much as their husbands.

Differences in labor market engagement between men and women help to drive the intracouple earnings inequality and are also reinforced by it. Women are less likely to participate in the labor market, and when they do, they work fewer hours in paid employment and are overrepresented in low-wage and low-skill jobs. The responsibilities of social reproduction borne by women inhibit their ability to exploit paid employment opportunities fully. Thus, on a global scale, trends suggest that even as couples are broadly converging on education, the same does not apply for occupations and earnings. It is not possible that all couples everywhere will have the same earnings or labor market trajectory. However, if women are consistently worse off financially, then we have a problem whose effects reverberate in both the economic and noneconomic spheres.

The government’s devaluation of care work plays out not only in the labor market (via discriminatory legislation and workplace policies) but also through laws that do not recognize women’s nonmonetary contribution to the household. Laws governing marital assets can be characterized as full community of property (all assets are considered joint property of couple), partial community of property (assets acquired postmarriage are joint, with those obtained before

marriage as separate), and separation of property (in which the property is independently owned with no concept of joint marital assets). Gender inequality in earnings limits women's purchasing ability to buy property. This is compounded by separation-of-property marital laws that do not recognize women's unpaid contribution to matrimonial assets via childcare and household maintenance. A recent study using data from forty-one developing countries shows that gender gaps in property ownership among couples is correlated with discriminatory laws related to property ownership, inheritance rules, marital regimes, and workplace discrimination.<sup>6</sup>

Inegalitarian distribution of economic resources can rob women of agency, voice, self-confidence, and self-esteem. These effects are most keenly manifest within the household. Strengthening women's access to economic resources improves their well-being and enhances bargaining power within the household, leading to a greater voice in decisions. Further, there are clear intergenerational benefits with higher investments in children's health and education.

Gender justice demands that both men and women have equal opportunities for full economic participation without legal or social discrimination. Equivalently, men also deserve a chance to lay down the burden of being a breadwinner and take on more household responsibilities, including fulfilling activities such as childcare and bonding with children. These are linked; women cannot take on additional responsibilities in employment if there is no redistribution of unpaid care work.

It is easy in our present times to despair. The world is still learning to cope with COVID-19 and its implications; climate change challenges are urgent; the winds of political change in many countries are blowing away liberal values, including hard-fought rights to equality, dignity, and freedom of expression. Amid all this, the authors are hopeful and optimistic in their narrative.

The book emphasizes the power of actions by macro- and microplayers, all of whom will benefit from greater gender equality in the economy and society. This is not a zero-sum game in which there are winners and losers. Instead, there are only winners and winners. Changing the patriarchal status quo is feasible only if we all step up and raise our voices. The authors say that we should hold our governments to account. But as I read the book, the clarion call to action and holding oneself accountable resonates in me. With every act of gender injustice we see and accept quietly, it is worth remembering that when the bell tolls, "it tolls for thee."

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Alongside the original data, this book includes studies, statistics, and case law to illustrate how and why gender equality in the law matters worldwide. Kate Huh, Kristen Mosher, Negar Omidakhsh, Pam Stek, and Marissa Watkins led wide-ranging literature reviews that powerfully informed this book's key arguments.

Gonzalo Moreno searched case law from around the world to identify court decisions that demonstrated when laws made a difference.

We also share stories of change led by civil society organizations (CSOs) across countries. Based on in-depth interviews, some detail the work of leading CSOs we have been fortunate to partner with in moving from evidence to impact. We are deeply grateful for the extraordinary contributions of these organizations' leaders and staff and for the exceptional leadership of Nick Perry and Erin Bresnahan in building WORLD's collaborative efforts and ensuring the data reach those who can use it. Other stories share the experiences of CSOs we learned about through a global search of high-impact organizations. Laurel Grzesik-Mourad played an integral role in managing the research into CSO initiatives, from conducting interviews to writing up key findings, and Corina Post and Marissa Watkins led the initial global scoping.

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Like countless others around the world, each of us was also managing family caregiving needs during the global pandemic while working on this project. There has been no greater gift than the tremendous support from family, friends, and colleagues who cared about us as people. A few more personal words from each of us follow.

*Aleta:* When we began drafting the proposal for this book, I was pregnant with my first child. As we prepare to submit the final draft, I'm a few months away from meeting my second. In the three years in between, a global pandemic has profoundly affected conditions of work and caregiving across many countries, with consequences that have touched nearly all of us.

For me, drafting this book during such a turbulent moment in history could not have been possible without two of the fundamental facilitators of gender equality in the economy that our analysis identified: an accommodating workplace and a partner committed to sharing the joys and challenges of caregiving. Particularly in the early days of lockdowns, when I was newly working from home with a seven-month-old, my access to paid caregiving leave, flexibility with my schedule, and a supervisor who did not presume me to be less competent or committed because of my need to manage both care needs and paid work had a major impact on my ability to stay engaged.

The support of my spouse, Joel Davis, has been immeasurable. Over the past two years, he gracefully embraced his unexpected role as our daughter Marvella's primary caregiver. It has been an incredible joy to witness them develop such a close bond, and it would have been impossible for me to continue to work full-time after we lost other care options due to the pandemic had he not stepped up and taken on such significant responsibility for nurturing her development. I am deeply grateful for his partnership and the chance to raise another child together.

Like many of us, I also relied heavily—albeit virtually—on my extended network for support and connection as I navigated work and the transition to motherhood amid a public health crisis. I am so thankful to have had such an amazing community of friends, colleagues, and family members—many of them caregivers themselves, whether for children, parents, or partners—to turn to for advice, commiseration, and camaraderie. My “Long Distance Moms” group chat—Hannah, Anne, Marybeth, and Phoebe—has been an incredibly valuable source of encouragement, tips, and toddler memes, even as most of us have never met in person. My sister-in-law, Heather Davis Miller, played an instrumental role in facilitating our recent cross-country move and has offered immense support as we transition to our new home, all while making raising two kids under two look easy. Friends near and far—including Rachel Black, Kate Huh, Jessica Schibler, Geneva Viralam, and Willetta Waisath—have helped maintain deep feelings of connection during an isolating time. And last but not least, my own parents have been an unwavering source of love, support, and encouragement—I can only hope to follow their example.

*Amy:* My parents wouldn’t self-identify as feminists, but from an early age, I realized that my family was different from many around us. My mother worked full-time in engineering while pursuing a graduate degree in computer science. My father took on many household responsibilities, including being the family chef. It wasn’t until I was older that my mother confided in me the pressure she had faced to stop her education. One older male relative had urged her to drop out of college in favor of working at the local post office. My parents’ decision to move halfway across the country helped to protect me from relatives who would’ve told me I was worth less because I was a girl.

My parents also instilled in me the importance of following your passions and finding work that enables you to balance doing something fulfilling with your life outside of work. Without this example, I likely would’ve never found my current career path, which has given me the opportunity to work on policy issues I care deeply about. When my father’s health began to decline in his mid-forties, policy gaps and unsupportive employers meant his career was derailed by his health condition. In contrast, my mother was fortunate enough to have employment that enabled her to provide care, ensure our family’s financial security, and provide her with an outlet at work. While I have been fortunate enough to find a supportive employer, policy change is necessary to support all working families, and being able to work to support evidence-based change has kept me motivated, particularly through COVID.

When I returned to work in January 2020, five months after the birth of our second child, we expected our biggest challenges to be figuring out how to handle work travel with two small children and supporting our son through surgery. Instead, we faced the challenge of raising two small children on our own in Australia with closed borders and seemingly unending lockdowns. The analysis for this

book would not have been possible without the support of my partner, August. Each day of lost childcare, whether due to policy changes, routine illnesses, surgeries, or isolation protocol, required coordination and compromise to ensure we were both still able to meet deadlines while not burning ourselves out. Together with our children, Leena and Aimo, we managed to find joy on some of the hardest days with increasingly elaborate cardboard box structures, dance parties, science experiments, baking, and games. I am also deeply grateful to the supportive community that developed around us during our one hour of daily exercise in our 5-kilometer radius as well as friends and family in the United States and Canada who redoubled efforts to stay connected while we were apart.

*Jody:* During the course of this work, I have been caring for my father and mother who were in declining health. We are a close-knit family, and the care I've provided to them is a small fraction of the many years of care they provided as I grew up and then had the joy for years of raising my children nearby.

It is heartbreaking to see people you love struggle with terrible illnesses—and it is a rich joy to have time together, even at the end of life. I am so grateful for every Sunday afternoon we spent talking about the world, about what matters in life, and eating favorite foods while watching and listening to the leaves in the wind. I realize how often people are forced to make impossible choices between caring and working at every stage of the life course. Flexible work has made it possible, as has sharing the responsibilities with my brother, Steve, who balances caring for aging parents and growing grandchildren in a way that brings gender equality to life.

My earliest memories include Dad playing math games with me. It never occurred to me that sex at birth had anything to do with math until third grade, when I began to beat the boys at the weekly math contests and the teachers began to make it seem abnormal. Dad allowed me to imagine possibilities by treating me as if everyone were equal—even as I grew up in Washington, DC, at a time when not a single woman led any executive branch of government and went to university when few women majored in physics and math. Mom made sure I knew what battles lay ahead. When I had successes at school and work, she always reminded me what it would have meant to my grandmothers. And that failures were never something to give up over.

Dad died as we were finishing this book, and when he did, I was touched by all the women as well as men he had mentored who reached out. Mom has embarked on the final phase of her life, without Dad for the first time since her teens, with unbelievable grace, humor, love, and commitment to the world being a better place for all.

Throughout this, all the work and care have been made possible by Tim being an extraordinary partner in every way, through every storm, and relishing every clear sky—through COVID, through children being born while still in school, through discrimination, parents' illnesses, raising teenagers and supporting their growth into their own adult lives. Our sons, Ben and Jeremy, have transformed how we see



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#### CHANGE THE WORLD NEEDS

We are each profoundly grateful for all the people and supports that have enabled each of us to both work and care. But these opportunities should not rely on the good fortune of one's birthplace, one's friends or families. Every person, across all genders, should have the same chance to lead full lives.

Change is happening across countries and over time—yet much work remains. Steps forward within our collective lives provide examples. When Jody was born, gender discrimination at work was perfectly legal in the United States; major newspapers even published separate job lists for women and men. By the time Amy and Aleta were born, the United States had passed a law prohibiting gender discrimination in the economy—even if we have much farther to go on enforcement. Worldwide, 179 countries have now passed laws prohibiting gender discrimination at work, though fourteen countries still have no prohibition. When Jody gave birth to her sons, the United States did not even guarantee a single day of unpaid leave. That had changed by the time Aleta gave birth, and in Australia, where Amy gave birth, paid leave was introduced in 2011. Globally, since 1995, fourteen countries have introduced paid leave for mothers and at least sixty countries have introduced paid leave for fathers. This book is about the change that has taken place and what's left to do if we are to achieve gender equality for all in our lifetimes.

# Introduction

Well into the twenty-first century, the scale and impacts of gender inequality in the economy remain staggering. Globally, women's wages amount to just a fraction of men's: on average, women earn 80 cents on the dollar, which falls to less than 60 cents in some countries.<sup>1</sup> Women's share of the global labor force has held steady at around 39 percent for the past thirty years,<sup>2</sup> even as most women report wanting to work for pay.<sup>3</sup> In the public and private sectors, women are overrepresented in low-wage jobs and underrepresented in decision-making roles, creating vast gender gaps in access to resources and in positions of leadership. According to the World Economic Forum, at the current rate of progress, it will take over 267 years to reach gender parity in the economy.<sup>4</sup> And across workplaces, experiences of gender discrimination, harassment, and gender-based violence remain widespread. In the European Union, for instance, 55 percent of women in the workforce report having experienced sexual harassment.<sup>5</sup>

Meanwhile, women perform the vast majority of unpaid labor in countries worldwide: on average, women spend 265 minutes in unpaid care work per day, compared to men's 83 minutes.<sup>6</sup> And in part due to demands for their own household labor, millions of girls face exclusion from education, creating a substantial barrier to long-term economic opportunities: girls account for three-quarters of children globally who never even begin primary school, and across sub-Saharan Africa, just 41 percent of girls finish lower secondary school.<sup>7</sup>

These gaps aren't simply the result of historic discrimination, cultural bias, or individual choices—they're driven directly by the decisions governments make. Laws and policies that fail to address discrimination, that reinforce unequal gender roles, and that devalue caregiving fundamentally shape each of our experiences at work and at home. Addressing these legal and structural inequalities is critical for creating gender equality not only in national

economies but also in our lives: our workplaces, our communities, our families, and our relationships.<sup>a</sup>

## HOW GOVERNMENTS STRUCTURE GENDER INEQUALITY INTO THE ECONOMY

Many conversations about gender equality in the economy emphasize the consequences of individual decisions—whether to complete school, whether to ask for a raise, whether to return to work after having a baby. Yet these decisions take place not in a vacuum but in a legal and policy environment that shapes what paths are possible, for whom, and with what consequences. For many women, pursuing a particular career may not even be an option under the law—and this type of overt legal discrimination remains far more common than many people realize. For example:

- In Azerbaijan, women are banned from working in 674 different jobs, from bus driver to dough maker to helicopter technician.<sup>8</sup>
- In Brazil, companies can require women to retire five years earlier than men, increasing their risks of poverty in old age.<sup>9</sup>
- In Cameroon, men can prohibit their wives from working.<sup>10</sup>

Indeed, according to the World Bank’s Women, Business, and the Law project, these examples are but a few of many: as of 2021, eighty-nine economies had laws in place that created explicit barriers to women’s employment, including sixty-nine that prohibited women from working in certain industries, twenty-one that prevented women but not men from working at night, and fifty-three that prohibited women from working in jobs deemed “dangerous.” In eighteen economies, a woman may be required to get her husband’s permission in order to work.<sup>11</sup>

a. Throughout this book, we use the term “gender equality” to refer to “the enjoyment of equal rights, opportunities, and treatment” by all, regardless of sex or gender, and the guarantee that “rights, responsibilities, social status, and access to resources do not depend on” sex or gender, consistent with definitions used by United Nations (UN) bodies including the International Labour Organization (ILO). Given its unique role as the largest global organization bringing together workers, employers, and governments to advance labor standards, including equal rights at work, the ILO’s approach to gender equality is especially pertinent to this book. The ILO goes on to clarify that: “Gender equality implies that all men and women are free to develop their personal abilities and make life choices without the limitations set by stereotypes or prejudices about gender roles or the characteristics of men and women. In the context of decent work, gender equality embraces equality of opportunity and treatment, equality of remuneration and access to safe and healthy working environments, equality in association and collective bargaining, equality in obtaining meaningful career development . . . and a balance between work and home life that is fair. . . . The ILO understands gender equality as a matter of human rights, social justice and sustainable development.” ILO, “ABC of women workers’ rights and gender equality,” 2nd ed., 2007, [www.ilo.org](http://www.ilo.org).

Yet while explicit legal prohibitions on women's work or access to resources are particularly striking examples, governments' roles in supporting or undermining gender equality in national economies go far beyond these types of blatant restrictions. Indeed, many seemingly "gender-neutral" laws and policy choices disproportionately limit opportunities for women and girls. For example, policy makers' failure to prioritize adequate funding for rural water systems in lower-income countries, while not explicitly discriminating on the basis of gender, has acute consequences for women and girls, who bear the primary responsibility in many countries for securing water for their households. When running water is unavailable, the hours spent traveling long distances to fetch water, often on foot, create a significant barrier to paid work for women and to school attendance for girls. Many countries allocate far fewer resources to areas that impact women's economic opportunities than men's.

Around the world, countries also maintain laws and policies that derive from and reinforce gender stereotypes—to the detriment of men as well as women, but typically with greater material consequences for women. For example, when countries provide paid leave only to new mothers, rather than all parents of infants, employers may discriminate against women of child-bearing age based on the presumption that they will require time away from work that their male counterparts will not. At the same time, when only women can take parental leave, they inevitably do take on greater care responsibilities during the newborn phase. In this way, structural inequality in the law creates a vicious cycle: policies based on gender stereotypes push women into taking on the majority of caregiving responsibilities, and employers then cite these responsibilities to justify further discrimination against all women.

Finally, just as discrimination built into the law can worsen gender inequalities in the economy, so too can a lack of laws in areas where they are necessary. For example, when countries fail to comprehensively prohibit sexual harassment in the workplace, women are disproportionately affected. Similarly, when countries fail to ensure that existing labor protections and antidiscrimination laws cover people in all forms of employment—including the world's sixty-seven million domestic workers, 80 percent of whom are female<sup>12</sup>—they fall short of establishing protections capable of advancing gender equality writ large.

Many of these gaps and inequalities are rooted in the systematic devaluing of labor that's seen as "women's work." Around the world, female-dominated industries are consistently characterized by lower pay. Moreover, trends in wages over time illustrate how average pay in a given occupation often increases or decreases depending on women's representation in the field.<sup>13</sup> When more men were secretaries, clerical work enjoyed higher compensation and greater prestige.<sup>14</sup> When more women entered manufacturing, average pay declined.<sup>15</sup>

Governments' approaches to care work offer some of the most powerful and consequential illustrations of these dynamics. Most fundamentally, the choice to regard caregiving and other labor performed in the home as intrinsically different from other kinds of labor—and also intrinsically female—ignores care's vast economic value, erases the wide diversity of family structures, and has helped create economies that remain hostile to all women's full participation, regardless of actual caregiving responsibilities. According to the International Labour Organization, over sixteen billion hours of unpaid care work are performed daily—an amount of work that would account for 9 percent of global GDP, or around \$11 trillion per year, if paid at the minimum wage.<sup>16</sup> Yet care is consistently treated differently from other kinds of work. It is often expected to be done without pay. When paid, care work is undervalued and often excluded from basic labor and social protections that cover other fields and occupations. Governments also deprioritize care when making investments, tacitly presuming that unpaid women or women working informally for meager wages will fill in the gaps when affordable, quality care services—fulfilled through quality care jobs—are unavailable. For example, though the vast majority of every country's population will require support of some kind in old age, most countries devote less than 1 percent of GDP to long-term care—and many budget nothing at all, relying largely on women to pick up the slack.<sup>17</sup>

The reasons behind this differential treatment of care are many. Among them are the presumption that women are the “natural” caregivers in their families and in society—even as evidence from around the world makes plain that people of all genders can and do fulfill critical care needs in their communities. A second explanation is structural racism and classism. Across countries, people from marginalized racial and ethnic groups are often overrepresented in the care workforce, reflecting the historic origins of domestic and other care work in many countries as well as the persisting low wages that help perpetuate occupational segregation of all kinds. There is also the simple convenience of free female labor to those who benefit from it as well as the perceived advantages to male workers of treating “work” and “care” as separate, gendered spheres.

Indeed, policy makers have historically voiced opposition to laws enabling women to work on the same terms as men because of the perceived threats to the gender-segregated roles of caregivers and breadwinners. For example, some of the earliest laws restricting women's work were premised on protecting women due to their potential to become mothers—but the broader context reveals that often this justification was simply pretext for discrimination. In Switzerland, for instance, legislation adopted in the 1870s that limited women's working hours, banned women from cleaning machinery, and established a list of jobs that were off limits to pregnant women found support from the “Working Man's Association,” a group that sought to eliminate women's work in factories altogether and urged that women should prioritize their roles as housewives and mothers.<sup>18</sup> Likewise, in the United States, the Supreme Court held in 1908 that women's “physical

structure and a proper discharge of [their] maternal functions” justified restrictions on their working hours that were found unconstitutional for men;<sup>19</sup> during the same era, male labor unions commonly advocated for “protective” laws that would prevent women from competing for jobs.<sup>20</sup>

These same rationales persist in the present day. For example, in Russia, the Constitutional Court upheld a prohibition on women working as subway drivers in 2016 due to the “widely recognized social role of women in procreation.”<sup>21</sup> In the United States, a state lawmaker voted down a proposal to expand access to childcare in 2021 since it would “make it easier or more convenient for mothers to come out of the home.”<sup>22</sup> In Kazakhstan, the government claims that its ongoing ban on women holding over 200 different jobs “protects maternity and promotes the health of women.”<sup>23</sup> While safe and healthy work conditions are critical for everyone—not just women or pregnant women—the evidence as a whole reveals that legislators have often unjustifiably singled women out for restrictions on types of allowed work in order to reinforce sex-segregated roles.

Policy choices that exclude women from full economic engagement harm us all. The overall failure of governments to address discrimination and care keeps millions of women out of the labor force, which increases risks of household poverty and undermines countries’ economic development. Indeed, families with only a single male earner are far more vulnerable to economic hardship following a job loss than dual-earner households—particularly amid periods of mass unemployment like that triggered by the COVID-19 pandemic and other large-scale crises. Meanwhile, countries as a whole substantially limit their productive capacity by creating barriers to women’s full engagement. The impacts are profound across low- and high-income countries alike. For example, in the United States, the lack of “family-friendly” labor policies—such as paid parental leave—explains nearly a third of the disparity in female labor force participation over two decades compared to other high-income countries.<sup>24</sup> Meanwhile, eliminating the gender gap in labor force participation in the United States would boost annual GDP by \$4.3 trillion.<sup>25</sup>

In low- and middle-income countries (LMICs), women perform an even higher share of the unpaid labor than in high-income countries, creating a greater barrier to their participation in paid work. Across India, Pakistan, and Cambodia, for example, women spend ten times as much time on unpaid work as men; in rural Mali, it’s fourteen times as much.<sup>26</sup> Yet if women’s labor force participation in every country in Asia and the Pacific increased to match that of the highest-performing country in the region, collective GDP would rise by \$4.5 trillion—or 12 percent—by 2025.<sup>27</sup> In Africa, equivalent increases would boost GDP by \$316 billion, or 10 percent.<sup>28</sup>

Indeed, just as laws that reinforce structural inequalities can have wide-ranging harms, undoing this inequality in the law can have—and has had—wide-ranging benefits. For example, in Denmark, a 2006 law requiring that

companies provide sex-disaggregated statistics on wages decreased the gender pay gap by 13 percent.<sup>29</sup> In Malawi and Uganda, the introduction of tuition-free education led to higher enrollment among girls, in part by changing expectations about who gets to go to school,<sup>30</sup> and evidence from across African countries shows that higher educational attainment helps reduce the gender gap in employment.<sup>31</sup> And in Norway, a 1993 reform that introduced four weeks of paid parental leave reserved for fathers increased the share of new dads taking leave and improved their children's school performance, especially in families where the father had at least the same level of education as the mother.<sup>32</sup>

### WHY ADDRESSING INEQUALITIES IN THE LAW MATTERS TO EVERYONE

Significant research shows that restrictive gender norms hurt everyone, with consequences that begin even before we're born and that shape our experiences of education, health care, and work throughout the life course.<sup>33</sup> Women can experience backlash for exhibiting the same leadership qualities often valued in men, and men who prioritize caregiving or deviate from masculine stereotypes often face consequences at work.<sup>34</sup> Moreover, survey evidence shows that men across countries want to spend more time with their children but often face barriers to doing so due to workplace stigma and unsupportive policies.<sup>35</sup>

The solutions yield benefits across genders. Specific policies and laws are illustrative: tuition-free education, for example, not only increases girls' school attendance but also boosts access by all children from low-income families as well as children with disabilities. High-quality, universal childcare supports more women in working for pay and supports the early development of children of all genders, while giving families greater choice about how to divide paid work and care responsibilities. Prohibiting employment discrimination in both the public and private sectors, and ensuring mechanisms are in place to support discrimination laws' enforcement, can go far in fostering workplaces that are fair to everyone.

More broadly, country action to increase gender equality in work, education, and economic opportunity has broad benefits not only for women but also for households, communities, men, and children. Increasing gender parity in education by 10 percent is associated with a two-year increase in female life expectancy as well as a one-year increase in male life expectancy.<sup>36</sup> Increasing women's educational attainment and income also has substantial benefits for children of all genders, including lower mortality rates, reduced risks of malnutrition, higher immunization rates, and better educational outcomes.<sup>37</sup>

Closing gender gaps in employment and earnings can also make a powerful difference for economies. Leveling up women's employment can yield vast returns to GDP. Though the potential for impact is especially transformative in LMICs, every

country could realize substantial economic gains by making it possible for more women to enter and remain in the workforce. Indeed, according to the McKinsey Institute, achieving gender parity in labor force participation worldwide would add \$28 trillion to annual global GDP.<sup>38</sup>

To be clear, however, equalizing men's and women's employment is possible only if the unpaid care and household work currently shouldered largely by women is not only reduced where possible but also redistributed—both within families and within countries. Moreover, by designing policies that make it easier for men and women to share unpaid care, while simultaneously making clear that families and the state must assume co-responsibility for meeting societal care needs, countries can support a more equitable division of care tasks without reducing care quality.<sup>39</sup>

Here, too, the solutions yield dividends for all. Investing in care services, one prerequisite to enabling women to take on more paid work, would create millions of new jobs at a time when care needs are rising worldwide as the global population ages. Indeed, according to estimates from the International Labour Organization, if all countries invested sufficiently in care service provision to realize countries' global commitments under the United Nations (UN) Sustainable Development Goals (SDGs), they would collectively create as many as 269 million new jobs.<sup>40</sup> Regional estimates further underscore this potential. For example, one study focusing on seven high-income countries estimated that investing 2 percent of GDP in care would create over twenty-one million jobs in those economies alone.<sup>41</sup> Another simulation focused on the Eurozone and United Kingdom found that expanding public childcare could create five million jobs over five years while increasing GDP growth by 2.4 percent.<sup>42</sup> Similar impacts are expected in LMICs.<sup>43</sup> At the same time that greater investments in care would support equality in care-giving, these investments would also increase equality in care receiving by making it possible to ensure universal access to quality care services.

## SECTION OVERVIEW

The book proceeds in three sections. In section 1, we examine how the laws in every country address discrimination in the workplace—not only on the basis of sex and gender but also based on pregnancy, family status, race/ethnicity, religion, disability, migration status, socioeconomic status, sexual orientation, and gender identity. We examine what steps countries are taking to prevent and address sexual harassment and sex-based harassment in employment—which surveys demonstrate remain commonplace in all types of workplaces, from farms to factories to the halls of parliament.

These baseline protections establish whether everyone is playing by the same rules and whether everyone can expect dignity and equal treatment at work. Their



scope and details matter: when countries prohibit sex discrimination but allow discrimination against parents of small children, for example, women continue to face greater discrimination associated with caregiving. Moreover, when discrimination goes unaddressed, the sequelae perpetuate a range of inequalities. When women anticipate they will face discrimination and receive lower pay than men when they enter the labor market, within households, it will remain economically “rational” for women to take on the majority of unpaid work while men devote more time to market work. Comprehensively prohibiting discrimination in employment is thus a precondition for broader shifts toward gender equality. While this section aims to identify strategies to increase equality in the economy across all genders, a larger part of the first section of the book is dedicated to discrimination experienced by women since current gaps and inequalities in discrimination law disproportionately harm women.

Section 2 explores why achieving gender equality in the economy will be impossible without addressing both paid and unpaid caregiving. Overall, when looking at paid and unpaid work hours together, women do 52 percent of work globally. Yet most of it is unpaid; women account for just 36 percent of paid work hours but 76 percent of unpaid work time.<sup>44</sup> Further, the privatization of care means that only higher-income households can afford to access support with care needs—creating a vicious cycle that widens gaps based on both gender and socioeconomic status. In Turkey, for instance, among adults with only a primary school education, women perform seven times as much unpaid work as men do, whereas among university graduates, it falls to three times.<sup>45</sup> Meanwhile, care workers—disproportionately women—are often subject to some of the lowest pay and worst working conditions across countries.

Addressing these gaps and inequalities will require a comprehensive approach. Increasing gender equality in unpaid care—including by equally supporting people of all genders in taking on care responsibilities, and actively encouraging men to take on a greater role—is fundamental. Likewise, recognizing that care needs extend across the life course, and providing adequate support to meet the needs that arise at each stage of life, is essential for supporting both caregivers and care recipients. Finally, investing in the care workforce and improving the quality of care employment are critical steps toward advancing equality in the short term for a majority-female workforce and ensuring that the millions of care jobs that need to be created to satisfy growing demand are high-quality jobs, which will reduce occupational segregation. Section 2 examines how governments’ failure to comprehensively address care as a fundamental societal need and responsibility widens gender gaps in all aspects of employment and leadership. In contrast, when governments invest in supports for both short-term and long-term care, and actively encourage gender equality in the provision of care, equality and economies both advance.

Lastly, in section 3, we assess what it takes to make change happen. Section 3 examines approaches that would make a difference within months as well as approaches that would be transformational long-term. Long-term change requires shifting norms as well as opportunities for the next generation. One key strategy for doing so is increasing girls' access to education, which is the focus of the first chapter in the final section. Education lays the foundation for whether girls can access higher-paying jobs when they reach adulthood and can also powerfully influence their own children's well-being and educational expectations. To increase girls' access to education, however, countries must not only reduce direct barriers to schooling—such as tuition fees—but also address indirect barriers that reinforce gendered norms, such as inadequate investment in rural infrastructure.

Both immediate and long-term change can happen through strengthening laws. Through four in-depth case studies of civil-society-led efforts to enact, implement, and improve laws shown to make a difference for gender equality in the economy, the next chapter sheds light on successful approaches to achieving legal reforms around the world. And finally, our concluding chapter looks at what it would take and what roles everyone would need to play—from individual citizens to civil society organizations to media to policy makers—to realize gender equality in the economy within our lifetimes.

#### WHY—AND HOW—WE EXAMINE SOLUTIONS ON A GLOBAL SCALE

The first and foremost reason for taking a global approach in this book is that women have a fundamental right to equality no matter where they live.<sup>b</sup> The equal worth of each person is intrinsic to humanity. Moreover, gender equality and women's rights to be free from discrimination are fundamental rights that have been widely recognized by nearly every country, in principle, through global treaties and agreements. In particular, the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women, which has been ratified by 189 national governments as of this writing, commits countries to legally guarantee

b. Throughout this book, we use the term “gender equality” rather than “gender equity.” Across contexts, these terms have been used in different ways. In some, “equity” is interpreted as providing greater protections than “equality” in that it takes into account not only formal equality before the law but also the need to remedy disparities in power and resources resulting from historic and ongoing discrimination. In others, “equity” has been invoked to reinforce restrictive gender norms and the idea of men and women playing different rather than equal roles. The international human rights system prioritizes the term “equality,” consistent with the approach adopted by all UN member states at the Fourth World Conference on Women in Beijing (1995) and affirmed by the UN Committee on the Elimination of Discrimination against Women in a 2010 recommendation, which cautioned against the inherent subjectivity of “equity” and its potential to justify unequal treatment that perpetuates inequalities.

women's equal rights and to "ensure [their] practical realization," including by "tak[ing] all appropriate measures to eliminate discrimination against women in the field of employment."<sup>46</sup> More recently, in 2015, all 193 UN member states unanimously adopted the SDGs, which oblige them to "end all forms of discrimination against all women and girls everywhere" by 2030.<sup>47</sup>

Moreover, we are living in a time when our economies are more interconnected than ever before. Increasingly, working conditions anywhere affect conditions everywhere. With the vast expansion of global trade, nearly all of us purchase goods and access services produced by workers all over the world. As consumers, we have a responsibility to learn and care how women are treated at work in all countries.

Finally, taking a global approach increases our understanding of what exists, where the gaps are, and what's feasible. Policy research in a range of areas that matter to gender equality has historically been limited in most of the world; looking globally matters to finding solutions that work for all. Given the diversity of social policies adopted to address common challenges worldwide, creating and sharing findings on the approaches taken in each country allows all countries to learn from one another.

That said, identifying and presenting solutions that make a difference across countries all over the world is a tall order. Some approaches are likely to be effective across many settings; others may vary in their impact and effectiveness depending on national characteristics. Empirical studies can shed light on which is the case. In this book, we take four different approaches to learning and sharing insights about what laws and policies have been adopted and what works to advance change in different settings: (1) creating, analyzing, and visualizing new comparative policy data for all 193 UN member states; (2) presenting results from our center's original quantitative studies measuring the effects of policy changes on outcomes across countries and regions; (3) examining how laws make a difference in practice through examples from case law from a wide range of countries as well as an extensive review of the existing literature; and (4) presenting findings from qualitative studies of change based on in-depth interviews with advocates and civil society leaders working to advance gender equality in diverse contexts.

### *Global Policy Data*

The law and policy data presented in this book are the product of a rigorous and time-intensive process undertaken by a multilingual, multidisciplinary team of researchers at the WORLD Policy Analysis Center (WORLD). WORLD's mission is to strengthen equal rights and opportunities globally by providing civil society, policy makers, citizens, and other researchers with tools to advance feasible and effective policy approaches for strengthening equal rights and improving well-being. WORLD captures quantitatively comparative data for all 193 UN countries on adult labor and working conditions, discrimination at work, child marriage,

aging, education, constitutional rights, health, disability, family, migration, child labor, environment, and income policies. For nearly two decades, policies that are central to gender equality have been a key focus of WORLD's work.

The process for creating this data begins with identifying and reading the original laws (primary sources) of all 193 countries, rather than secondary summaries or policy descriptions. Primary sources allow us to better understand each law or policy and help us avoid errors that may have been introduced in secondary sources. This distinction is particularly important when seeking to understand more complex legal areas, such as countries' methods of reaching workers in the informal economy, the scope of legal loopholes, and the functions of enforcement bodies. While we use primary sources whenever possible, we also use secondary sources when information is unclear or insufficient for particular countries, prioritizing global or regional sources that are comparable across multiple countries.

Once sources are identified, we begin coding, which refers to the process by which an individual researcher takes a piece of information on legislation, policy, or constitutions and translates it into a set of features that can be mapped, quantitatively analyzed, and readily understood and shared. To compare laws and policies across all the world's countries—even when there is a great deal of legislative variation among individual nations—we develop coding frameworks, which begin with the essential features of each policy area: its intrinsic characteristics, such as coverage; important elements identified in policy research; and minimum standards recognized in global agreements, where they exist.

After determining a set of key features, research team members read laws and policies from twenty to thirty countries to develop closed-ended categories for coding these features while capturing the full variety of different countries' approaches. They then test this coding system on an additional ten to twenty nations, and further refine the coding approach based on feedback from civil society and researchers working in relevant topic areas. Our priority is to ensure that we fully capture the richness and variety of approaches taken by different countries. At times, this means revising the framework midway through coding to capture one country's unique policy features and then reviewing all previously coded nations to ensure that all countries are ultimately coded based on the same comprehensive framework.

To ensure transparency and consistency, we develop a codebook that sets out the rules for coding each question, which researchers rely on to make decisions on coding law and policy features. Some questions nevertheless require judgment calls. Therefore, we utilize double coding to minimize human error: two researchers independently code each set of policies, laws, and constitutions and compare their results. When they arrive at different conclusions on specific coding decisions, they bring these questions to the larger coding team, which meets regularly to discuss any issues that arise through the coding process. Once coding is

complete, we conduct systematic quality checks. We also carry out targeted checks of outlier countries.

For this book, we undertook this process to analyze the legislation of all 193 UN member states for each area we address in depth: prohibitions of discrimination at work, prohibitions of sexual harassment at work, prevention of and remedies for sex discrimination and harassment, caring for children, caring for adult family members, and education. Within each of these topic areas, we capture a range of different types of policies and hundreds of different policy indicators, allowing us to create unique, quantitative datasets that enable rapid analysis of how specific policy features vary regionally and globally. For some areas that we have been analyzing for nearly two decades, we are also able to present longitudinal data to show how policies have changed over time. Full details of our approach can be found in an online appendix.<sup>c</sup>

To make this data readily accessible, throughout the book, we distill key findings into global policy maps that illustrate at a glance where the world stands in a given policy area. These maps (and the underlying data) reflect rights and protections explicitly enshrined in the text of national laws and policies; because of the wide variation across countries in whether court decisions have precedential value, as well as their risks of being overturned, we do not code case law. We also provide summary tables in each chapter to offer a quick understanding of global trends as well as variation across country income groups.

We have been grateful to have the funding to build policy data in each of these rich and critical areas. While focusing in this book on laws that directly center on economic activities as well as education, which shapes economic opportunities, we are deeply aware that other areas of law and policy make a profound difference for women's economic outcomes as well as their daily lives. Laws and policies shaping reproductive health, preventing gender-based violence, and promoting equality within families across settings are foremost among these.

The unmet need for family planning and reproductive health care is staggering: across LMICs, 218 million women report that they want to avoid pregnancy but lack access to a modern method of contraception.<sup>48</sup> Moreover, the ability to decide whether and when to have children is fundamental to women's autonomy, health, and capacity to pursue their educational and career ambitions. Despite some policy-specific and emerging efforts to track laws in this area, led by the World Health Organization, the Center for Reproductive Rights, and others, a more comprehensive mapping of where countries stand on reproductive rights is essential to understanding whether all women can pursue their chosen paths.

A second profoundly important area is violence. While in this book we examine protections against sexual harassment at work and at school, we do not have the necessary data to provide a comprehensive assessment of all laws and policies

c. [www.worldpolicycenter.org/equality-within-our-lifetimes/appendix](http://www.worldpolicycenter.org/equality-within-our-lifetimes/appendix)

relevant to gender-based violence. Women’s bodily autonomy, including safety within their homes and the ability to move through public spaces freely, is fundamental to economic and political equality as well as human health. Multiple efforts have begun to capture what is being done to address gender-based violence,<sup>49</sup> but if we as a global community are going to “eliminate all forms of violence against all women and girls in the public and private spheres” by 2030—as mandated by SDG 5—we need a more comprehensive effort to track global progress toward legally protecting women and girls from all forms of violence in every area of all countries.

Third, family law can substantially shape women’s economic circumstances and their ability to exercise their fundamental rights more broadly. Laws and policies that shape equal rights in entering marriage, during marriage, and after marriage, as well as equal rights within families, can have profound implications on everything from access to assets to caregiving roles to women’s ability to leave a marriage without fear of destitution or homelessness. These laws also matter to legal rights for women living in *de facto* marriages. As in other areas, while some initial efforts offer important but incomplete coverage of family law, the development of more thorough data sources remains essential.

In short, these topics, among others, merit deep and rich engagement—but despite valuable efforts that begin to address each, more comprehensive law and policy data are needed in all three areas. To provide the most actionable information for policy makers, advocates, and researchers alike, these data should quantify national approaches and make them comparable, in a way that allows for rigorous analysis; examine whether laws apply to all women within each country; highlight policy details that can undermine the effectiveness of laws, perpetuating inequalities; and cover all 193 UN member states. We hope that in the future, data and resources will be available to build on this foundation in addressing these critical areas in greater detail.

### *Impact Studies*

One important strength of developing quantitative, longitudinal, globally comparative policy data is that it allows us to rigorously analyze how policy changes affect outcomes across countries, while controlling for other factors. A randomized control trial—or experiment comparing the experiences of a “treatment” group and “control” group—is often regarded as the gold standard for measuring whether a particular medical treatment, pilot program, or other intervention “works” to produce the desired outcome. When it comes to national laws and major policies, undertaking an experiment wherein half the population is covered by a new policy and the other half is not raises both ethical and practical concerns. However, by measuring the effects of real-world law and policy change, we can take advantage of a “natural experiment” that enables us to see whether countries that adopted a particular policy fared differently from those that did not. Moreover, by merging global policy data with longitudinal data on public attitudes from sources such as

the World Values Survey, these methods allow us to measure the effects of policy change on norms.

Throughout the book, we share findings from impact studies undertaken by our center and in partnership with colleagues, which follow the experiences of millions of individuals and families across scores of countries to examine how actions governments took affected gender equality, health, education, and the economy. Included in these are:

- *Studies examining the impacts of policies that have been found to work in some settings, to test their impact across countries.* For example, we present study findings showing that extending the duration of maternity leave in LMICs increases on-time immunizations,<sup>50</sup> boosts rates of breastfeeding,<sup>51</sup> and lowers infant mortality rates<sup>52</sup>—using the power of global policy data to affirm that the health benefits of maternity leave that were previously documented in higher-income settings apply to lower-income countries as well.
- *Studies examining policies that are particularly important in low- and middle-income settings.* For example, while higher-income countries universally have free primary school, there remains variation in lower-income settings. We carry out and present findings from a series of our studies focused on LMICs’ elimination of tuition for primary school and demonstrate that these policy choices not only boost girls’ attendance but also lower rates of child marriage,<sup>53</sup> increase on-time immunization,<sup>54</sup> and make it more likely that girls will be able to fulfill their family planning needs and make their own health decisions in adulthood.<sup>55</sup>
- *Studies of how law and policy change shapes norms.* For example, we carried out and share findings from a study illustrating one way that paid leave for fathers can make a difference: by shifting attitudes toward women in the workplace. Specifically, in countries that enacted policies encouraging or incentivizing men to take leave following the birth of a child, our analysis found that both women and men subsequently embraced more egalitarian beliefs about work than in countries without such policies.<sup>56</sup>

In short, with the longitudinal policy data that allow us to measure the impacts of different approaches at scale, we can shed light on “what works” not just in one or two countries but worldwide. In this book, we share findings from our studies using this approach to elucidate how specific policy actions can advance gender equality and improve other critical outcomes across contexts.

### *Court Decisions in Countries around the World*

Third, to supplement this book’s quantitative findings on policy impact, we examine how—and why—laws and policies are making a difference in courts across countries. For example, in chapter 2, drawing on a diverse sample of case law from countries including Canada, India, and the United Kingdom, we demonstrate why

prohibiting sex discrimination may not always be enough to reach discrimination based on caregiving responsibilities. Similarly, in chapter 4, using case examples from China, Uruguay, and the United States, we illustrate why the existence and strength of countries' sexual harassment laws can meaningfully shape women's likelihood of success in litigation.

To identify court cases for analysis, we searched a series of global and regional case law repositories including the Venice Commission's CODICES database; the Women and Justice Collection, curated by the Legal Information Institute at Cornell; the International Network for Economic, Social and Cultural Rights Caselaw Database; the European Union's Common Portal of Case Law; the Center for Justice and International Law's database; the European Equality Law Network; and the Global Health and Human Rights Database. Notably, though they collectively cover jurisprudence from well over 100 countries, many of these databases include only cases decided within the past one or two decades. To supplement results from these sources, we also accessed older, landmark cases as well as more recent but lesser-known decisions from across countries that were identified in the literature, using targeted searches and individual court websites.

#### *Case Studies of High-Impact Change*

Finally, to provide actionable information for readers about not only which laws make a difference but also strategies to advance their enactment, we present a series of case studies about important efforts to adopt or strengthen laws that matter to women's economic equality across a diverse set of countries. A team of researchers searched both the academic and the gray literature for civil society organizations that had demonstrated impact on gender equality. The team also asked leaders in the field for their recommendations of the most effective organizations globally. Initial research was then carried out on over 100 potential civil society organizations for evidence of impact, and a subset of fourteen was selected for in-depth interviews. The interviews conducted involved a range of stakeholders including leaders of these civil society organizations, business leaders, advocates, policy makers, lawyers, and people served. The case studies presented, which are concentrated in chapter 9, represent findings from this examination of successful movements to advance change around the world.

### ADVANCING GENDER EQUALITY IN OUR LIFETIMES

For much of recorded history, many countries and cultures have been marked by gender inequality in the law. As long ago as 1755 BCE, the Code of Hammurabi, inscribed on stone and considered one of the oldest written laws, established that women could transfer property to their sons only with the written permission of their husbands and could never bequeath property to their daughters.<sup>57</sup> Ancient Greece, despite often being celebrated as the world's first democracy,



forbade women from voting or administering property.<sup>58</sup> The Magna Carta, heralded as the first written constitution in 1215 CE, established that women's testimony in court had less value than men's.<sup>59</sup> And during the nineteenth and early twentieth centuries, colonial governments in Africa enacted numerous laws limiting women's economic rights and opportunities, based on the view that women were "perpetual minors, [who] could not independently own property."<sup>60</sup>

At the same time, equal rights on the basis of gender are not a modern-day invention. In ancient Egypt, women had the same rights to private property as men and the right to inherit.<sup>61</sup> In fifth-century Spain, the Visigoths recognized the principle of community property and likewise recognized the right of married women to administer their own property.<sup>62</sup> During the Song Dynasty in China, married women retained rights to their own property during marriage and upon divorce.<sup>63</sup> In nineteenth-century Latin America, a range of countries' civil codes recognized full or partial community property; among the Portuguese colonies, this meant that men had to consult their wives before selling property, and if a marriage dissolved, all assets were divided equally.<sup>64</sup>

As these examples demonstrate, although the historical record is rife with examples of legal discrimination against women, the evolution of women's rights has not been linear; there have been periods of both progress and regress across countries, including in recent decades. World Bank data suggest that on the whole, some of the most explicitly discriminatory laws are becoming less common; whereas nearly all economies (86 percent) had legal barriers to women gaining employment in 1970, that number fell to 72 percent by 2000 and 47 percent by 2021.<sup>65</sup> Likewise, laws limiting women's ability to travel outside the home or choose a place to live have fallen from 58 percent of economies in 1970 to 28 percent in 2000 and 18 percent in 2021. At the same time, new discriminatory laws have emerged during the same period. In Jordan, for example, the Personal Status Law, enacted in 2010, provides that a woman loses certain rights if she works without "explicit or manifested consent."<sup>66</sup> In Madagascar, a 2004 law provides that "women, regardless of age, shall not be employed at night."<sup>67</sup>

Over the course of history, humankind has achieved dramatic progress in reducing grave forms of inequality in other areas and addressing practices that were incompatible with fundamental rights. In recent decades, momentum has been building to address equal rights on the basis of gender comprehensively, and the evidence of the impacts it would have is overwhelming. We hope in this book to demonstrate that there are clear actions governments can take that would make an enormous difference for the structural fairness of the economy. Although the specific challenges may look different, all countries face common barriers to fully realizing gender equality in the workplace, and a wide range of solutions have proven effective across countries.

We have an opportunity in this moment to take transformative steps to finally achieve gender equality at a global level. Stories from around the world—such as

those we highlight in this book's concluding chapters—offer lessons about how we can effectively work together, how change becomes feasible, and how we can collectively hold our governments accountable. Realizing this vision will take all of us.

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## Gender Discrimination at Work

As a recent university graduate, Cao Ju had loans to pay.<sup>1</sup> When the twenty-one-year-old saw a job posting for an executive assistant position at a tutoring company in Beijing, she was eager to apply and believed she met all the requirements. But when she didn't hear back after submitting her application online, Cao revisited the job posting and noticed a critical change: citing the job's physical requirements—such as changing the bottle in a water dispenser—it now specified that only men would be considered.<sup>2</sup> When Cao called the company, Juren Academy, to clarify, a representative confirmed that men alone were eligible.

Cao decided to take action. With the support of a local antidiscrimination organization, she filed a gender discrimination lawsuit in Haidian District Court in July 2012, and also submitted a complaint to the Beijing Human Resources and Social Security Bureau. When the court failed to respond within the specified time limit, she sought recourse from five other bodies, including the Labour Inspectorate, which dismissed her claim. Finally, after over 100 female university students submitted a letter on Cao's behalf to the Committee for Internal Affairs, the Haidian District Court agreed to hear her lawsuit in September 2013.<sup>3</sup>

Ultimately, Cao settled out of court. Along with issuing a formal apology, Juren Academy paid damages of 30,000 yuan (approximately the median household income for a year) in January 2014. While this was a modest resolution for a lawsuit that took a year and a half and remarkable persistence, Cao's case also made history: according to media reports, it was the first gender discrimination lawsuit to proceed through China's judicial system.<sup>4</sup> Moreover, Cao's commitment to addressing gender discrimination in the Chinese labor market didn't end there. Around the same time her case was resolved, Cao joined with three other workers who had recently filed antidiscrimination lawsuits in China to urge the adoption of a new, stronger employment discrimination law that would make it easier for workers to pursue justice through the courts.<sup>5</sup>

Cao's case made headlines because of its novelty—but also because it represented such a common experience for young women nationwide. According to a 2011

survey by the All-China Women's Federation, 90 percent of female students reported facing gender discrimination in employment.<sup>6</sup> This national statistic fits into a larger global picture: despite some important progress in recent decades, gender discrimination in employment remains rampant and cuts across sectors, countries, and socioeconomic contexts.<sup>a</sup> For example, according to a 2020 survey of business school graduates with work experience in eighty-four countries, 42 percent of women had experienced some form of gender discrimination or sexual harassment in the preceding year.<sup>7</sup> Likewise, in a 2018 survey across seventeen countries, the majority of female farm workers—ranging from 52 percent in the United States to 78 percent in India—agreed that discrimination was “widespread” in agriculture.<sup>8</sup>

Moreover, for countless women worldwide, gender discrimination often closely intersects with discrimination based on family status. In the twenty-first century, women are still regularly fired when they become pregnant, while young women without children often face discrimination based on the mere possibility of their becoming pregnant in the future. Meanwhile, mothers and women with responsibilities caring for aging parents or a family member with a disability often face higher barriers to promotions and persistent stereotypes about their abilities and commitment.

What are the effects of these different forms of discrimination on women's overall economic outcomes around the world? How many countries have comprehensive laws on the books that not only prohibit gender discrimination at all stages of employment but also protect against discrimination based on pregnancy, marital status, or family status? Have laws made a difference for gender equality in the economy—and if so, how?

## GENDER DISCRIMINATION AT WORK: EVIDENCE AND IMPACTS

Gender discrimination in employment can take a wide range of forms. In some cases, like the gender-specific job ad Cao Ju encountered, discrimination is direct and explicit. In others, discrimination is indirect, arising from policies and practices that do not explicitly differentiate on the basis of gender but disproportionately disadvantage women.

a. The terms “sex” and “gender” have been used differently across countries and historical periods. Their usage also varies in law, and interpretations of these terms vary by courts. For example, though discrimination laws often use only the term “sex,” courts in many countries have interpreted this language to encompass both sex as a biologic feature and gender as a social construct or set of norms; other times, however, “sex” has been interpreted narrowly. Notably, some languages do not distinguish between “sex” and “gender,” though English translations of laws written in these languages inevitably use one term or the other. Given this variation across time, geographical contexts, legal systems, and languages, we cannot systematically determine the intended or applied meaning of “sex” or “gender” in the legislation of every country. Throughout this book, we use the term “gender discrimination” as a broad term to refer to laws, practices, views, and actions that disadvantage a group of people based on sex and/or gender, and “gender inequality” to refer to the resulting disparities. We use “sex discrimination” when referring to specific legislative language or case law based on that language.

Both direct and indirect discrimination can be intentional. For direct discrimination, this is generally straightforward: an employer that systematically rejects job applications from women, for example, is directly and intentionally discriminating on the basis of gender. Yet even “gender-neutral” policies or practices can reflect a conscious choice to discriminate. An employer’s adoption of a specific job requirement for the purpose of excluding more women than men—for instance, a minimum height test that is unnecessary to the job—would constitute indirect but intentional discrimination.

In other cases, an employer may not have anticipated that a particular practice or requirement would have a disparate impact on women, in which case it may be understood as unintentional indirect discrimination. For example, some employers may not have thought through how basing a new employee’s salary substantially on their prior pay, rather than focusing on job requirements and performance, is likely to result in lower wages for women because the process perpetuates patterns of inequality in the economy. Further, implicit and unconscious biases can play a role in driving both direct and indirect discrimination. For decades, psychological studies have found that stereotypes impact decisions.<sup>9</sup> This is true of gender as well as numerous other aspects of identity.

Whether intentional or not, however, the ramifications of discrimination are significant—for individual workers, for families, for workplaces, and for economies as a whole. This section examines what we know from studies conducted across countries about the nature, extent, and effects of gender discrimination at each stage of employment. As these studies show, gender discrimination of all kinds—direct and indirect, intentional and driven by unconscious biases—persists across contexts, with significant impacts on women’s economic opportunities and broader consequences that are borne by all.

### *Discrimination and Disparities in Hiring*

A significant body of research has found that prospective employers discriminate on the basis of gender before even meeting their job candidates. Exposing explicit discrimination, studies have documented stated gender preferences in online job postings in countries including China, India, Indonesia, Brazil, Pakistan, Nigeria, Russia, Mexico, Japan, Colombia, Argentina, Peru, and Venezuela.<sup>10</sup> And unsurprisingly, research has shown that these ads shape who applies and who is hired. For example, one study of Chinese job boards found that the share of female applicants dropped by 15 percentage points when a job posting expressed a preference for male applicants and increased by 25 percentage points when the post indicated that women were particularly encouraged to apply. Meanwhile, 95 percent of callbacks targeted applicants whose gender aligned with the job post’s stated preference.<sup>11</sup>

Moreover, even where employers do not explicitly state that they are seeking men or women to fulfill a particular position, new technologies have made targeting potential job applicants by gender easier than ever. For example, a 2018 US-based



investigation found that fifteen employers, including some large companies such as Uber, had purchased ads on Facebook that would advertise jobs only to one gender. Among these, the Pennsylvania State Police sought to recruit only men, whereas an Idaho community health center hiring nurses exclusively targeted women.<sup>12</sup>

As this example suggests, gender discrimination in hiring affects all genders, though the economic consequences are greater for women than for men. Specifically, research shows that women tend to face more discrimination in the review of their CVs when they are applying for a high-paid position in a male-dominated field, such as engineering. In contrast, women receive preference over male candidates for administrative and low-wage waitstaff positions—roles that align with gender stereotypes.<sup>13</sup> For example, in the United Kingdom, an experimental study using fictitious job applicants with comparable qualifications found that 59 percent of men were not invited to interview for a secretary position, compared to just 16 percent of women. Meanwhile, just 23 percent of men did not receive an interview invitation for an engineer position, compared to 46 percent of women.<sup>14</sup> Likewise, a study of Australia's labor market found that women were more likely to receive callbacks for positions in female-dominated occupations.<sup>15</sup> And importantly, because male-dominated occupations remain the most highly remunerated, this means that women face among the highest rates of discrimination when applying for the best-paid jobs.<sup>16</sup>

This type of discrimination also provides an example of how gender biases are reinforced. When people hired for a particular position are overwhelmingly one gender, this shapes attitudes and actions more broadly. For example, around the world, just 6 percent of early childhood education teachers are men,<sup>17</sup> and surveys indicate that men are hesitant to enter such a female-dominated field<sup>18</sup> and that some parents are less accepting of the idea of a male teacher in their child's preschool.<sup>19</sup> At the same time, even slightly changing the gender composition of the early childcare workforce can begin to move these norms: one study in Turkey found that when parents encountered a male preschool teacher, their views shifted toward believing that men and women were equally qualified for the role.<sup>20</sup>

These types of shifts are important not only for creating equal opportunities in employment but also for advancing equal pay. Across countries, structural discrimination contributes to the systemic devaluation of work perceived as “feminine,” such as teaching and caregiving. Hiring discrimination that relies on gender stereotypes to reinforce occupational segregation therefore also reinforces unequal pay, with wide-ranging impacts on women's economic stability and independence.

### *Discrimination and Disparities in Compensation*

Gender gaps in pay persist across countries, from an average of 43 percentage points in Pakistan and 40 percentage points in the Netherlands, to 20 percentage points in Mexico and 12 percentage points in Tanzania.<sup>21</sup> The average

compensation gap worldwide stands at 21 percentage points, and in only a handful of countries—such as Panama, Thailand, and the Philippines—are women’s average monthly earnings greater than or on par with men’s.

A range of factors contribute to lower total earnings for women. In over two-thirds of countries, where girls have faced greater barriers to attending school, women still have lower levels of educational attainment than men.<sup>22</sup> Women are also more likely to work part-time in order to accommodate caregiving responsibilities, which remain disproportionately borne by women. Women are overrepresented in low-wage industries and occupations when employers discriminate in hiring and also when female-dominated occupations are paid less. The low pay typical of many occupations in which women are concentrated is often attributable to the broader undervaluing of “women’s” work; overall, research has shown that as more women enter a specific field, average wages tend to decline.<sup>23</sup> These and other differences that grow out of structural inequalities all have consequences for earnings.

Yet even after accounting for all of these differences that derive from broader gender inequalities in the economy, direct discrimination in individual pay is likely responsible for a significant share of the pay gap across countries. Indeed, numerous studies have found that a substantial percentage of the gender wage gap is “unexplained” by any observable differences in education, experience, or occupation, suggesting it is likely the consequence of direct discrimination by employers and/or the systematic devaluation of work performed predominantly by women. For example, in Nigeria, the gender wage gap in the private sector is more than three times greater than in the public sector, and analysis controlling for differences in education and other factors between men and women suggests more of the private-sector wage gap is “unexplained” other than by discrimination.<sup>24</sup> Similarly, in Brazil, a study found that, after accounting for education and experience, women still earned 24 percent less than men in the formal economy and 20 percent less in the informal economy, primarily as a result of discrimination.<sup>25</sup> Further, research from across countries suggests there is a “motherhood pay gap” that leads to even wider gender disparities in pay among workers with children.<sup>26</sup> As detailed in later chapters, the motherhood pay gap reflects how inadequate and gender-unequal support for caregiving, stereotypes about working mothers, and restrictive norms about work and care mean that having a child often has far more significant economic consequences for women than for men. Fully addressing disparities in compensation will require addressing not only unequal pay within a given workplace but also the broader inequalities that lead to women being underpaid.

#### *Discrimination and Disparities in Promotions, Training, and Demotions*

While discrimination in pay and hiring may be top of mind when people think about gender discrimination in employment, discrimination in opportunities for advancement is equally consequential. Gender gaps in leadership positions are

even greater than pay gaps: women represent just 31 percent of senior managers and a mere 7 percent of Fortune 500 CEOs worldwide.<sup>27</sup> Discrimination in promotions and demotions, as well as unequal opportunities to gain new skills through employer-provided trainings, fuel these disparities.

Discrimination in promotions often flows from discriminatory evaluation processes. For example, research has documented that women are often rated more negatively during performance reviews, and more likely to have their success attributed to “luck.”<sup>28</sup> At the same time, an analysis of 200 performance reviews from a large tech firm found that women tend to receive more vague feedback than their male colleagues, who were more likely to receive specific praise and pointers on areas for improvement; moreover, vague feedback correlated with more negative ratings for women than it did for men.<sup>29</sup> Notably, both male and female evaluators show bias in their assessments, though evidence of bias among male raters tends to be greater.<sup>30</sup>

Barriers to training and professional development opportunities undermine women’s chances of moving up at work. Women receive fewer opportunities to increase their skills through employer-provided trainings<sup>31</sup>—and even when they do, their participation doesn’t always pay off. One study from Sweden, for example, found that men were more likely than women to get a raise after completing a training designed to make them eligible for a promotion.<sup>32</sup>

Moreover, in a range of countries, research has shown that gender stereotypes about leadership responsibilities also influence gender gaps in promotions. An empirical study of the banking sector in Albania, for example, found that the perception that women were better suited for staff rather than managerial positions was one of the most significant barriers to women’s advancement.<sup>33</sup> A qualitative study of 162 female executives spanning seventeen countries in Latin America found that “machismo,” or a belief in “male supremacy,” was a barrier to women accessing high-level positions.<sup>34</sup> Similarly, a study based on interviews with twenty-six female managers working in harbors across ten African countries found that the perception that men belonged in decision-making roles significantly limited women’s prospects of moving up the ladder.<sup>35</sup> Meanwhile, a study of the Belgian labor market found that women were 10 percentage points more likely than men to experience a “job authority” demotion—for example, a reduction in managerial responsibilities that isn’t necessarily accompanied by an immediate change in pay or title but that can have long-term career consequences.<sup>36</sup>

Other types of discriminatory laws, policies, and restrictive norms also affect women’s chances of promotion. For example, in a study based on interviews with twenty-four female academics working in Saudi Arabia, two-thirds of respondents cited the male guardianship system as a barrier to women’s ability to perform certain work activities, hindering their access to leadership roles.<sup>37</sup> In Ghana, a qualitative study of women in the Civil Service found that women

were regularly restricted from undertaking field work—often a requirement for promotion—unless they received written permission from a male family member.<sup>38</sup> In a study based on interviews with twenty-seven female managers in India, women reported being excluded from international assignments based on presumptions about their family responsibilities, contributing to lower chances of promotion,<sup>39</sup> while a study analyzing questionnaires from 174 women managers across Kuwait, Qatar, and the United Arab Emirates found that 63 percent agreed with the statement that “women often lack freedom of geographical mobility which impedes their career advancement.”<sup>40</sup>

Further, women—particularly those with caregiving responsibilities—are at higher risk of involuntary demotion. For example, case law has documented numerous demotions, missed promotions, and retaliatory transfers following maternity leave; in Italy, for instance, a new mother sued after she was required to relocate to a new office 300 kilometers away when she returned from leave, while her temporary replacement kept her previous position. In 2017, the Court of Cassation found that the transfer was a discriminatory attempt to force the woman to resign.<sup>41</sup>

The impacts for individuals are clear: women who face a so-called glass ceiling and find themselves stuck in lower-level positions earn less and have less influence at work. But workplaces also suffer. A substantial body of research has shown that more diverse leadership structures lead to greater innovation, more creative problem-solving, and higher profitability.<sup>42</sup> Advancing gender equality in the economy and ensuring that workplaces make the most of their employees’ potential require equal access by all to opportunities for skills development, new responsibilities, and decision-making roles.

#### *Discrimination and Disparities in Terminations*

Finally, research suggests that gender discrimination and implicit bias may shape risks of termination. A study of departures from S&P 1500 firms found that female executives are more likely to be terminated when the board of directors is male-dominated.<sup>43</sup> In one study of the financial industry—a male-dominated field—female advisers who engaged in misconduct were 20 percent more likely to lose their jobs than their male counterparts, despite making less costly mistakes and having a lower likelihood of “repeat offenses.”<sup>44</sup> Moreover, women who lost their jobs due to misconduct were 30 percent less likely to land a new position in the financial industry within a year, compared to men who had committed similar offenses.

Further, in some industries, studies suggest women are particularly likely to be pushed out of jobs due to working conditions or failure to promote, sometimes called a “constructive” discharge or dismissal.<sup>45</sup> For example, at law firms, women are 29 percent less likely to be promoted to partner than men, contributing to

higher attrition rates by women at senior levels and significant gender gaps in firm leadership structures.<sup>46</sup> Similarly, studies of academia from a range of countries have found high attrition among female faculty, with cascading consequences as female students have reduced access to mentorship from women in their fields.<sup>47</sup> Women's longer average time to tenure—driven by women's high contributions to teaching and mentoring when this work is devalued compared to publications in tenure decisions; the penalization of women when they coauthor and collaborate in circumstances where men are not penalized; and the lack of flexibility for temporary part-time work to count toward tenure, which disproportionately affects women who have children—is one explanation for these departures.<sup>48</sup>

Gender also shapes vulnerability to job loss when a company is downsizing. Layoffs that are based on seniority often disproportionately affect women due to the broader patterns of gender inequality in the economy that result in women having fewer overall years in the workforce than men. For example, a 2014 analysis of 371 companies that downsized over three decades found that layoffs based on position or tenure significantly decreased both gender and racial diversity in management compared to layoffs based on performance evaluations.<sup>49</sup>

At the same time, research is mixed when it comes to gender and overall risks of involuntary job loss. In some contexts, studies have found men to be more susceptible to layoffs than women. A study focused on Australia suggested that the mixed results (different results for company-specific and countrywide studies) could be explained by the different industries and occupations in which women and men are concentrated, respectively, with women overrepresented in public-sector jobs that are often more secure—thus leading to less job loss at the national level, even when women are at greater risk in company-specific layoffs.<sup>50</sup>

While specific experiences vary across employers and industries, these studies suggest that practices around termination and discipline—whether adopted deliberately or as a result of implicit bias—often have discriminatory effects on the basis of gender. In the context of gender disparities in leadership positions and in employment rates overall, discrimination in terminations is particularly concerning. Globally, as of 2018, women's unemployment rate was around 15 percent higher than men's.<sup>51</sup> While men and women have comparable unemployment rates in some countries, the gap is wide in others.<sup>52</sup> Moreover, the COVID-19 pandemic led to disproportionate job loss among women across many countries, widening these gaps further.<sup>53</sup>

### *Discrimination and Disparities in Employment: Cumulative Impacts*

Critically, each form of gender discrimination in employment compounds the others, leading to cumulative disadvantages. For example, while pay discrimination most directly affects the wage gap, nearly all forms of discrimination in employment influence pay disparities, including discrimination in hiring, training

opportunities, and promotions. Likewise, the persistence of gender inequalities helps employers justify further discrimination in hiring, pay, and working conditions.

Effectively addressing gender discrimination in the workplace is critical not only for advancing equal opportunities at work but also for strengthening countries' ability to compete. According to a 2018 analysis from the World Bank, equalizing men's and women's lifetime earnings around the world would result in an increase in wealth per person of \$23,620—or over \$160 trillion total.<sup>54</sup> In short, eliminating discrimination at all stages of employment—as well as the structural barriers that shape whether men and women have equal opportunities to enter and remain in the labor force—is critical for enabling individuals and societies to thrive.

#### WHAT WORKS TO ADDRESS GENDER DISCRIMINATION IN EMPLOYMENT?

A growing body of evidence from the field of behavioral economics points to workplace practices that can reduce gender discrimination at work, including by targeting implicit biases. For example, application reviews in which applicants' gender is not revealed, structured interviews, avoiding gendered language in job ads, and avoiding self-appraisals in review processes are all strategies that experiments have demonstrated help create a more equal playing field.<sup>55</sup> One well-known and powerful example comes from research on professional musicians. In the 1970s, fewer than one in ten members of major orchestras in the United States were women—not because they were less talented, but because they were perceived as such during auditions. After orchestras began holding auditions in which prospective members played behind a curtain, the share of women rose to 40 percent.<sup>56</sup>

This research provides valuable insights into what employers can do if they care about gender equality. Change at scale, however, requires law and policy approaches that apply to all employers. Rigorous studies of policies' impact across countries, as well as examples of case law from individual countries, lend insight into effective approaches to reducing gender-based employment discrimination of all kinds. And while laws alone are just a first step, the evidence shows it's a step that matters.

#### *How Gender Discrimination Laws Can Improve Women's Outcomes at Scale*

Enacting laws prohibiting gender discrimination at work provides a tool for pursuing justice and also represents an important normative commitment to the principle of equal opportunity. The positive impact of antidiscrimination laws has been documented in practice. A study using data from 141 countries found that

laws prohibiting gender discrimination in employment had a positive effect on women's labor force participation in formal jobs.<sup>57</sup>

Laws explicitly guaranteeing equal pay for equal work have also had impact, especially when employers are provided with tools or specific guidelines to evaluate pay gaps and identify what share of the gap may be attributable to discrimination. For example, in Quebec, assessments of equal pay in companies with at least 200 employees, undertaken pursuant to the Quebec Act on Pay Equity, resulted in an increase in average pay in nearly 1,100 predominantly female occupations, with a mean pay bump of 6 percent.<sup>58</sup> In the United States, researchers estimated that enactment of equal employment laws in the 1970s to enforce Title VII, the primary federal law prohibiting sex discrimination at work, reduced the gender pay gap by 10 percent.<sup>59</sup> Similarly, in the United Kingdom, one study estimated that the adoption of the Equal Pay Act of 1970 and the Sex Discrimination Act of 1975 led to a 19 percent increase in women's earnings relative to men's, and a 17 percent increase in women's employment rates relative to men's.<sup>60</sup>

Moreover, these laws can have impact beyond the workplace by shifting expectations about who belongs in the workplace. For example, in Japan, following the enactment of the 1986 Equal Employment Opportunity law, which addressed gender discrimination across aspects of employment, women were more likely to attend university and choose majors that would enable them to pursue a career in business.<sup>61</sup>

#### *How Gender Discrimination Laws Can Improve Access to Justice*

Case law also suggests that legal protections against gender discrimination can make a difference. For example, in two separate cases in China—both decided since Cao Ju's groundbreaking case in 2012—women successfully challenged job ads that excluded women from applying to positions as a courier<sup>62</sup> and a kitchen apprentice,<sup>63</sup> respectively, based on the Labor Code's prohibition of discrimination against job-seekers on the basis of sex. Similarly, in a third case, a woman who applied for a copywriter position sued after she was told over the phone that women were ineligible since the position required substantial travel, and because the person who fulfilled the position would be expected to share a hotel room with the company's male president while on business trips.<sup>64</sup> The West Lake District Court of Hangzhou found that this requirement violated the Labor Code's guarantees of women's equal right to employment and protections against sex discrimination in employment.

The specific wording of legal protections can also be consequential. For example, in New Zealand, female care workers brought a lawsuit against the nursing home where they worked alleging unequal pay, based on the premise that care workers as a class received lower compensation because they were predominantly women.<sup>65</sup> Specifically, in 2009, 92 percent of New Zealand's 33,000 workers in the eldercare sector were women.<sup>66</sup> Although men and women employed by the nursing home, Terranova, received equivalent wages, the fifteen women

who brought the lawsuit argued that they were all undercompensated as a result of structural discrimination. In short, they were seeking equal pay for work of equal *value*—a principle that recognizes that even if men and women in a certain occupation are paid the same, if all workers in that occupation are paid less than they would be if the same work was performed predominantly by men, there has been discrimination.

Terranova countered that the law required only equal pay between men and women in the same roles, not “pay equity.” The Employment Court, however, rejected this argument, citing Article 31(b) of the Equal Pay Act, which requires that

equal pay for women for work predominantly or exclusively performed by women, is to be determined by reference to what men would be paid to do the same work abstracting from skills, responsibility, conditions and degrees of effort as well as from any systemic undervaluation of the work derived from current or historical or structural gender discrimination.

In 2014, the Appeals Court affirmed this ruling, holding that in cases where pay was affected by gender discrimination, it was appropriate to examine not only differences in pay on the basis of gender within a single workplace, but also differences between sectors, and that “any evidence of systemic undervaluation of the work in question must be taken into account.”<sup>67</sup>

Finally, protections against indirect discrimination at all stages of employment have made a difference for women. As noted earlier, prohibiting indirect discrimination helps identify and address policies and practices that are “gender-neutral” on their face but that have disproportionate consequences based on sex. Importantly, banning indirect discrimination can help to address inequalities that were created unintentionally and those that were the predictable or even purposeful consequence of a particular policy or practice, evidencing a recognition that the effects of discrimination are significant and require redress no matter the motivation. Indeed, as the US Supreme Court reasoned in an early case on indirect racial discrimination, “good intent or absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as ‘built-in headwinds’ for minority groups.”<sup>68</sup>

Moreover, excusing discrimination simply because an employer did not anticipate that its actions would have discriminatory effects creates an incentive for businesses to ignore evidence about the likely consequences of policies and practices known to reinforce inequalities. For example, in Athens, a bank decided to outsource its cleaning staff and proposed to terminate and provide a small severance to the sixty-four cleaners it employed, sixty-three of whom were women. Four of the cleaners rejected the severance pay and initiated a lawsuit, arguing that other employees of the bank, who were in positions that were not predominantly female, were given the option to transfer to another position within the bank according to the bank’s own internal rules. The Civil Court of Athens agreed, finding that the exclusion of cleaning staff from the right to request a transfer to another position constituted indirect



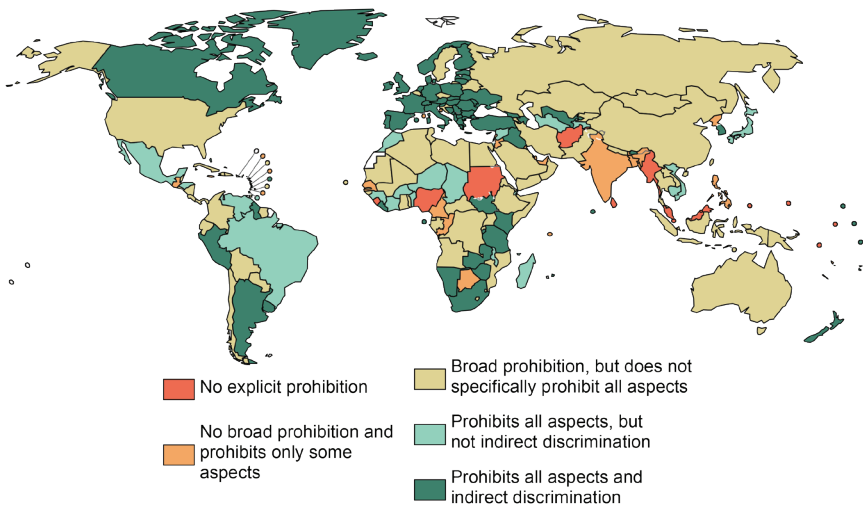
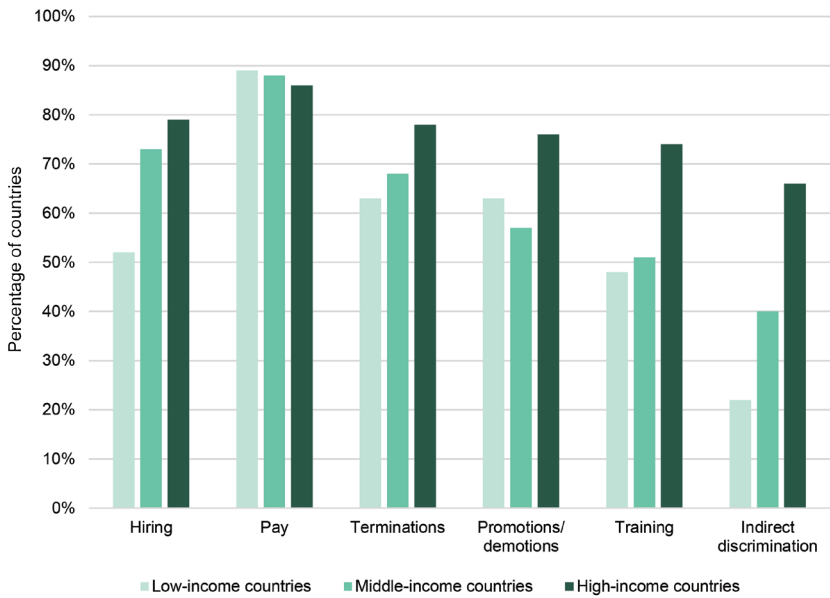


FIGURE 1. Do countries comprehensively prohibit gender discrimination at work?

discrimination on the basis of sex, in violation of a 2010 law designed to realize the principle of equal employment opportunities between men and women.<sup>69</sup>

In a number of countries, courts have also cited legislative protections against indirect discrimination to strike down requirements that job applicants meet certain physical standards that women are less likely to meet, in the absence of evidence that these standards are critical for fulfilling the job duties. For example, in 2016, the European Court of Justice found that a requirement that applicants to the Greek police force be at least 1.7 meters tall constituted indirect discrimination, and that the government could instead require physical aptitude tests more directly tied to position.<sup>70</sup> In the United States, a federal court in Iowa ruled in 2004 that a strength test required of applicants to a Dial-owned meatpacking plant, which required job applicants to repeatedly lift 35 pounds to a height of 65 inches, had a disparate impact on women, only 40 percent of whom passed the test. The woman who initiated the claim, five-feet-two Paula Liles, actually passed the test but was told that because she had to stand on her tippy toes to do so, she was ineligible. After the ruling in favor of Liles and fifty-one other women who had been rejected from the plant, she said, “I have done physical labor all of my life, and I was able to perform the job at Dial. Dial was the highest paying employer in the area, and I felt that I was being rejected because of my sex and my height.”<sup>71</sup>

#### ADDRESSING GENDER DISCRIMINATION AT ALL STAGES OF EMPLOYMENT: APPROACHES IN 193 COUNTRIES

As of January 2021, a substantial majority of countries—93 percent—prohibit at least some forms of employment discrimination on the basis of sex and/or gender. While explicit references to “sex” are the most common, a small number of countries include references to both sex and gender. For example, South Africa’s Employment Equity Act prohibits discrimination on the basis of “one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth or on any other arbitrary ground.”

By prohibiting discrimination in every stage of employment, countries can signal to employers the need to prioritize relevant policies and practices, clarify to employees the full scope of their rights, and provide clear guidance to courts on how to interpret the law. However, while nearly all countries prohibit at least some aspect of gender discrimination, less than half comprehensively cover all stages of the work life course: hiring, pay, terminations, promotions/demotions, and training. Just 34 percent cover each of these aspects as well as indirect discrimination.

Further, whereas some approach to discrimination is common in countries across income groups, high-income countries are generally more likely to address specific aspects of work. Importantly, there is no reason that countries at all income levels cannot afford to adopt comprehensive protection against discrimination in

employment. Moreover, when countries fail to adequately address discrimination, both individual households and national economies suffer, as women are unable to fully contribute.

Indeed, the feasibility of guaranteeing specific aspects of nondiscrimination in low-income countries is demonstrated by equal pay, the one area that is equally addressed across country income levels: 89 percent of low-income countries, 88 percent of middle-income countries, and 86 percent of high-income countries explicitly guarantee equal pay based on gender, making it the most frequently addressed aspect of gender equality at work in both high- and low-resource contexts.

After pay, hiring and terminations are the most frequently prohibited forms of gender discrimination at work. Seventy-two percent of countries explicitly prohibit sex discrimination at the hiring stage. For example, Albania's 2008 Gender Equality in Society Law requires that "in order to actively promote equality between females and males, before and during work relations," employers must "guarantee equal opportunities for males and females to apply for the job vacancies . . . apply equal criteria in all recruitment procedures . . . [and] employ individuals without distinction to gender in any position or vacant position in all levels of professional hierarchy." Albania's law also specifically establishes that employers must avoid "includ[ing] gender discrimination elements in the job vacancy announcement." However, there are substantial differences across country income level, with 79 percent of high-income countries prohibiting discrimination in hiring and 78 percent doing so in terminations, compared to only 52 percent and 63 percent of low-income countries, respectively.

Compared to pay, hiring, and terminations, fewer countries explicitly address discrimination that matters to advancement within a job. Only 64 percent of countries explicitly prohibit sex discrimination in promotions and/or demotions, while only 58 percent do so for training opportunities. Here, too, the gaps across country income level are wide, with 74 percent of high-income countries compared to 48 percent of low-income countries explicitly prohibiting discrimination in training opportunities.

Moreover, only half of countries (51 percent) have laws with language designed to advance substantive equality, either by specifying that measures taken to increase sex equality in employment are not discriminatory or by mandating sex-based affirmative action. For example, Peru's 2007 Law on the Equality of Opportunities between Women and Men makes it a duty of the State to "adopt temporary positive action measures, aimed at accelerating de facto equality between women and men, which will not be considered discriminatory."

Finally, more than half of countries (58 percent) include the stronger guarantee of equal pay for work of equal value, which is critical for legal recourse for women working in female-dominated occupations that may receive lower pay than equivalent male-dominated occupations. For example, Fiji's 2007 Employment

Relations Promulgation declares it to be a fundamental principle and right that “every employer shall pay male and female workers equal remuneration for work of equal value.” Similarly, Nepal’s 2017 Labor Code states that “there should be no discrimination on the basis of gender in terms of remuneration on equal value of work” and further clarifies that “the equal value of work shall be determined on the basis of the nature of the work, the time needed to perform the work, and the efforts, skills and the production from the work.”

Some countries undermine prohibitions of gender discrimination by allowing certain types of businesses to be exempt from these laws. Four percent of countries allow for small business exemptions in one or more aspects of antidiscrimination law. For example, the Labor Standards Act in the Republic of Korea, which prohibits gender discrimination, applies only to businesses that have at least five employees. In Mauritius, prohibitions of gender discrimination in hiring do not apply when “determining who should be offered employment where the employer employs no more than 10 employees on a full-time basis.” Similarly, 3 percent of countries have exceptions for charities or nonprofits and 12 percent have exemptions for religious organizations. In some countries, religious exemptions are limited to selection of clergy, whereas others apply much more broadly. For example, the Barbados Employment (Prevention of Discrimination) Act exempts any “practice of a body established for religious purposes that conforms with the precepts of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.”

#### GENDER DISCRIMINATION BY ANOTHER NAME: CAREGIVING DISCRIMINATION

While prohibiting all forms of gender discrimination in employment is a critical start, without addressing discrimination based on family responsibilities, these laws may address only a fraction of the bias and barriers women face at work. A series of cases from across countries make this clear:

- In Germany, Silke-Karin Mahlburg applied for a permanent position in the hospital where she had been working on a temporary basis. But after she disclosed her pregnancy, the hospital told her she was no longer eligible, as pregnant women were prohibited from working in the operating theater under German law. Mahlburg sued, claiming sex discrimination, but the Labour Court sided with her employer. Only when the case reached the European Court of Justice was it overturned.<sup>72</sup>
- In the United States, Teresa Goff, a surgical nurse, lost her job after she took intermittent unpaid leave to care for her mother, who had a serious health condition. Citing absenteeism, Goff’s boss fired her, saying, “You don’t have to call in the morning about momma. In fact, you won’t have to call in ever again about momma.”<sup>73</sup> Goff sued for retaliation and the case ultimately settled out of court.

- In Australia, Deborah Schou, an editor who had been with her employer for seventeen years, was compelled to resign after she requested to work from home two days a week to be closer to her son, who suffered from asthma, recurring chest infections, and separation anxiety. Though her employer initially approved her request and agreed to provide a modem and fax line that would allow her to work remotely, they never followed through, and Schou initiated an indirect gender discrimination claim. After extensive litigation, the Court of Appeal ruled against her, finding that the employer's refusal to accommodate her was reasonable.<sup>74</sup>
- In South Africa, Beverley Whitehead, a pregnant woman, brought a discrimination claim after she applied for a human resources job and was told she was ineligible for a permanent position since her maternity leave would affect her availability; instead, the employer, Woolworths, offered her a fixed term contract that ended just before her due date. The Court of Appeal sided with Woolworths, determining that she simply had not been the top candidate for the permanent position and would not have been hired even if she weren't pregnant; however, a concurring opinion also argued that "to hold that an employer cannot take into account a prospective employee's pregnancy would be widely regarded as being so economically irrational as to be fundamentally harmful to our society."<sup>75</sup>

As these cases demonstrate, discrimination based on caregiving and family responsibilities affects women at all stages of employment—and thus prohibiting gender discrimination without addressing parenthood and caregiving creates a huge and consequential gap. Further, as noted earlier, research has long shown that family status accounts for a substantial share of gender disparities in pay in countries at all income levels.<sup>76</sup> For example, a study of twenty-one low- and middle-income countries found a 42 percent "motherhood pay penalty," meaning that mothers earned on average \$2.37 per day compared to nonmothers' \$4.12.<sup>77</sup> Similarly, in five out of seven high-income countries, another study found that mothers of two children earned between 5 percent and 24 percent less than nonmothers, even after controlling for education, household income, and other factors; only in Sweden and Finland, countries widely recognized for having more supportive policies for infant care, were the pay gaps between nonmothers and mothers of two insignificant.<sup>78</sup> In short, the impacts of caregiving on women's economic outcomes are well and widely documented.

Moreover, whereas gender discrimination is at least widely acknowledged as unacceptable, surveys of employers reveal that discrimination based on family status remains commonplace and openly practiced. A survey of ten companies in Yekaterinburg, Russia, for example, found that seven out of ten managers stated that they would refuse to hire a woman with a child under three, and that they would prefer female candidates over the age of thirty with children over the age of

five.<sup>79</sup> In Tunisia, a study of the tourism industry found that 58 percent of employers took marital status into account when evaluating female candidates, while 52 percent felt that whether she had young children was an important factor.<sup>80</sup> In the United Kingdom, a survey found that 36 percent of private-sector employers believed they should be able to ask a job applicant about her plans to have children, while 59 percent thought women should disclose their pregnancies and 46 percent indicated it was reasonable to ask whether female applicants already had young children.<sup>81</sup> What are the effects of these specific forms of discrimination, and how can more comprehensive legal protections have an impact?

*Discrimination Based on Family Responsibilities: Global Evidence*

Like employment discrimination based on gender alone, discrimination based on actual or anticipated family responsibilities remains rife across countries. Around the world, these beliefs and practices disproportionately disadvantage women at each career stage, contributing to the widening economic gaps between women caring for family members and other workers. At the same time, gendered expectations about caregiving also increasingly affect men while reinforcing stereotypes that operate to everyone's detriment.

*Discrimination against Young Women Based on Presumptions of Future Pregnancy.*

As with broader gender discrimination, discrimination based on actual or anticipated caregiving statuses can begin during recruitment. Studies have found that this discrimination can extend to all women of child-bearing age, regardless of whether they have or intend to have children. In one experimental study of the financial sector from France, twenty-five-year-old women were far less likely to receive an interview for a long-term contract than twenty-five-year-old men, all else being equal; no such discrimination was found against thirty-seven-year-old women.<sup>82</sup>

Women's age also intersects with their marital status: a study based in China, using fictitious job candidates who disclosed their marital and family status in their cover letters, found that married twenty-eight-year-old women without children were 29 percent less likely to be invited to interview for an accountant job than single, childless women of the same age with equivalent credentials.<sup>83</sup> Similarly, an experiment involving 9,000 CVs in Austria, Germany, and Switzerland—countries where it is typical to list personal details such as family status on one's resume—found that married, childless women were 4–6 percentage points less likely to be invited to interview for a part-time job than single, childless women, suggesting that employers were seeking to avoid hiring those candidates most likely to become pregnant in the near future.<sup>84</sup>

Finally, caregiving discrimination in hiring can also extend to men when employers are aware that a male job candidate has significant care responsibilities: a US-based study found that when employers knew that an applicant was

the primary caregiver for a child, they were less likely to be hired, regardless of gender.<sup>85</sup> As this finding suggests, prohibiting discrimination against women alone is insufficient to reach all instances of caregiving discrimination—particularly as men take on greater caregiving roles. Similarly, US research has documented hiring discrimination against parents who “opt out” of the labor market for a period to meet caregiving needs; moreover, rates of discrimination are somewhat higher for “opt out” men than “opt out” women.<sup>86</sup>

*Discrimination against Pregnant Women.* Employment discrimination against pregnant women is also widespread, and studies suggest it commonly reflects both explicit and implicit biases.<sup>87</sup> In Belgium, for example, a study found that job applicants who disclosed their pregnancies were far less likely to move forward in the hiring process.<sup>88</sup>

In some cases, this discrimination is overt: reports from countries including Honduras, El Salvador, and Mexico, for example, have found that women applying for factory jobs are required to take pregnancy tests as part of the hiring process and are excluded from consideration if they test positive.<sup>89</sup> Even once hired, they often must continue to take pregnancy tests periodically to stay employed. While some factories have been pressured to eliminate these practices in recent years, reports suggest that mandatory testing continues. In Myanmar, for example, an investigation by the International Labour Organization found that fifteen out of sixteen garment factories routinely required pregnancy tests as part of the hiring process.<sup>90</sup>

*Discrimination against Parents of Young Children.* Experiments have found that having children, particularly young or multiple children, is a common source of employment discrimination for women. For example, a US-based experiment found that women who indicated on their CVs that they hold leadership roles in the Parent-Teacher Association received fewer invitations to interview than women whose materials included no evidence of motherhood, though for men, parenting status did not affect callback rates.<sup>91</sup> Similarly, a study from Germany found that being a father did not affect a man’s likelihood of receiving an interview for an event manager position, but that being a mother reduced women’s chances of getting a callback by about 25 percent.<sup>92</sup>

Real and anticipated caregiving responsibilities can also trigger discrimination in pay and promotions. As one example, in a 2017 study from Switzerland that involved showing over 700 fictitious CVs to hiring managers, respondents on average suggested pay ranges for women with two or three children that were 2–3 percent below what they recommended for childless women.<sup>93</sup> Research has also documented that employers’ presumptions that mothers in the workplace will have greater “work–family conflict” make them more reluctant to promote women.<sup>94</sup>

Discrimination is particularly common for parents returning to work after taking leave. One UK poll, for example, found that 20 percent of women returning

from maternity leave reported that they were demoted or had their hours cut.<sup>95</sup> Likewise, a study from the Danish Institute for Human Rights found that 45 percent of women and 23 percent of men who took parental leave faced discrimination when they returned to work.<sup>96</sup> In some cases, this discrimination may be explicit and intentional; in others, however, it is likely shaped by implicit biases and diminished expectations about the abilities of women—and mothers in particular—in leadership roles. For example, research has shown that mothers in the workplace are often viewed as “warmer” but less competent than non-mothers, whereas fatherhood does not influence perceptions of men’s competence;<sup>97</sup> studies also suggest that mothers are commonly viewed as less ambitious than other women.<sup>98</sup>

Some studies have also found that mothers are more likely to lose their jobs than fathers. A 2020 analysis of the United States, for instance, found that women without children were less likely to lose their jobs than men without children, but that mothers were significantly more likely to face job loss than fathers.<sup>99</sup> In Canada, an analysis of caregiving discrimination claims brought before the Canadian Human Rights Tribunals from 1985 to 2016 found that cases contesting terminations accounted for 56 percent of the claims brought by women, and 49 percent of caregiving-related claims overall.<sup>100</sup>

*Discrimination against Workers Caring for Aging Adults and Family Members with Disabilities.* Like workers with young children, workers who are balancing paid work with caregiving responsibilities for an aging adult or a family member with a disability often face discrimination at work, particularly if they need to take leave to meet caregiving needs. For example, one study based on a survey of 118 US-based hiring managers found that workers who were the primary caregiver for an aging adult were recommended to receive a lower salary than noncaregivers, while “sandwich” caregivers—with both childcare and eldercare responsibilities—faced more discrimination than those caring for children alone.<sup>101</sup>

This discrimination can contribute to pay gaps. For example, a UK study found that workers caring for family members who were sick, elderly, or living with a disability earned less than noncarers, with a far greater wage penalty for women than men.<sup>102</sup> The researchers found that a substantial share of this gap was “unexplained,” suggesting it may arise from discrimination. In particular, they noted, workers with care responsibilities who request flexible work or other arrangements may be perceived as less committed, leading to fewer opportunities for advancement. Similarly, a study of Estonia, Latvia, and Lithuania found that workers who were caring for an aging family member or family member with a disability faced a significant wage penalty, which the authors speculated could be partly attributable to employer discrimination and reluctance to promote workers with caregiving responsibilities.<sup>103</sup> Notably, in Lithuania, the wage penalties were evident only for female caregivers, whereas in Estonia and Latvia they affected men and women alike.



In recent years, increasing attention has been brought to this type of discrimination. In the United States, a 2016 study found that the number of family responsibilities lawsuits based on eldercare grew by 650 percent over the preceding decade, compared to a 216 percent increase in all types of family responsibilities discrimination lawsuits and a 13 percent decrease in employment discrimination cases filed in federal courts overall.<sup>104</sup> Particularly as the aging population grows globally, families' caregiving needs for older adults are likely to intensify, making employment discrimination against these caregivers an important area for greater prioritization.

*Caregiving Stereotypes and Workplace Norms.* Finally, gender stereotypes about caregiving can have consequences for workers beyond those directly linked to job outcomes. For example, discriminatory norms can give rise to hostile workplace cultures; a 2013 study based on a survey of US workers found that fathers who took on greater caregiving responsibilities, thereby defying gendered expectations about care, were subject to more harassment at work than men who either were not fathers or spent less time on childcare, and in particular more harassment suggesting they weren't "man enough."<sup>105</sup> Similarly, another US study found that men who took leave for caregiving, whether for a child or their elderly mother, were perceived as weaker, less ambitious, and more "feminine."<sup>106</sup>

Further, while discrimination based on caregiving has the most significant consequences for workers with family responsibilities, its underlying premise—that women are inherently and uniquely equipped to be caregivers—has implications for everyone. Specifically, gender stereotypes about caregiving shape broader gender norms about behavior in the workplace that influence how workers are evaluated. Women who depart from the "nurturing" stereotype, for example, are often viewed as standoffish or difficult, while more "nurturing" men are commonly seen as ineffective leaders.<sup>107</sup> In some cases, gendered expectations about different behavior are overt: one qualitative study of the Nigerian Civil Service, for example, reported that when asked whether women should have the opportunity to serve as a department head, eight out of ten male respondents indicated that "a woman's role should not be to 'lead' but to 'care' for other people."<sup>108</sup> Meanwhile, the same behavior deemed "aggressive" when exhibited by a woman at work is often interpreted more positively as "assertive" when demonstrated by a man.<sup>109</sup> In the same analysis of a large tech company's performance reviews discussed previously, 76 percent of comments about being "too aggressive" were found in women's reviews.<sup>110</sup>

### *What Works to Address Caregiving Discrimination?*

Enacting protections against discrimination on the basis of marital status, pregnancy, and family status is important not only for providing a practical tool to workers who face discrimination on these grounds but also for expressing a normative commitment to enabling all people to be active in the economy while

carrying for family. Moreover, these laws can have direct effects on reducing disparities. For example, a study of the Pregnancy Discrimination Act, a 1978 law adopted in the United States, estimated that its enactment boosted the labor force participation of pregnant women by 8 percentage points, of mothers of infants by 3 percentage points, and of mothers of older children by 2 percentage points.<sup>111</sup> In the Czech Republic, a 2009 law that banned employment discrimination on a wide range of grounds, including pregnancy, maternity, and paternity, decreased the motherhood wage gap significantly.<sup>112</sup>

Case law from a range of countries also indicates these laws matter in reducing discrimination. In Romania, which prohibits employment discrimination on the basis of both sex and parental status, the Court of Appeal of Bucharest found that there had been parental status discrimination when a woman returning to work after maternity leave was demoted.<sup>113</sup> As discussed in more detail in chapter 6, in addition to addressing parental status discrimination directly, ensuring job protection for parents who take leave is another important approach to ensuring parents' equal opportunity in the workplace.

In Lesotho in 2014, the Labour Court ordered an investment bank to rehire and pay damages to a woman who was fired when she became pregnant, citing the Labour Code's prohibition on terminating employees on the basis of pregnancy.<sup>114</sup> Importantly, however, while banning discrimination on the basis of pregnancy is critical, so too is providing essential accommodations to enable pregnant workers to continue performing their job duties. While many pregnant women will need no accommodations, for some, these minor adjustments are critical to health and the ability to keep working.<sup>b</sup>

Protections against indirect sex discrimination can also play an important role in reaching discrimination linked to caregiving. Since women continue to take on the majority of care work worldwide and often take longer periods of parental leave as a result of unequal policies, employer practices that base pay or opportunities for advancement on factors that are affected by caregiving responsibilities tend to have a disproportionate impact on women. For example, in Italy, a court ruling in 2017 held that a company had indirectly discriminated against women through a policy that required "real presence at work" to qualify for a bonus, since in effect the policy discriminated against those workers—disproportionately women—who had taken parental leave.<sup>115</sup>

b. As this chapter has emphasized, recognizing and addressing conditions such as pregnancy that relate to biologic differences on the basis of sex is integral to advancing gender equality. At the same time, the need to accommodate pregnancy-related health statuses is not unique; numerous health conditions require basic accommodations at work and/or paid time off for recovery. In short, while fully recognizing and meeting the basic needs of all pregnant workers—including by prohibiting pregnancy discrimination—is critical to gender equality, it would be incorrect to conceptualize this as "special" or exceptional treatment based on sex.

*Why Aren't Protections on the Basis of Sex or Gender Enough?*

As Italy's example demonstrates, in some countries, protections based on sex or gender have extended to discrimination on the basis of pregnancy, family status, or marital status, particularly in countries where laws prohibit indirect gender discrimination. Similarly, in a landmark case from 1990, the European Court of Justice, which interprets the laws that cover all of the European Union, found that "only women can be refused employment on the grounds of pregnancy and such a refusal therefore constitutes direct discrimination on the grounds of sex."<sup>116</sup> A year later in the United States, the Supreme Court ruled that the federal law banning sex discrimination also encompassed "sex plus" discrimination—that is, discrimination based on sex and another unenumerated ground like family status—in a decision clarifying that a company couldn't exclude women with young children from consideration for an open job.<sup>117</sup>

However, there are two key pitfalls to relying on protections against sex or gender discrimination alone. First and most fundamentally, these protections aren't always enough. Particularly when there is no male "comparator" who was treated more favorably, legally demonstrating that caregiving discrimination constitutes sex discrimination has not been treated consistently in the courts. For example, in *Carole Louise Webb v. EMO Cargo*, the UK Industrial Tribunal ruled that firing a pregnant worker due to her upcoming "unavailability" did not constitute sex discrimination since an "unavailable" man would be treated the same way, a decision that was overturned only after it was referred to the European Court of Justice.<sup>118</sup>

Some courts have also simply found that discrimination on these other grounds is valid if not explicitly prohibited. In *Air India v. Nergesh Meerza*, the Supreme Court of India ruled that an airline's requirement that female flight attendants retire after getting married was permissible, since the constitution did "not prohibit the State from making discrimination on the ground of sex coupled with other considerations," such as marital status; while an older case, this decision has never been overturned.<sup>119</sup> In Canada, a woman who was denied unemployment benefits on the basis of her pregnancy brought a suit claiming sex discrimination, but the Supreme Court upheld the exclusion, finding that "any inequality between the sexes in this area is not created by legislation but by nature"; it took a decade for the decision to be overturned.<sup>120</sup>

Second, prohibiting caregiving discrimination only when it coincides with gender discrimination—as required to demonstrate indirect discrimination—leaves the door open to broad-based discrimination against caregivers, regardless of gender. The US Equal Employment Opportunity Commission, the body responsible for enforcing employment discrimination legislation, makes this gap clear, stating plainly that:

Title VII [the primary federal employment discrimination law] does not prohibit discrimination based solely on parental or other caregiver status, so an employer

does not generally violate Title VII's disparate treatment proscription if, for example, it treats working mothers and working fathers in a similar unfavorable (or favorable) manner as compared to childless workers.<sup>121</sup>

This omission has the potential to leave caregivers of all genders vulnerable to mistreatment. Though caregiving discrimination very often does embody “gender discrimination by another name,” it can—and does—affect men as well as women, and men’s experiences of caregiving discrimination will likely further intensify as men continue to take on larger caregiving roles. Ensuring that caregiving discrimination is prohibited in its own right is therefore critical to equal opportunity at work for all and important to laying the foundation for longer-term norm change.

In short, addressing indirect sex discrimination and addressing direct discrimination on the basis of pregnancy, marital status, and family status are distinct and critical strategies for ensuring full coverage of discrimination based on gender and caregiving. Protecting caregiving statuses alone will not provide a tool for addressing the wide range of laws and policies that have disparate impacts on women unrelated to caregiving, such as unnecessary physical requirements for certain jobs. Meanwhile, prohibiting indirect discrimination alone will do little to address policies and practices that discriminate against male caregivers and caregivers as a class. By adopting both, however, countries can provide a strong foundation for ensuring caregivers of all genders have equal opportunities in the workplace.

#### *Approaches to Caregiving Discrimination in 193 Countries*

As of January 2021, while more than 90 percent of countries prohibit at least some employment discrimination based on sex, only 58 percent of countries do so on the basis of marital status or specifically women’s marital status. For example, the Gambia’s 2010 Women’s Act includes explicit reference to marital status when defining discrimination against women as: “any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life.” These types of prohibitions can help protect women from discrimination based on the assumption that they will have children. Provisions are found across all income levels: 48 percent of low-income countries, 58 percent of middle-income countries, and 60 percent of high-income countries prohibit at least some discrimination based on marital status. No country prohibits discrimination based on marital status without also addressing sex discrimination.

Two-thirds of countries explicitly prohibit at least some discrimination at work on the basis of pregnancy. These provisions are most frequently related to prohibiting discriminatory dismissal during pregnancy (67 percent of countries) and relatively few explicitly address hiring (40 percent) or equal pay (28 percent). For

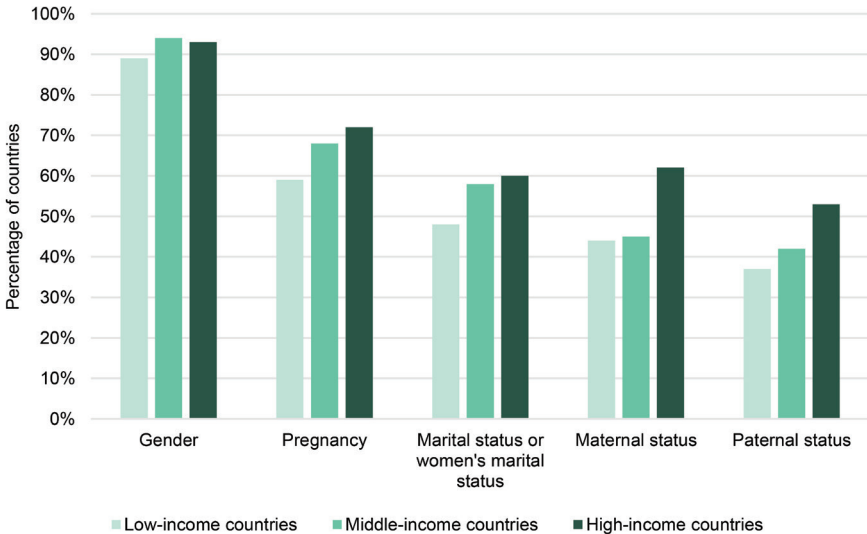


FIGURE 2. Do countries prohibit at least some aspect of caregiving discrimination at work?

example, Malawi's 2000 Employment Act provides that "an employer who terminates the employment of an employee because the employee is pregnant or for any reason connected with her pregnancy shall be guilty of an offence and the burden of proving that the employment was not terminated because of pregnancy shall be on the employer." Nearly 60 percent of low-income countries and more than two-thirds of middle-income and high-income countries explicitly prohibit at least some aspect of pregnancy discrimination at work. More high-income countries prohibit discrimination in hiring or pay based on pregnancy than low- or middle-income countries.

Half of countries prohibit at least some aspect of workplace discrimination against women with family responsibilities. However, in 6 percent of countries, legislation may reinforce gendered norms around caregiving by protecting women but not men from caregiving discrimination. For example, Germany's Equal Treatment Act establishes that there is "an immediate disadvantage because of gender in the case of less favorable treatment of a woman due to pregnancy or maternity." No provisions address less favorable treatment of men due to paternity. Similarly, in some countries, provisions related to family responsibilities are narrowly defined to cover only workers who are parents. For example, Israel's Equal Employment Opportunity Law provides that "an employer shall not discriminate between his employees or job seekers because of their sex, sexual orientation, personal status, pregnancy, fertility treatments, IVF treatments, being parents, age, race, religion, nationality, country of origin, place of residence, views, party, or service in the reserve." In contrast, Uzbekistan's Law on Guarantees of Equal

Rights and Opportunities for Women and Men uses broader terminology that could cover more forms of caregiving, defining gender discrimination as: “any discrimination, exclusion or restriction aimed at non-recognition of the rights and freedoms of women and men in all spheres of life and activity, including discrimination on the basis of marital status, pregnancy, family obligations, as well as sexual harassment, equal pay for equal work and qualifications.” Australia’s Sex Discrimination Act goes further and explicitly defines family responsibilities, which is a prohibited ground for discrimination, as: “responsibilities of the person to care for or support: (a) a dependent child of the person; or (b) any other immediate family member who is in need of care and support.”

Prohibitions of discrimination against women with family responsibilities are more common in high-income countries (62 percent) compared to middle- and low-income countries (45 percent and 44 percent, respectively). Prohibitions of discrimination against men with family responsibilities are less common across all income groups but continue to be more common in high-income countries (53 percent) compared to middle- and low-income countries (42 percent and 37 percent, respectively). An additional eight countries have narrow prohibitions of discrimination against workers with family responsibilities. Five of these reinforce gender inequalities in caregiving. For example, Belarus prohibits hiring discrimination for women with children under the age of three, single mothers with a child under the age of fourteen, and single mothers with a child under the age of eighteen with a disability. In Azerbaijan, dismissal is prohibited for women raising children under the age of three, but men have the same protection only if they are a single parent. The remaining three countries have gender-neutral provisions prohibiting discrimination against single parents, caregivers of children with disabilities, or caregivers of young children.

To be sure, prohibiting discrimination on these grounds is not enough to shift norms or eradicate bias in the workplace; inclusive caregiving policies are another key piece of the solution. Nevertheless, case law and evidence from around the world indicate that these protections make a difference.

### *Changes in Laws over Time*

Although the world has far to go on comprehensively addressing gender and caregiving discrimination at work, importantly, laws are strengthening over time. In just the five-year period from 2016 to 2021, protections against gender discrimination at every stage of work, as well as protections against indirect discrimination, became more common globally. Likewise, protections against four key forms of caregiving discrimination—pregnancy, marital status, maternal status, and paternal status—all increased during this time.

At the same time, at this rate of change, it will be decades, if not longer, before all countries worldwide have adopted comprehensive protections against gender and caregiving discrimination at work. Moreover, the overall gap between protections based on gender and those based on caregiving remains large.

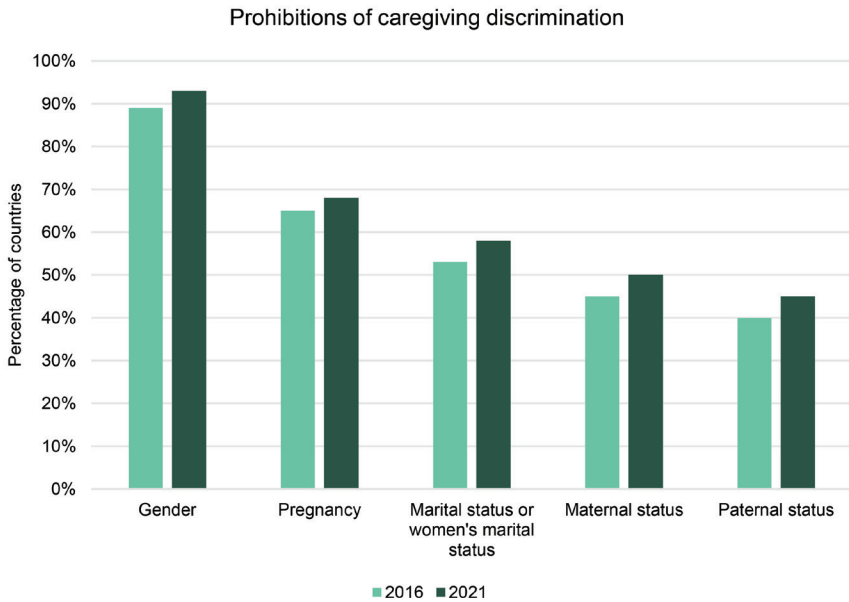
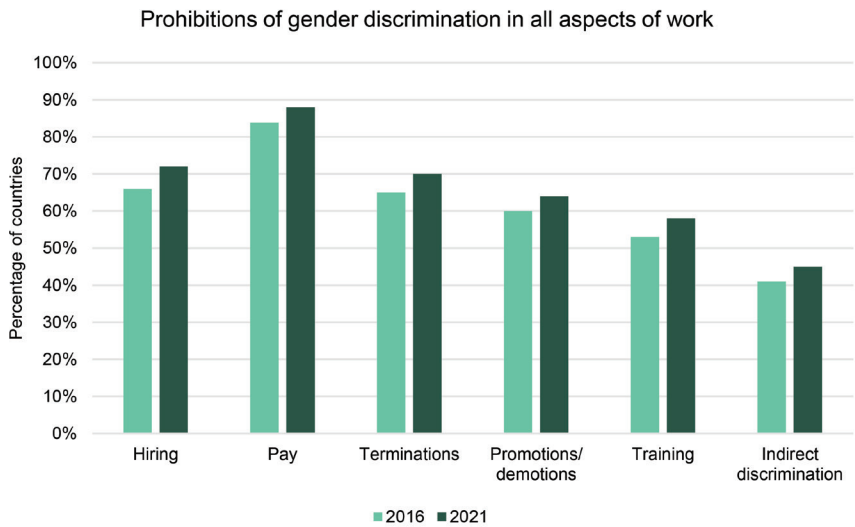


FIGURE 3. Have countries strengthened prohibitions of gender discrimination and caregiving discrimination at work?

TABLE 1 Legal prohibitions of gender discrimination at work, by country income level

	Low-income countries	Middle-income countries	High-income countries
<i>Do countries prohibit gender discrimination in all aspects of work?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
No broad prohibition and only prohibits some aspects	1 (4%)	14 (13%)	7 (12%)
Broad prohibition, but does not specifically prohibit all aspects	13 (48%)	41 (38%)	13 (22%)
Prohibits all aspects, but not indirect discrimination	7 (26%)	14 (13%)	3 (5%)
Prohibits all aspects and indirect discrimination	3 (11%)	32 (30%)	31 (53%)
<i>Is positive action considered gender discrimination?</i>			
No prohibition of gender discrimination	3 (11%)	7 (6%)	4 (7%)
Gender discrimination prohibited; positive action not addressed	15 (56%)	49 (45%)	16 (28%)
Positive action is not gender discrimination or specific mandates for positive action	9 (33%)	52 (48%)	38 (66%)

Importantly, all countries globally have committed to realizing gender equality—including by eliminating discrimination in the law—by 2030 through the Sustainable Development Goals. These commitments build on the United Nations Convention on the Elimination of All Forms of Discrimination against Women, which has been ratified by 189 countries since it was adopted in 1979, as well as the 1995 Beijing Declaration and Platform for Action, both of which included detailed provisions on women’s equal rights at work. Although every one of these agreements obligated countries to take immediate action on gender equality at work and end discrimination, countries are far from on track to realize these commitments.

## CONCLUSION

Reaching gender equality in the economy requires far more than prohibiting gender discrimination in the workplace, but this is a fundamental and straightforward step that all countries should take. It is well documented that ensuring the economy is accessible to all women boosts countries’ GDP—suggesting that stronger legal guarantees of nondiscrimination are not only economically feasible for all nations and central to realizing their global commitments but also a powerful step toward realizing economic gains for countries and communities. Despite progress in recent decades, too few countries prohibit gender discrimination at all stages of employment, from hiring to pay to promotions and terminations; likewise, not enough have taken steps to prevent discrimination based on restrictive gender norms. Moreover, only a fraction of those countries that prohibit gender discrimination



take equivalent steps to address caregiving discrimination, even as substantial evidence shows that leaving caregiving unaddressed will virtually guarantee that gender gaps in the economy persist. Without enabling all people to access employment on an equal playing field—and to continue to advance in their careers after starting a family—no workplace or economy will reach its full potential.

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## Equal Rights at Work for Women Must Mean All Women

When Cecily Jones led recruitment sessions at a university in the United Kingdom, Black prospective students and their parents would often tell her how they were pleasantly surprised to see a Black woman in her role. As of 2019, among the 19,285 university professors in the United Kingdom, White men accounted for 12,795, while White women numbered 4,560; in contrast, just ninety Black men and a mere thirty-five Black women held professorships.<sup>1</sup> Jones was used to her presence being unexpected in the university—but a series of other experiences had made clear that the surprise wasn't always welcome. On one occasion, a colleague forwarded an email from another faculty member who openly questioned her qualifications and abilities while decrying “multiculturalism.” On another, after a White male first-year student aggressively asserted that there was little Jones could teach him, her department head downplayed the incident. When Jones applied for a promotion to professorship, she knew she more than satisfied all the criteria, which is why her mentor had encouraged her to apply; twice, however, she was turned down, with the head of her department refusing to support her candidacy.<sup>2</sup>

Jones told her story in response to a University of London research study examining the unique experiences of Black women professors—a minority within a minority.<sup>3</sup> While White people hold 90 percent of all professor positions in the United Kingdom, among both White and Black professors, men outnumber women by about three to one. Looking at gender and race together, Black women are the least represented group in academia. This vast underrepresentation has deep historical roots; however, it's also perpetuated by contemporary discrimination, explicit and implicit biases, and structural barriers.

The report synthesized interviews with Black female professors across the United Kingdom about their experiences with hiring, promotions, and university workplace environments. The women shared stories that ranged from

“microaggressions” to overt discrimination, bullying, and harassment on the basis of gender and race. Women reported that they were ignored when they had their hands raised in meetings, rarely received any mentorship or detailed feedback on how to advance their careers, and had to take pains to soften the tone of their emails to avoid being labeled aggressive or difficult. Colleagues and supervisors discredited their prior work experience in other countries, reflecting bias on the basis of not only race but also national origin.

In some universities, the discrimination was direct. When applying for positions, Black women had been passed over for White women with less experience and fewer publications.<sup>a</sup> The sentiment that they had to work harder and publish more extensively to achieve the same level of recognition was widespread. In other settings, the discrimination was indirect. Seemingly “neutral” policies and practices within the university—and within academia more broadly—created further barriers to advancement. For example, only articles published in certain journals were considered to meet the standards for promotion, even as research shows that those same journals underpublish scholarship related to racism and equity<sup>4</sup>—subjects addressed more frequently in articles written by academics of color.<sup>5</sup> As another example, teaching and mentoring were valued less than publications. Yet women did more teaching and mentoring, and women of color were often expected to take on far more substantial mentorship responsibilities, particularly for students from underrepresented backgrounds. That was before taking into account informal roles. In Jones’s words, “hardly a week passed without an impromptu gathering in my office of Black students seeking advice, support or just wanting to spend a half hour with others who looked like them, decompressing from racist slights.”<sup>6</sup> While critically important, however, this type of labor does not factor into decisions about career advancement and often limits the time available for research, which committees determining advancement weigh heavily.

In some ways, the University of London report represents a narrow set of employment experiences; academia is a unique field that uses specific metrics for advancement, and the demographics of universities vary substantially depending on the geographic context. At the same time, these experiences reflect broader patterns and dynamics of discrimination that are pervasive across industries and economies—and that affect women from a wide range of backgrounds. While gender discrimination at work affects all women, women from marginalized groups often face even higher or distinct barriers linked to these other aspects of their

a. Throughout this book, we capitalize both “White” and “Black” when used to refer to race, consistent with common style guides including the AMA Manual of Style, the APA Style Guide, the National Association of Black Journalists Style Guide, and Scientific Style and Format; this is done to acknowledge that both are socially and legally constructed racial identities. Generally speaking, the terms we use for racial groups align with the terms used in the cited sources and/or relevant country contexts, given that commonly used racial and ethnic classifications vary across contexts and over time; how individuals self-identify also varies.



identity; indeed, gender discrimination rarely operates in a vacuum but often interacts with other forms of bias, discrimination, and stereotyping. In addition to race or ethnicity, countless women globally encounter barriers to advancement and mistreatment at work due to their religion, their migration status, their sexual orientation, their social class, or because they have a disability. Further, beyond instances of discrimination against individual women, structural discrimination in the economy—and in particular the diminished recognition accorded to care work—leaves large groups of women, disproportionately from marginalized backgrounds, without fundamental legal protections. Addressing gender-based employment discrimination is thus a critical start—but achieving equal rights for all women requires accounting for the full range of barriers and biases that affect women in the workplace.

This chapter approaches a topic that is far too complex to address exhaustively in the space available: how women's experiences of discrimination at work across countries vary by race, ethnicity, religion, disability, sexual orientation, social class, age, gender identity, and migration status, and how each of those types of discrimination can be eradicated. However, by presenting a sample of the evidence about the nature, scope, and effects of these forms of discrimination, we hope to demonstrate why discrimination laws addressing multiple and intersectional discrimination are essential to advancing gender equality.

This chapter examines actionable steps countries are pursuing and can take. Do countries fully prohibit employment discrimination on the basis of sex or gender and these intersecting grounds? Are any countries' laws or courts effectively tackling "double discrimination" or discrimination that doesn't fall neatly within one category? And what is the potential of the courts to dismantle the structural discrimination that excludes millions of women workers from basic legal protections?

ADDRESSING GENDER IS NOT ENOUGH:  
RECOGNIZING THE BREADTH OF WOMEN'S  
EXPERIENCES AT WORK

Countries around the world have agreed to prohibit employment discrimination broadly. The Universal Declaration of Human Rights, which is binding on all 193 United Nations (UN) member states as part of customary international law, guarantees everyone the right to equal pay for equal work and decent working conditions and prohibits discrimination on the basis of "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status." Likewise, the International Covenant on Economic, Social, and Cultural Rights, which has been ratified by 171 countries, bans discrimination on the same grounds while articulating work rights in greater detail. Similar commitments are found in treaties detailing the equal rights of specific groups: the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on

the Elimination of All Forms of Racial Discrimination, and the Convention on the Rights of Persons with Disabilities, among others. Importantly, with a singular focus on discrimination at work, the International Labour Organization (ILO)'s Convention on Discrimination, which has been ratified by 175 countries and bans discrimination in employment based on “race, colour, sex, religion, political opinion, national extraction or social origin,” is considered one of its eight “fundamental” conventions, alongside the instruments addressing critical subjects like child and forced labor.<sup>7</sup>

As these global agreements make clear, there is widespread recognition of the fundamental human right not to be discriminated against. What's more, businesses that address discrimination in practice and not just on paper thrive. A study of 492 firms across twenty-three countries in sub-Saharan Africa found that higher rates of ethnic and linguistic diversity were associated with higher earnings, revenue, and productivity.<sup>8</sup> Likewise, a 2018 study of 579 companies spanning six countries found that those with the most culturally and ethnically diverse executive teams outperformed others by 33 percent.<sup>9</sup> Similar benefits accrue to companies that prioritize inclusion of workers with disabilities: a survey of nearly 200 employers found that providing accommodations to workers with disabilities increased overall productivity and morale as well as retention.<sup>10</sup> Moreover, studies from a range of countries and regions have found that reducing barriers to full economic participation by women, LGBT+ workers, people with disabilities, members of historically marginalized racial and ethnic groups, and immigrants boosts GDP.<sup>11</sup>

While it's impossible to summarize the full spectrum of women's experiences and worth noting that stereotypes about gender, race, religion, disability, sexual orientation, gender identity, and other characteristics vary across contexts, in the next section we examine some of the ways that discrimination spanning multiple aspects of identity operates across countries. We then examine the approaches 193 countries take to explicitly prohibiting employment discrimination not just on the basis of sex or gender but also on each of these additional grounds. Prohibiting discrimination comprehensively is a first step toward ensuring women are protected against all forms of discrimination.

### *Race and Ethnicity*

Dozens of “correspondence studies,” which submit CVs to job postings that are comparable aside from one or two selected indicators of identity, have found that when people apply for jobs using materials that indicate they belong to a marginalized racial or ethnic group, they are less likely to be invited to interview.<sup>12</sup> In workplaces as elsewhere, racial and ethnic discrimination often intersects with discrimination based on gender, national origin, and religion. In Belgium, for example, a 2019 experimental study found that women with names indicating they were from an Arab or North African country—signaling not just their ethnicity but likely their Islamic faith—were less likely to be selected to interview for a

cognitively demanding role than either men of the same background or women with Belgian names, despite having comparable qualifications.<sup>13</sup>

Moreover, discrimination based on family status and gender can be heightened for women from marginalized racial and ethnic groups. For example, a study from Mexico found that single White women were more likely to get invited for a job interview than married White women; both groups were more likely to get a callback than Indigenous women; and married Indigenous women were the worst off.<sup>14</sup> In the United States, experimental research has confirmed negative stereotypes of Black mothers. For example, one 2016 study randomly provided photographs of either a Black woman or a White woman to 435 undergraduate students; half the students in each group were further told that the woman was pregnant.<sup>15</sup> The researchers then asked the students a series of questions about each woman's character and possible lifestyle, finding that they were more likely to perceive the Black woman as more likely to have children, more likely to have a lower salary, and less likely to use birth control. When told that the two subjects were pregnant, the students were more likely to perceive the Black woman as in need of public assistance.

Intersecting stereotypes around race, immigration status, and motherhood likewise emerge in case law, as illustrated by two cases from the Netherlands. In the first, a Moroccan woman's employment was terminated after maternity leave because her employer believed the job would be too difficult for her to maintain given his presumptions about her "traditional" marriage. In 2000, the District Court of Schiedam found that her termination constituted discrimination on the basis of sex and race.<sup>16</sup> In 2014, an Iraqi woman initiated a lawsuit after she was rejected for a job at a hospital based on her national origins and presumed family responsibilities. The country's equality body, the Netherlands Institute for Human Rights, likewise found race and sex discrimination.<sup>17</sup>

As this research suggests, stereotypes based on race and gender often intersect, though the specific implications may vary by country context. What's consistent across countries, however, is that discrimination against women from marginalized racial and ethnic groups contributes to substantial economic disparities that exceed those based on gender alone. In Canada, for example, "racialized" workers—a term acknowledging that race is a construct rather than a biological reality—earn just 81 cents for each dollar earned by White workers; looking at race and gender together, however, the gulf widens substantially. Racialized women in Canada earn just 56 cents for each dollar earned by White men.<sup>18</sup>

Legal prohibitions of multiple and intersectional discrimination are an important first step. In the Philippines, the 2009 Act Providing for the Magna Carta of Women specifically acknowledges how women can face simultaneous discrimination on the basis of ethnicity, establishing that "discrimination compounded by or intersecting with other grounds, status, or condition, such as ethnicity, age, poverty or religion shall be considered discrimination against women under this Act."

A majority of countries now address employment discrimination on the basis of race or ethnicity as well as discrimination on the basis of sex or gender. However, the legislative gaps that remain are striking, given the substantial evidence globally about the persistence of racism and racial and ethnic discrimination in the labor market. Compared to the 93 percent of countries that take some approach to prohibiting gender discrimination at work, just 82 percent address both gender and race/ethnicity. In other words, nearly one in five countries offer women from marginalized racial or ethnic groups no protection from at least one common form of workplace discrimination. Moreover, high-income countries are the furthest behind: just 74 percent of high-income countries, compared to 85 percent of both low- and middle-income countries, prohibit employment discrimination based on gender and race. Like gender discrimination, legal exceptions for businesses can also undermine prohibitions of racial/ethnic discrimination. While these exceptions are slightly less common than for gender discrimination, 3 percent of countries exempt small businesses from some or all prohibitions of racial/ethnic discrimination, 2 percent do so for nonprofit or charity organizations, and 8 percent do so for religious organizations.

#### *Social Class*

Social class bias in hiring is well documented. For example, one 2016 study sent out CVs with equivalent qualifications to law firms in fourteen US cities. Half the CVs listed hobbies typically associated with higher family income and wealth, while the other half had indications of coming from a family with less income or education. The study found that “higher-class” male applicants were invited to interview 16 percent of the time, whereas “higher-class” women received callbacks only 4 percent of the time; meanwhile, callback rates among the “lower-class” applicants were 6 percent for women and 1 percent for men.<sup>19</sup> The impact extends beyond hiring; in India, for example, women who belong to disadvantaged castes—a hereditary distinction of socioeconomic status that also intersects with ethnicity/skin color—experience greater wage inequality than other women.<sup>20</sup> In many countries with a long history of racial and ethnic discrimination, social class is highly correlated with race and ethnicity. In Brazil, Afro-Brazilian households are twice as likely to be experiencing poverty as White households, while in South Africa, Black residents own just 4 percent of the land, compared to 72 percent owned by White residents.<sup>21</sup>

Despite being closely associated with race/ethnicity in many contexts, social class is a less commonly prohibited ground of discrimination. Only 64 percent of countries specifically address gender and social class in their discrimination laws. Further, when it comes to class, high-income countries are even further behind: just 40 percent of high-income countries, compared to 67 percent of low-income countries and 77 percent of middle-income countries, address gender and social class.

When social class discrimination is not prohibited, class discrimination can serve as a legal proxy for racial discrimination, especially when the law likewise

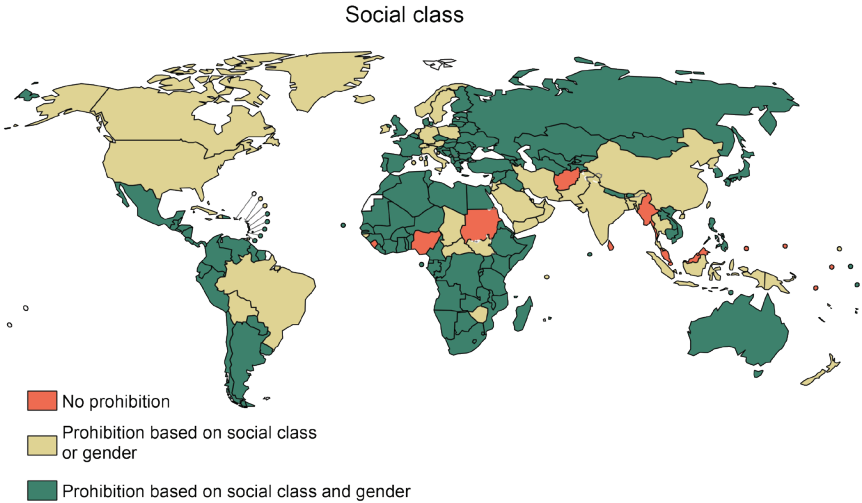
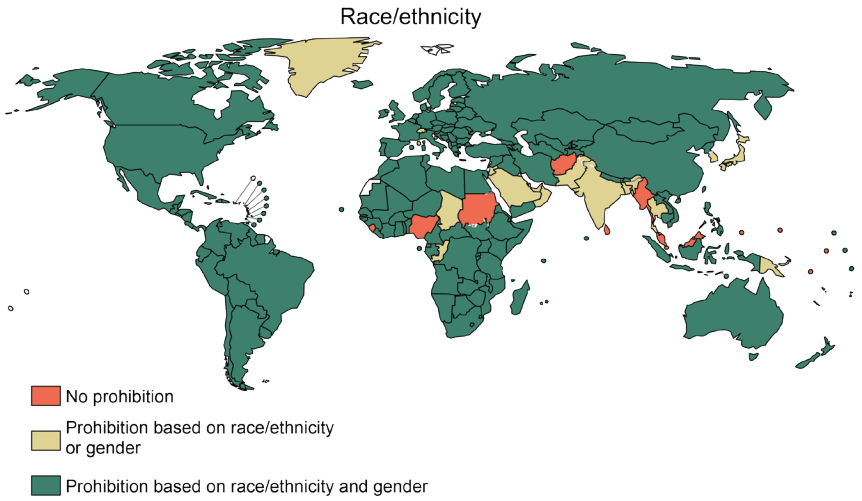


FIGURE 4. Do countries prohibit discrimination at work based on both race/ethnicity and social class, in addition to gender?

fails to prohibit indirect racial discrimination. Closing these gaps is critical for addressing social class discrimination on its own and for addressing indirect forms of racial and ethnic discrimination that compound the socioeconomic disparities created and reinforced by decades or centuries of exclusionary policy making.

### *Religion*

Women from minority religions have long faced discrimination at the intersection of religion and gender. For example, in the early and mid-twentieth century, Jewish women in a range of countries faced policies and legal restrictions prohibiting their access to higher education and employment not only on the basis of gender but also on the basis of their religion.<sup>22</sup> This is not merely historic prejudice. Evidence shows that hostility toward religious minorities overall is escalating: a 2018 EU survey found that nine out of ten respondents felt that anti-Semitism was on the rise in their countries,<sup>23</sup> while reports of both state and social violence against Muslims have recently increased in countries including China and India.<sup>24</sup> Women in particular can be targets of religiously motivated violence: a 2020 global survey found that women in fifty-six countries had experienced social hostilities due to their religious attire or lack thereof.<sup>25</sup> And at the same time, women in majority religions have faced discrimination under religious law based on their gender. Women living in countries where religious law takes primacy—including, among others, the 22 countries where the constitution establishes that religion governs rights related to family life—have historically faced restrictions on their economic rights, some of which remain in place to this day.<sup>26</sup>

Studies of hiring practices have documented discrimination against women that intersects with religious discrimination. For example, one study in France compared the likelihood of receiving an interview for three job candidates: a woman with a typical French name and no obvious religious affiliation, a woman with a Christian-sounding first name and a Senegalese-sounding last name, and a woman with a Muslim-sounding first name and a Senegalese-sounding last name.<sup>27</sup> Each CV included identical job qualifications and professional experience; only the names and two elements suggesting national origin and religious affiliation varied. The study found that the “Muslim Senegalese” woman was 2.5 times less likely than the “Christian Senegalese” woman to be invited to interview. The “French” woman received a greater response rate than either “Senegalese” candidate.

Similarly, in Germany, researchers undertook a study to evaluate the effects of having a Turkish name and a CV that signified Muslim identity on job candidates’ chances of getting an interview. Because it’s typical for job applicants in Germany to include their photo on their CV, researchers were able to test for bias against Muslim women by including fictitious photos of job applicants wearing headscarves. The study found that having a Turkish name alone resulted in fewer callbacks, but the addition of the headscarf increased discrimination significantly: a woman with a

Turkish name wearing a headscarf in her CV photo would have to submit 4.5 times as many applications as a woman with a German name and no headscarf to receive an interview, despite having equivalent experience and qualifications.<sup>28</sup> For higher-paid positions, the ratio was even higher: “Meryem Öztürk” had to apply to 7.6 times as many jobs as “Sandra Bauer” to get an interview for a chief accountant position, compared to just 3.5 times as many for a secretary position.

While discrimination against Muslim women is particularly well documented, studies have also found empirical evidence of discrimination against women from a wide range of minority religions. For example, one study from Greece found that Pentecostal women were 27 percent less likely than Greek Orthodox women to receive a callback for an open position, whereas Pentecostal men were only 19 percent less likely to get a callback.<sup>29</sup>

The combined effects of gender and religious discrimination have significant consequences for women’s employment outcomes. For example, in Britain, an analysis of the 2011 census found that Muslim women were more disadvantaged in the economy than any other group—and that Bangladeshi, Pakistani, and Black-African Muslim women experienced the worst outcomes, likely due to the combined impacts of religious and racial/ethnic discrimination.<sup>30</sup> In Canada, Arab, West Asian, and South Asian Muslim women, Buddhist and Sikh Asian women, and Hindu South Asian women are all less likely to hold managerial positions than Christian White women or men from their same religious and ethnic background.<sup>31</sup>

Most countries (83 percent) now address employment discrimination on the basis of gender and religion—yet in the one in six that do not, millions of women lack full legal protections. Further, decisions across countries about how these laws are implemented and interpreted often vary depending on other aspects of a country’s legal system, including how they structure and interpret the relationship between religion(s) and the state.<sup>32</sup>

#### *Migration Status and Foreign National Origin*

Migration status is linked with lower access to employment in a range of countries. In South Korea, for instance, native women are far more likely to be employed than immigrant women, and 70 percent of the gap in employment rates is unexplained by individual factors.<sup>33</sup> In Israel, immigrant women are less likely than immigrant men to find work, and women from Asia and Africa fare worse than women who emigrated from Europe.<sup>34</sup> Compounding this discrimination, legal restrictions on noncitizens holding certain jobs also emerge across countries. In South Africa, for instance, only citizens were eligible for permanent teaching positions until a Constitutional Court ruling invalidated the restriction,<sup>35</sup> while in Greece, those who obtained citizenship through naturalization did not qualify to join the fire brigade until a 2016 court ruling.<sup>36</sup>

Migrant women also experience disparities in earnings. In Canada, a 2020 study found that first-generation immigrants faced the largest pay deficit compared to White, Canadian men, with White immigrant women earning \$5,486 less, immigrant men of color earning \$7,152 less, and immigrant women of color earning \$8,311 less, on average.<sup>37</sup> In China, migrant women's earnings are among the lowest of all workers, and a 2018 study found that the income disadvantages of being a migrant woman are more than double the combined individual disadvantages of being (1) female and (2) an unregistered migrant.<sup>38</sup> In Italy, female migrants earn on average 42 percent less than White male citizens—larger than either the gender (15 percent) or ethnic (39 percent) wage gaps alone—and the share of the pay gap that is unexplained by factors like education and work experience is between 53 percent and 65 percent, suggesting discrimination plays a significant role.<sup>39</sup>

Migrant workers also commonly face the devaluing of work performed in their countries of origin, which contributes to employment and earnings disparities. Failure to take into consideration education or work experience performed in other countries has emerged in employment discrimination cases brought by migrant women across countries.<sup>40</sup> According to one Australian study, even when female migrants experience less skills-discounting than male migrants, they find replacement jobs at lower pay, resulting in a gender pay gap of around 21 percent between male and female skill-discounted migrants.<sup>41</sup>

Finally, migrant workers are among the most likely to face explicit restrictions on employment due to pregnancy, which can easily cost them both their jobs and their legal status.<sup>42</sup> For example, migrant domestic workers in Singapore, most of whom come from Indonesia and the Philippines, must submit to a pregnancy test every six months and are mandated by law to leave as soon as they become pregnant; under the Employment of Foreign Manpower Act, “if the foreign employee is a female foreign employee, the foreign employee shall not become pregnant or deliver any child in Singapore during and after the validity period of her Work Permit.”<sup>43</sup> Likewise, migrant factory workers in Malaysia are subject to annual pregnancy tests and similar threats of deportation due to pregnancy.<sup>44</sup> These dynamics span different parts of the globe. In Canada, migrant farmworkers who become pregnant are typically deported and permanently banned from the Seasonal Agricultural Worker Program.<sup>45</sup>

Explicit protections from discrimination based on gender and migration status or foreign national origin are less common than those addressing race or religion. Fewer than half the world's countries—46 percent—explicitly address discrimination based on gender as well as discrimination based on citizenship; a similar share (48 percent) have protections covering both gender and national origin.



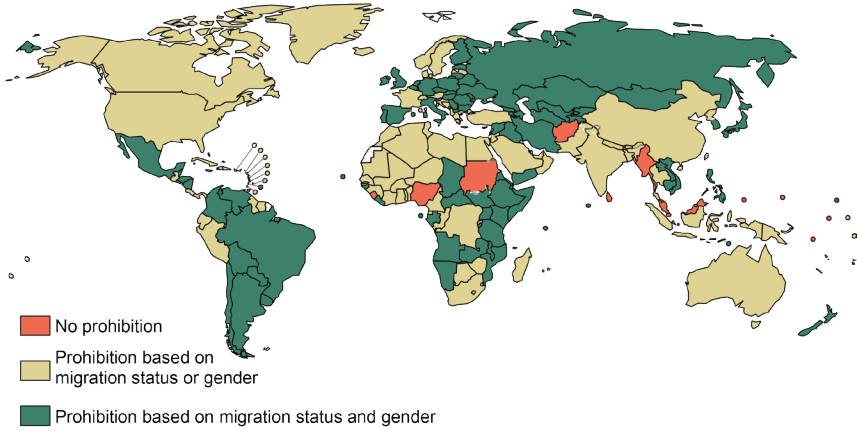


FIGURE 5. Is there at least some prohibition of discrimination at work based on both migration status and gender?

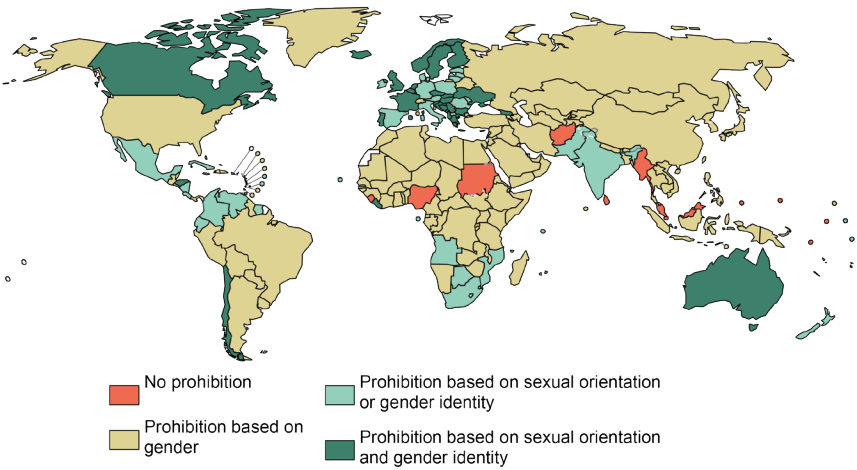


FIGURE 6. Is there at least some prohibition of discrimination at work based on both sexual orientation and gender identity?

*Sexual Orientation, Gender Identity, and Gender Expression*

Across countries, employment discrimination based on sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC)<sup>b</sup> remains rampant.<sup>46</sup> Studies have documented high rates of hiring discrimination against LGBT+ applicants.<sup>47</sup> One study from Austria, for example, found that women who self-identified on their CVs as previously holding leadership positions in a gay and lesbian social organization were between 12 and 13 percent less likely to be invited to interview than equally qualified women who included no indication of sexual orientation in their application materials.<sup>48</sup> Trans women face more discrimination than trans men. For example, in the European Union, a 2012 survey found that 60 percent of trans women reported experiencing discrimination while looking for a job within the past year, compared to 43 percent of trans men.<sup>49</sup> Similarly, a 2015 survey of transgender adults in the United States found that 18 percent of trans women and 14 percent of trans men had lost a job because of their gender identity.<sup>50</sup>

Moreover, this discrimination often closely intersects with discrimination based on gender stereotypes. In the United Kingdom, for instance, research has documented that both gay men and lesbians are less likely to be invited for a job interview, but that gay men are particularly likely to be turned down for stereotypically male jobs while lesbians face higher discrimination for stereotypically female jobs.<sup>51</sup> Gender stereotypes likewise intersect with discrimination against transgender workers. For example, in a correspondence study undertaken in Sweden, testers submitted fictitious job applications to over 2,200 employers, which included a cover letter that noted that they had changed their name, offered as an explanation for any discrepancies among their application materials.<sup>52</sup> For the “cisgender” applicants, the name change was from one popular name clearly associated with one gender to another clearly associated with that same gender; for “transgender” applicants, the name change was to a new name clearly associated with a different gender. Overall, the study found that there was not a significant difference in employers’ responses to cisgender and transgender applicants for mixed-gender occupations; however, cisgender men were 83 percent more likely than a transgender applicant to receive a favorable response for a male-dominated occupation (forklift operator, mechanic, warehouse worker, and

b. Terms used to describe and self-identify one’s sexual orientation and gender identity vary significantly around the world and from person to person. In this section, we use “SOGIESC” to broadly encompass sexual orientation, gender identity, gender expression, and sex characteristics, consistent with the United Nations and leading international organizations including the International Lesbian, Gay, Bisexual, Trans, and Intersex Association. When describing particular groups, we try to use the terms that best align with the underlying study or survey—for example, “gay and lesbian” or “transgender”—while recognizing that these terms are not universal. We use the acronym “LGBT+” as an inclusive term to refer to workers who may face discrimination on any ground related to SOGIESC.

delivery/truck driver), while cisgender women were 53 percent more likely than a transgender applicant to receive a favorable response for a female-dominated occupation (customer service, cleaner, childcare worker, nurse), suggesting that both gender stereotypes and bias against transgender applicants were shaping employers' decisions.

Discrimination based on SOGIESC, like discrimination based on migration status, remains an underaddressed area globally. Just a small share of countries—35 percent—include protections against employment discrimination on the basis of sexual orientation; even fewer—17 percent—ban discrimination based on gender identity. Though more common in high-income countries, at least some SOGIESC protections are found in countries spanning every region and income group.

In global agreements, sex has at times been interpreted to cover sexual orientation and gender identity. One early landmark was *Toonen v. Australia*, a 1994 decision of the UN Human Rights Committee that determined that the guarantee of equal rights on the basis of sex in the International Covenant on Civil and Political Rights also encompassed sexual orientation.<sup>53</sup> Importantly, in some countries, protections against “sex” discrimination have also been found by the courts to extend to sexual orientation and/or gender identity. The US Supreme Court, for example, ruled that protections against sex discrimination in Title VII of the Civil Rights Act, which prohibits discrimination in employment, covered sexual orientation and gender identity, in a major victory for the LGBT+ rights movement and a blow to discriminatory laws enacted at the state level.<sup>54</sup> Still, the fact that it took over fifty years for the Court to establish that Title VII’s protections extend to all workers regardless of sexual orientation or gender identity makes clear that more explicit protections are necessary. Furthermore, the lack of explicit protections leaves this decision subject to reversal by different Justices. Moreover, at least one country explicitly specifies that sex cannot be interpreted to cover sexual orientation in its legislation.

Further, along with passing new antidiscrimination laws covering LGBT+ workers, many countries still need to repeal existing discriminatory laws across spheres. For example, Liberia’s 2015 Decent Work Act provides that “all women and men are entitled, without distinction, exclusion or preference to enjoy and to exercise the rights and protections provided in this Act. Without limiting the scope of the preceding provision, all persons who work or who seek to work in Liberia are entitled to enjoy and to exercise the rights and protections conferred by this Act irrespective of: ( . . . ) iii) sex, gender identity or sexual orientation.” At the same time, older legislation in Liberia criminalizing same-sex relations—a relic of colonialism in many countries and a newer development in others<sup>55</sup>—remains on the books.

### *Disability*

A significant body of research has documented discrimination against people with disabilities in the workplace. Studies have found that rates of implicit bias are among the highest against people with disabilities,<sup>56</sup> while a range of correspondence studies have demonstrated the prevalence of disability discrimination in hiring.<sup>57</sup>

Women with disabilities experience unique forms of stigma and bias in the workplace.<sup>58</sup> For example, some research has found that women with disabilities—and in particular women of color with disabilities—experience higher rates of harassment at work.<sup>59</sup> Workplace discrimination also interacts with broader societal biases against women with disabilities that discourage their work in general. A qualitative study of women with physical disabilities in Bangladesh, for example, identified the “perception that women with disability have no capacity to work” and “male priority” as two key barriers to paid work that emerged during interviews.<sup>60</sup> In another study involving men and women with disabilities in Ghana, participants cited discrimination as their “greatest barrier” to employment, and women were significantly more likely than men to be unemployed.<sup>61</sup>

While the specific dynamics of employment discrimination against women with disabilities remain understudied on a global scale, the evidence is clear that gender and disability often create a “double disadvantage” in the labor market. In the United Kingdom, women with disabilities are far less likely to be employed than men with disabilities, and both groups are significantly less likely to have jobs than people without disabilities.<sup>62</sup> In the United States, women with disabilities are also at higher risks of termination: a 2016 study found that men and women with disabilities were 75 percent and 89 percent more likely, respectively, to experience an involuntary job loss than men and women without disabilities.<sup>63</sup>

Disability also intersects with other types of discrimination. In South Africa, for example, an analysis of the South African National Income Dynamics Study found that structural discrimination on the basis of sex, race, age, and disability all compounded one another, with particularly severe consequences for the income and employment of Black women.<sup>64</sup> Likewise, in the United States, a study analyzing the American Community Survey found that having a disability had a greater impact on the likelihood of poverty for women who were also members of other marginalized groups; for example, the effects of disability on poverty were 40 percent larger for White women and 55 percent greater for Black women than for White men, regardless of education level.<sup>65</sup>

Four in five countries—80 percent—now address employment discrimination on the basis of disability as well as gender. While protections on both grounds

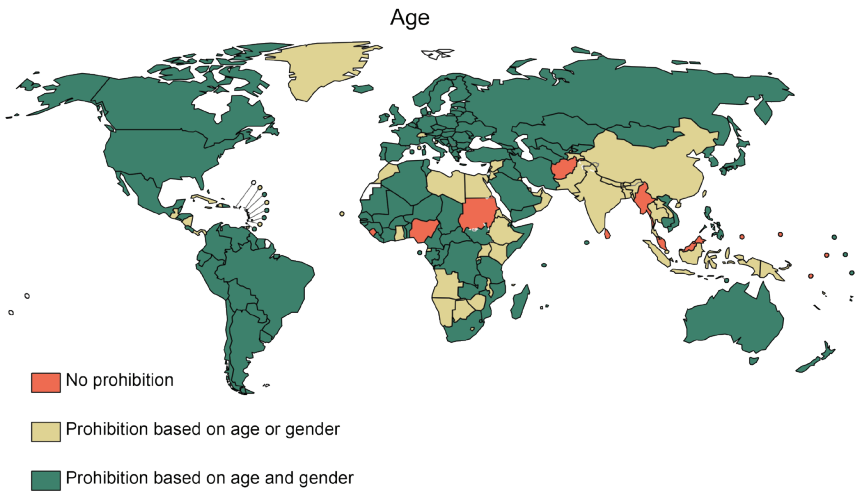
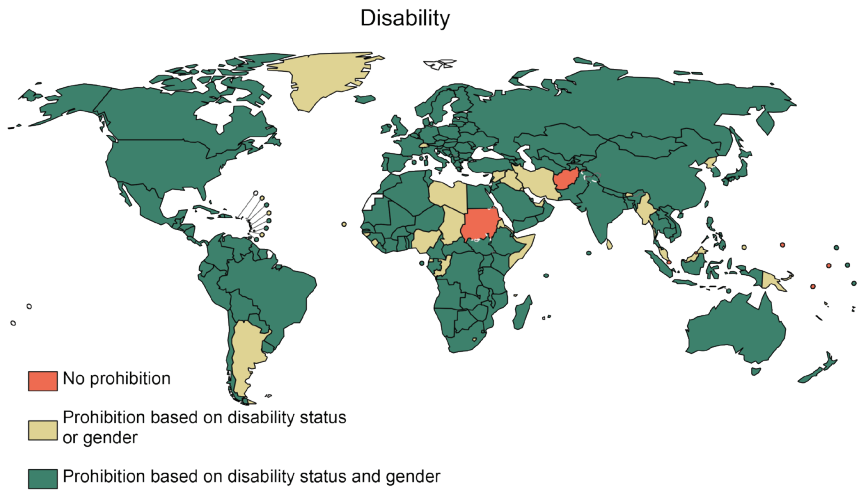


FIGURE 7. Do countries prohibit discrimination at work based on both disability status and age, in addition to gender?

remain somewhat higher in high-income countries (86 percent) and middle-income countries (81 percent) than in low-income countries (67 percent), the adoption of disability-focused legislation across countries has increased in recent decades, building on global movements.<sup>66</sup> For example, adopted in 2014, Laos's Decree on the Rights of Persons with Disabilities declares that "persons with disabilities have equal rights in front of the law without any discrimination based on sex, race, ethnic group, language, causes of disability, economic or social status" and goes on to provide that "[the] State shall undertake to protect rights and interests of women and girls with disabilities, in order they will not be subject to discrimination on the grounds of their disability and [on the grounds] that they are women and girls."

At the same time, the strength of these protections varies significantly. Without a guarantee of reasonable accommodation at work, laws prohibiting employment discrimination on the basis of disability will have limited impact. Reasonable accommodations—such as screen readers for workers with visual impairments, entry ramps and desk adjustments for workers using wheelchairs, and flexible schedules for workers with chronic conditions, among others—are critical to eliminating unnecessary barriers that limit people with disabilities from participating fully in the economy. Globally, however, just 59 percent of countries explicitly guarantee reasonable accommodations in the workplace.

### *Age*

As with disability, studies of discrimination globally have found particularly high rates of implicit bias against older people. At the same time, the intersection of gender discrimination and age discrimination takes place across the life course. As detailed in the previous chapter, employers' perceptions of women's caregiving responsibilities often give rise to discrimination against women in age ranges that correspond with common care needs: younger women without children face discrimination based on the presumption they'll soon become mothers, whereas older women caring for other family members can face stagnating wages and reductions in responsibilities.

Yet older women also face significant employment discrimination based on greater presumptions of incompetence or judgments based on their appearance than are experienced by older men. For example, one recent analysis of over 40,000 job applications in the United States found that women as well as men experience age discrimination in hiring, but the impacts on women are greater: for sales jobs, for example, older women (ages sixty-four to sixty-six) were over 10 percentage points less likely to be called for an interview than younger women (ages twenty-nine to thirty-one), while the gap between older men and younger men was 6 percentage points.<sup>67</sup> Research also suggests older women receive fewer opportunities for training than older men. A study of nine European countries, for example, found that although men and women

ages fifty and older participate in training at similar rates, men are significantly more likely to have their training funded by their employer, whereas women pay the costs themselves.<sup>68</sup>

This discrimination against older women increases their risks of leaving the workforce early and experiencing poverty in retirement, while exacerbating other gender gaps. In Germany, for instance, a study found that the “unexplained” component of the gender wage gap continued to increase for workers over age forty-five (that is, “postreproductive age”), suggesting that both age and gender discrimination were playing a consequential role.<sup>69</sup>

Around the world, just 65 percent of countries prohibit employment discrimination on the basis of gender and age, with protections slightly more common in high-income countries (74 percent) than in low-income countries (67 percent) and middle-income countries (60 percent). Particularly given the aging of the global workforce, addressing the legislative gaps that leave women vulnerable to discrimination in one out of three countries must be a priority.

#### TRENDS ACROSS REGIONS, ACROSS INCOME GROUPS, AND OVER TIME

Across country income groups, there are protections—and there are also gaps. Low-income countries are the most likely to recognize the importance of prohibiting discrimination based on gender and migration status (52 percent, compared to 45 percent of high-income countries) and religion (85 percent, compared to 79 percent of high-income countries), while middle-income countries are most likely to address gender and social class (77 percent, compared to 40 percent of high-income countries). High-income countries have the most protections against discrimination based on gender and disability (86 percent, compared to 67 percent of low-income countries) and based on sexual orientation (62 percent, compared to 7 percent of low-income countries) and gender identity (36 percent, compared to 4 percent of low-income countries).

Protections in every area are increasing over time. For example, the share of countries covering both gender and disability discrimination at work rose from 74 percent in 2016 to 80 percent in 2021. Over the same period, protections based on gender identity increased from 12 percent to 17 percent. At the same time, looking at workplace discrimination laws alone does not capture the backlash that has targeted migrants, LGBT+ communities, and other marginalized groups in other areas of life.

The need to address discrimination is urgent. Labor laws are only one step, but they are an essential one, with wide and deep ramifications. Although countries in all regions have enacted legislation addressing discrimination, serious gaps in every region remain. This is despite countries’ public pledges to do more: every

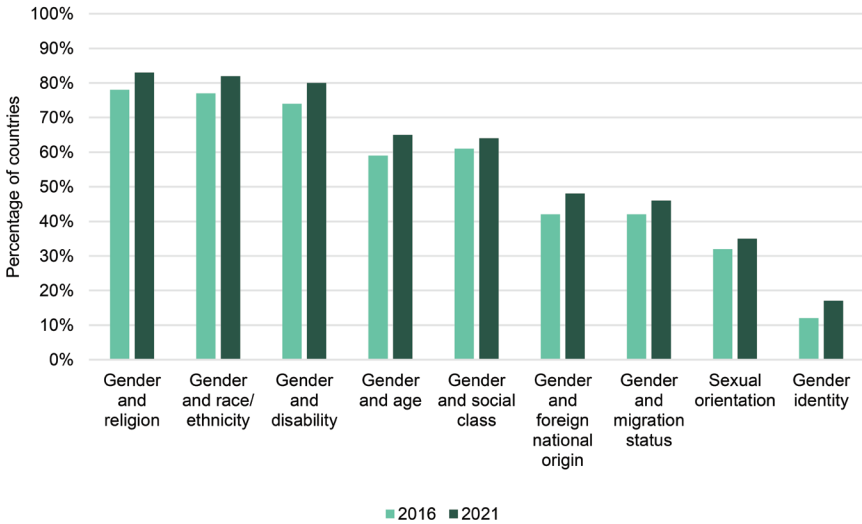


FIGURE 8. Are countries increasingly prohibiting multiple sources of workplace discrimination against women?

country has committed to guaranteeing equality before the law and prohibiting discrimination time and again in international agreements, including, most recently, the UN Sustainable Development Goals. While laws’ capacity to protect all people from discrimination is increasing globally, the pace of change remains far too slow to meet the commitments that governments have made to each other and to all people.

ADDRESSING ADDITIVE DISCRIMINATION  
IS NOT ENOUGH: WHY IT’S CRITICAL  
TO ADDRESS INTERSECTIONALITY

Women from marginalized groups commonly face “additive” discrimination—that is, simultaneous discrimination based on gender and another ground—and also “intersectional” gender discrimination, which refers to unique barriers, biases, and inequalities faced by women from a particular group that are not faced by other women or by men from the same group.<sup>70</sup>

Addressing the full range of individual forms of discrimination is a first step toward ensuring laws provide adequate protection. However, explicitly addressing intersectional discrimination can be critical for ensuring equal opportunity. In particular, legislative language specifying that courts can evaluate discrimination claims together, rather than requiring that a plaintiff prove



each type of discrimination separately or one at a time, can be important for recognizing the types of intersectional discrimination that would otherwise fall through the cracks.

A 2003 case from the United Kingdom illustrates why this matters. In *Bahl v. Law Society*, Kamlesh Bahl,<sup>71</sup> a forty-four-year-old UK citizen of Kenyan origin who was the first ethnic minority woman to be appointed vice president of the Law Society, resigned following complaints of a “highly authoritarian and confrontational rather than collaborative” leadership style, which spurred an investigation and public report claiming she engaged in “overly aggressive behavior.” Bahl then sued for race and sex discrimination, arguing that the Law Society had failed to properly investigate the claims. The *Bahl* case illustrated how gender norms around leadership styles can amplify other stereotypes and forms of discrimination that women of color and Black women in particular often face in the workplace.<sup>72</sup>

Though she prevailed in the lower court, which found unconscious race and sex discrimination, Bahl’s claims were overturned by the Employment Appeals Tribunal and then the Court of Appeal, which explained that:

If the evidence does not satisfy the tribunal that there is discrimination on grounds of race or on grounds of sex considered independently, then it is not open to a tribunal to find either claim satisfied on the basis that there is nonetheless discrimination on grounds of race or sex when both are taken together.

The *Bahl* ruling revealed a common way that countries’ legal approaches fall short: by requiring that women prove each type of discrimination discretely rather than evaluating them together, this case struck a significant blow to workers’ ability to bring claims of intersectional discrimination in the United Kingdom.

With this ruling, the court echoed the finding of a US federal court in the 1976 case of *DeGraffenreid v. General Motors*, dismissing the discrimination claims brought by five Black women who had been fired in a seniority-based layoff. In that case, the court explained: “this lawsuit must be examined to see if it states a cause of action for race discrimination, sex discrimination, or alternatively either, but not a combination of both.”<sup>73</sup>

As these cases show, having laws in place to address both additive discrimination and intersectional discrimination is critical. Currently, however, only a third of countries take some approach to explicitly recognizing multiple or intersectional discrimination against women in their legislation for at least some intersecting identities. Some countries, such as South Africa, explicitly prohibit discrimination “on one or more grounds.” Iceland addresses both additive and multiple discrimination. In other countries, legislation explicitly recognizes additive or intersectional discrimination only for specific groups of marginalized women. For example, Ethiopia’s 2008 Proclamation on the Right to Employment of Persons with Disabilities requires employers to “take all reasonable accommodation and

measures of affirmative action to women with disability taking into account their multiple burden that arise from their sex and disability.”

ADDRESSING INDIVIDUAL DISCRIMINATION  
IS NOT ENOUGH: DISMANTLING STRUCTURAL  
EMPLOYMENT INEQUALITIES

Ensuring legal protections against employment discrimination for all women is a critical step toward reducing gender inequality in the economy—yet it’s equally critical to address the structural discrimination that leaves broad swaths of women workers uncovered by basic labor laws. In many ways, this broad-based exclusion again reflects how governments devalue care, both paid and unpaid. Paid care work is more likely than many other kinds of work to be informal or “non-standard,” meaning that women in these jobs lack access to social protection.<sup>74</sup> Meanwhile, those who have unpaid care responsibilities are more likely than other women to have informal or nonstandard jobs due to discriminatory norms and inadequate support to integrate paid work with family caregiving. Across the Arab states, for example, 56 percent of employed women with caregiving responsibilities are in informal work, compared to 37 percent of employed women without caregiving responsibilities.<sup>75</sup>

At the same time, the exclusion of paid care workers from fundamental legal protections also reflects other forms of structural discrimination, including racism and classism. For example, many governments first excluded domestic workers from basic labor protections at a time when women from marginalized racial and ethnic backgrounds were substantially overrepresented in the care workforce (as remains true many decades later). Today, many of the world’s sixty-seven million domestic workers continue to lack access to key rights and protections, ranging from reasonable working hours, protections against discrimination and harassment, and a guaranteed minimum wage to social insurance for sick leave and unemployment benefits, compounding other forms of inequality.<sup>76</sup> Around 80 percent of the world’s domestic workers are women, and in some regions domestic work accounts for over a quarter of women’s wage employment.<sup>77</sup> Moreover, 8.5 million women who are domestic workers are also migrants, which often further increases their legal vulnerabilities.<sup>78</sup> A substantial share are also members of marginalized racial or ethnic groups, heightening their risks of other kinds of discrimination. As the ILO has explained, “because of the low social status of domestic work, individuals who perform paid domestic work tend to come from groups that face discrimination and inequality on grounds of sex, ethnicity, race and nationality, further reinforcing the social stigma of domestic work.”<sup>79</sup>

Many domestic workers are in the informal economy. Others, however, are in formal jobs, but are in occupations explicitly excluded from labor and social

security legislation. How did this exclusion come to be, and what can be done to effectively respond?

*A Long History of Exclusion: How Discrimination Shaped the Legal Status of Domestic Work*

Across countries, major pieces of labor and social security legislation have long excluded domestic workers, agricultural workers, the self-employed, and others in informal or vulnerable employment. Even in countries where these jobs benefited from some protections, they were often left out of others; as a 1934 article in the *International Labour Review* observed, “in countries where domestic employment is covered by general labour law, domestic servants are nearly always excluded from the scope of the provisions concerning hours of work and rest periods.”<sup>80</sup>

While some governments and intergovernmental bodies have justified this exclusion on the basis of administrative challenges,<sup>81</sup> a recurring and underlying claim is that domestic work is simply fundamentally “different” than other kinds of work, and that this difference justifies minimal state regulation.<sup>82</sup> This tendency to frame domestic work as distinct or beyond the purview of the law reflects governments’ broader choices to treat care work and other kinds of work as two separate spheres. At the same time, historical records suggest that one key “difference” often boiled down to the demographics of the domestic workforce, and that the decision to exclude domestic workers from fundamental protections also directly flowed from discrimination on the basis of gender, race, and class. For example, in Brazil, domestic work as we know it today originated with the end of slavery in 1888, when nearly one million Afro-Brazilians entered the economy as “free” laborers, but with no resources and minimal formal education; since that time, Afro-Brazilian women have made up the majority of the domestic workforce.<sup>83</sup> In 1943, however, domestic workers were excluded from the consolidated labor law on the basis that they performed “non-economic” labor.<sup>84</sup> According to political scientist Merike Blofield, this understanding typified a broader tendency to dismiss women’s household work, both paid and unpaid, as not “real” work.<sup>85</sup>

Similarly, in the United States, the Social Security Act of 1935 excluded domestic and agricultural workers—who at the time were disproportionately Black men and women—from old age pensions and unemployment benefits. Eligibility thresholds widened racial disparities further; in 1935, “42 percent of black workers in occupations covered by social insurance did not earn enough to qualify for benefits compared to 22 percent for whites.”<sup>86</sup> While the Social Security Administration maintains these restrictions were not racially motivated,<sup>87</sup> their enactment during the Jim Crow era and their massive and predictable racial consequences suggest otherwise; testifying before Congress in 1935, NAACP representatives estimated that these policy decisions would exclude 3.5 million of the 5.5 million

Black workers nationwide.<sup>88</sup> Domestic workers were also excluded from the wage and hour protections of the Fair Labor Standards Act. According to a 2015 ILO report, these restrictions on social security and basic labor protections were “the product of racialized and gendered social norms about women workers, the home and the labor of care.”<sup>89</sup> Further, even once the Social Security Act was amended to cover these groups in the 1950s—following the recommendation of an Advisory Council that the “character of one’s occupation” should not determine coverage—the details of eligibility rules excluded many, with just 30 percent of domestic workers and 75 percent of agricultural workers qualifying for coverage by 1981.<sup>90</sup>

However, recent decades have brought greater attention to how these forms of occupational exclusion reinforce other forms of discrimination in the economy, in conflict with many countries’ core constitutional commitments. For example, in a landmark 2020 decision establishing that domestic workers were fully covered by the occupational safety law, South Africa’s Constitutional Court explained:

Multiple axes of discrimination are relevant to the case of domestic workers. Domestic workers experience racism, sexism, gender inequality and class stratification. This is exacerbated when one considers the fact that domestic work is a precarious category of work.<sup>91</sup>

Together with structural racism and the devaluation of care, domestic workers’ exclusion may also be a product of “policy diffusion.” According to a 2016 analysis, “not a single compulsory [unemployment insurance] program prior to 1935 included agricultural workers and domestic workers when they were first established.”<sup>92</sup> In other words, the decision to exclude domestic workers in a given country, while arguably motivated by or at the very least apathetic to the racial consequences, may also have resulted from a lack of existing models about how to provide inclusive coverage. For this reason, clear and accessible information on what all countries globally are doing—or not doing—to ensure fundamental social security and labor protections cover all workers, including in occupations dominated by marginalized women, is essential to supporting the broader adoption of inclusive policies.

Global data on protections for a day of rest provide one example of the feasibility of looking across countries’ approaches. Worldwide, only 11 percent of countries fail to guarantee workers a day of rest—yet nearly twice as many don’t guarantee a day of rest to domestic workers, with serious consequences for workers’ mental and physical health. Further, even among those that do affirmatively protect domestic workers’ right to weekly rest, at least four countries guarantee domestic workers less rest than other types of workers. In later chapters of this book, we explore effective strategies for ensuring that domestic and informal workers have access to other fundamental supports, including paid parental leave, paid sick leave, affordable childcare, and protections against sexual harassment.

TABLE 2 Legal prohibitions of multiple sources of gender discrimination at work, by country income level

	Low-income countries	Middle-income countries	High-income countries
<i>Is there at least some prohibition of discrimination at work based on race/ethnicity and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on race/ethnicity or gender	1 (4%)	9 (8%)	11 (19%)
Prohibition based on race/ethnicity and gender	23 (85%)	92 (85%)	43 (74%)
<i>Is there at least some prohibition of discrimination at work based on social class and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on social class or gender	6 (22%)	18 (17%)	31 (53%)
Prohibition based on social class and gender	18 (67%)	83 (77%)	23 (40%)
<i>Is there at least some prohibition of discrimination at work based on religion and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on religion or gender	1 (4%)	10 (9%)	8 (14%)
Prohibition based on religion and gender	23 (85%)	91 (84%)	46 (79%)
<i>Is there at least some prohibition of discrimination at work based on migration status and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on migration status or gender	10 (37%)	52 (48%)	28 (48%)
Prohibition based on migration status and gender	14 (52%)	49 (45%)	26 (45%)
<i>Is there at least some prohibition of discrimination at work based on foreign national origin and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on foreign national origin or gender	9 (33%)	53 (49%)	25 (43%)
Prohibition based on foreign national origin and gender	15 (56%)	48 (44%)	29 (50%)
<i>Is there at least some prohibition of discrimination at work based on sexual orientation?</i>			
No prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on gender	22 (81%)	71 (66%)	18 (31%)
Prohibition based on sexual orientation	2 (7%)	30 (28%)	36 (62%)
<i>Is there at least some prohibition of discrimination at work based on gender identity?</i>			
No prohibition	3 (11%)	7 (6%)	4 (7%)
Prohibition based on gender	23 (85%)	90 (83%)	33 (57%)
Prohibition based on gender identity	1 (4%)	11 (10%)	21 (36%)
<i>Is there at least some prohibition of discrimination at work based on disability status and gender?</i>			
No explicit prohibition	2 (7%)	3 (3%)	3 (5%)
Prohibition based on disability status or gender	7 (26%)	18 (17%)	5 (9%)
Prohibition based on disability status and gender	18 (67%)	87 (81%)	50 (86%)
<i>Is there at least some prohibition of discrimination at work based on age and gender?</i>			
No explicit prohibition	3 (11%)	7 (6%)	3 (5%)
Prohibition based on age or gender	6 (22%)	36 (33%)	12 (21%)
Prohibition based on age and gender	18 (67%)	65 (60%)	43 (74%)

## CONCLUSION

Ensuring equal rights in employment for all women will require not only prohibiting discrimination but also addressing structural inequalities that result in widely varying job quality and economic opportunities for women from different groups.

Still, any approach to gender equality at work that fails to reckon with the specific types of discrimination women of different backgrounds experience will inevitably fall short. Addressing discrimination directly is one essential piece of the solution—and one that is easily within reach for countries at all income levels. Countries need protections from discrimination on all grounds as well as legislative and judicial recognition of how intersectional discrimination works in practice. Guaranteeing that all women are protected from discrimination at work is not only a core human rights obligation but a powerful way to strengthen society as a whole and ensure we benefit from the full breadth of knowledge, skills, and experience of everyone who resides in our countries.

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## Why Ending Sexual Harassment Is Integral to Ending Gender Discrimination

When Jeanette Moznik and six other women joined the fire department in Richmond, British Columbia, after a merger of two units in 1995, they made history: never before had any women served as firefighters with Richmond Fire-Rescue.<sup>1</sup> Unfortunately, it wasn't long before their male colleagues ensured they felt not only unwelcome but unsafe. The men in the department displayed pornography on the walls. Moznik found a condom filled with an unidentified substance in her locker, accompanied by a threatening note using a misogynistic slur.<sup>2</sup> The men put human feces in her boots and pants. And on one occasion, they cut the water pressure to the hoses she and another female firefighter were using during a live fire.<sup>3</sup>

Finally, in 2005, Moznik filed a lawsuit with the Supreme Court of British Columbia, alleging “a culture of systemic discrimination and harassment of its female firefighters.”<sup>4</sup> In 2006, the court dismissed her suit, determining that it lacked jurisdiction since her union ought to handle the grievance. Later that year, a mediator published a report that called out the toxic environment and urged a series of practical reforms, such as trainings on equality and harassment and separate washrooms for the female firefighters, while underscoring the need for steps leading to an overall culture change.<sup>5</sup>

The mediator's report seems to have had some impact. Between 2007 and 2019, the department began recruiting more women, who accounted for 17 percent of total hires.<sup>6</sup> Nevertheless, for Moznik and the other women who joined Richmond Fire-Rescue in 1995, the damage had been done. By the time the report was issued,

all four remaining female firefighters had quit, citing harassment.<sup>7</sup> Moznik herself suffered from depression and what she described as “nervous shock.”<sup>8</sup> The other woman who had been working alongside Moznik the day their water pressure was cut off died by suicide in early 2005.

Too often, sexual harassment at work is treated like a punchline, or brushed off as the bad behavior of an errant colleague or an “old-fashioned” boss. Yet stories like Moznik’s are all too common, and a stark reminder that sexual harassment is not a matter of a few “bad apples”—it’s structural discrimination, with often serious and even lifelong consequences for its targets. Sexual harassment’s discriminatory functions are especially evident when looking at the high levels of harassment that women face in male-dominated fields across countries, though this form of discrimination is found across sectors.<sup>9</sup> For example, in Kolkata, India, 74 percent of women working in the construction industry report facing sexual harassment at work, including being “offered” to contractors in exchange for jobs.<sup>10</sup> In Canada, a 2014 survey found that nearly one in six women in the military had experienced sexual assault or unwanted sexual touching in the course of employment.<sup>11</sup> In South Africa’s platinum mines, women report regular sexual assaults by their coworkers during the four-minute journey from the surface underground, and threats of further violence to “remind” them that they’re women.<sup>12</sup>

And as in Moznik’s case, these experiences have direct impacts on women’s employment. In the United States, for example, nearly 8,000 women left the military between April 2014 and September 2016 alone due to sexual harassment, alongside another 2,000 who resigned after a sexual assault.<sup>13</sup>

Yet how far have countries come in addressing sexual harassment through the law? Beyond providing remedies after sexual harassment has already happened, what’s the role of the law in preventing harassing behaviors? Moreover, how do the details of countries’ legal approaches shape their reach and potential impact?

#### PREVALENCE AND IMPACTS OF SEXUAL HARASSMENT

Sexual harassment at work is a long-standing and global issue with vast and under-acknowledged impacts on women. While different definitions and understandings of sexual harassment make it difficult to develop fully comparable data on its frequency across countries, surveys dating back three to four decades illustrate the scale of the problem. For example, in a 1980 survey of 23,000 US federal employees, 10 percent reported having been pressured for sex and 25 percent reported having been inappropriately touched.<sup>14</sup> Similarly, a 1988 survey of 2,000 women in Sweden found that 17 percent had experienced “obscene language, sexual innuendoes, groping, lewd suggestions and outright rape attempts in the workplace.”<sup>15</sup> In Japan, a 1991 survey of 800 women in a labor union found that 500 reported being sexually harassed.<sup>16</sup>

More recent numbers indicate that sexual harassment remains pervasive and cuts across countries and industries. For example, a 2019 survey of 7,000 lawyers in 135 countries found that one in three women and one in fourteen men had experienced sexual harassment at work.<sup>17</sup> A 2009 survey of domestic workers in Brazil found that 26 percent had experienced sexual harassment in the preceding year, while a 2018 survey in India similarly reported that over 29 percent of domestic workers had been sexually harassed.<sup>18</sup> In the European Union, a 2014 study based on interviews with 42,000 women across twenty-eight countries found that around half of women had experienced sexual harassment at least once since age fifteen; among those, 32 percent had experienced sexual harassment at work.<sup>19</sup> In the United States, a 2018 survey of over 6,000 workers found 59 percent of women and 27 percent of men had experienced “unwanted sexual advances or verbal or physical harassment of a sexual nature”; of those, the majority said it had happened in a work setting.<sup>20</sup> What are the consequences for women’s employment outcomes and overall well-being?

#### *Absenteeism and Work Withdrawal*

Across countries, studies have shown that experiences of sexual harassment lead to higher rates of absenteeism, withdrawal from work, and lower job satisfaction.<sup>21</sup> For example, an analysis of Australia’s labor market found that workers who experienced sexual harassment at work took more leave than other workers, and that the severity of the harassment predicted the extent of absences: those who experienced the most severe harassment took over fifty times as much leave as those who faced the lowest-impact harassment (an average of 36 hours compared to 0.7 hours).<sup>22</sup> In Pakistan, a study of health-care workers found that those who experienced sexual harassment at work reported higher rates of absenteeism overall, though socioeconomic status influenced the ability to take time off work.<sup>23</sup> In Brazil, Argentina, and Chile, a study based on interviews with over 8,000 workers found that those who had been sexually harassed were not only more likely to take leave from work, but were also 1.6 times as likely as women who had not faced harassment to report that they intended to leave their jobs permanently.<sup>24</sup>

#### *Lower Access to Opportunities for Advancement, Trainings, and Promotions*

Sexual harassment can also affect women’s access to trainings, mentorship, or opportunities for advancement. In many instances, these consequences represent a form of retaliation after a worker reports harassment or rejects a supervisor’s advances; in others, they result from how experiencing sexual harassment may influence women’s behavior, including by deterring them from participating in social and professional events that in some fields play an important role in furthering careers.<sup>25</sup>

For example, a survey by the Australian Human Rights Commission found that 11 percent of workers who lodged a formal complaint of sexual harassment were denied access to a training or promotion, while 6 percent were demoted.<sup>26</sup> In the United States, an analysis of over 7,000 discrimination claims filed with the Ohio Civil Rights Commission revealed that retaliation was most common following initial reports of sexual harassment, and that 15 percent of sexual harassment claimants reporting retaliation cited demotions, reduced wages or hours, and/or denials of training following their complaints.<sup>27</sup> Another US study found that among academic medical faculty, nearly half of women who personally experienced sexual harassment reported that it negatively affected their career advancement.<sup>28</sup>

Even reporting harassment by third parties can threaten women's advancement in certain occupations. In Lebanon, for example, a study based on surveys and interviews with female journalists found that women were reluctant to report sexual harassment experienced in the field since it could limit their future reporting opportunities; others reported objecting to sexual harassment by supervisors and missing out on stories and promotions as a result. All in all, 82 percent of the 250 journalists surveyed reported that sexual harassment negatively affected opportunities for advancement in their profession.<sup>29</sup>

#### *Loss of Employment*

Experiences of sexual harassment also often lead to job loss. For example, a study based on surveys of employed women in St. Paul, Minnesota found that women who had experienced sexual harassment were 6.5 times as likely as women who had not been harassed to change jobs.<sup>30</sup> Moreover, sexual harassment was significantly associated with financial stress, 35 percent of which was found attributable to a job change. In some cases, women leave their jobs due to harassment that goes unaddressed; one early estimate from the United States found that as many as 10 percent of women who were sexually harassed at work quit their jobs.<sup>31</sup> In other cases, women are fired after they report harassment or refuse advances of a supervisor. These risks create even greater barriers to reporting, particularly when women expect that having made a claim of sexual harassment will reduce their employment prospects going forward. For example, as one woman in Zimbabwe recounted, in a study analyzing the scope and impacts of sexual harassment of female legal practitioners in her country, "I want work and I would tarnish my reputation so who is going to hire me, oh, she is the one who reported John."<sup>32</sup>

#### *Lower Long-Term Wages and Consequences for Career Trajectories*

The cumulative impacts of sexual harassment on women's careers and economic outcomes can be significant. For example, women who leave a job due to harassment may encounter challenges securing new employment or employment that pays an equivalent wage, particularly if they are seeking a new job without the benefit of references or good relationships with their previous employer.

Meanwhile, significant research has documented that periods of unemployment can have long-term negative impacts on wages, particularly if a worker is reemployed in a lower-paying job.<sup>33</sup> Further, women who experience sexual harassment may have limited access to income support when they are in between jobs. In some jurisdictions, women who leave jobs due to sexual harassment are ineligible to receive unemployment benefits, since their departure is considered “voluntary.”<sup>34</sup>

Altogether, these financial consequences and the lack of available safety nets mean that women who experience sexual harassment at work must too often either endure the behavior with severe adverse personal, health, and economic impacts or pay a high price for speaking up. Experiences or observations of sexual harassment in a particular field can also deter women from pursuing their chosen career path or job, even if that means settling for a less desirable position or industry. In Germany, for example, a study based on a survey of medical students found that women who had witnessed or experienced sexual harassment during their training were more likely than women who had not to decide against pursuing surgical specialties, which typically provide among the highest pay.<sup>35</sup> Moreover, given the especially high rates of sexual harassment of women in male-dominated industries, job loss triggered by sexual harassment has the potential to reinforce occupational segregation, thus widening the gender pay gaps discussed in chapter 2.

#### *Mental and Physical Health*

Beyond direct impacts on employment, sexual harassment has broader consequences for women’s well-being that shape health and economic outcomes. A range of studies has found that women who have experienced sexual harassment suffer higher incidence of depression, anxiety, and posttraumatic stress disorder.<sup>36</sup> Mental health impacts can be particularly severe for harassment that is frequent, long-term, or perpetrated by someone with significant power over the worker.<sup>37</sup>

Sexual harassment also has consequences for physical health, which often derive from its psychological impacts.<sup>38</sup> For example, many women who have experienced sexual harassment at work report headaches, insomnia, nausea, weight loss, and other physical signs of stress; one study found that even mild sexual harassment triggered increased cardiovascular activity.<sup>39</sup> In the most severe cases, where sexual harassment rises to the level of sexual violence, women can experience immediate bodily harm.

#### *Compounded Vulnerabilities for Marginalized Women*

The stakes of speaking up for women in more vulnerable work and economic situations are often especially high. For example, women whose work takes place in the most private settings, such as homes or hotel rooms, often face heightened risks of violence and exploitation and fewer avenues for recourse under labor law. Similarly, agricultural workers face high rates of sexual harassment and often have fewer options for leaving abusive employment situations due to exclusion



from social protection.<sup>40</sup> Workers in these fields are also disproportionately likely to be migrants, which on its own may make them ineligible for unemployment benefits and other social insurance programs guaranteed to citizens; migrant workers also face significant risks of deportation if they quit or are fired from a job. These dynamics show up in case law. For example, in the United States, a group of undocumented Mexican agricultural workers working on an egg farm in Iowa faced relentless sexual harassment and repeated rapes.<sup>41</sup> The perpetrators were well aware that the women feared deportation if they came forward, and that their families relied on their wages. Ultimately, the eleven plaintiffs won a settlement. Yet many more cases never make it to court, and sexual harassment is a common feature of many exploitative work environments.

Beyond barriers to legal rights and social insurance, broader economic inequalities leave many marginalized women with limited options when they encounter harassment at work. Many women across countries and industries can't afford to leave their jobs and often feel they have little choice but to continue working in the face of abuse. With fewer economic resources to fall back on, low-wage workers face higher risks if they lose work or income.<sup>42</sup> These economic impacts of sexual harassment consequently exacerbate other disparities. Moreover, some research suggests that sexual harassment that intersects with another form of discrimination—for example, racialized sexual harassment—can be particularly psychologically damaging.<sup>43</sup>

Importantly, sexual harassment is finally receiving more widespread attention from media and policy makers. In 2017, the #MeToo movement powerfully demonstrated that countless women have experienced sexual harassment in the workplace. Movements in countries and regions around the world—from #KuToo to #QuellaVoltaChe to #YoTambien—have amplified these calls and brought critical attention to issues affecting women across social contexts.<sup>44</sup> Notably, the #MeToo movement and its spinoffs have demonstrated how sexual harassment affects women in all fields and industries, and how even those with among the highest incomes in the world have faced risks to their careers due to a culture of impunity; at the same time, women without economic resources or with limited legal rights face vastly higher barriers to justice. In a powerful show of solidarity during the movement's early days, Alianza Nacional de Campesinas, a civil society organization based in the United States, published an open letter on behalf of 700,000 Latina farmworkers addressed to the Hollywood actors who first brought #MeToo to the public eye, noting the similarities of their experiences despite the vast differences in access to legal and economic resources:

Even though we work in very different environments, we share a common experience of being preyed upon by individuals who have the power to hire, fire, blacklist and otherwise threaten our economic, physical and emotional security. Like you, there are few positions available to us and reporting any kind of harm or injustice committed against us doesn't seem like a viable option. Complaining about anything—even

sexual harassment—seems unthinkable because too much is at risk, including the ability to feed our families and preserve our reputations.<sup>45</sup>

The movement's greatest potential lies in this recognition: that sexual harassment creates intolerable risk to women's careers and well-being in all countries, all fields, and at all income levels, but that specific attention to the unique vulnerabilities and barriers to justice for marginalized women is essential to addressing the problem equitably and comprehensively.

### *Consequences for Workplaces and Economies*

Beyond its impacts on individual women, sexual harassment also has consequences for broader workplaces and economies. Pervasive sexual harassment contributes to toxic workplaces, harming morale and reducing productivity by workers directly affected and by bystanders. Sexual harassment also has significant costs for employers. Absenteeism, lost productivity, and high turnover all have major impacts on a company's bottom line.<sup>46</sup> These costs are borne out by the data. For example, a study of garment factories in Jordan and Vietnam found that sexual harassment in the workplace strongly correlated with lower profits, likely due to its effects on productivity and turnover.<sup>47</sup>

Similarly, in the aggregate, instances of sexual harassment across employers have significant costs to economies. Though few analyses of national costs have been undertaken,<sup>48</sup> those that have are damning: for example, an analysis estimated that in 2018, sexual harassment in Australia was responsible for AU\$2.6 billion in lost productivity, despite a labor force of only thirteen million people, and another AU\$900 million in other financial costs.<sup>49</sup>

## RECOGNIZING SEXUAL HARASSMENT AS DISCRIMINATION

Despite decades of evidence showing that sexual harassment is pervasive and a growing body of research documenting its consequences, only more recently has sexual harassment in the workplace been recognized as legally actionable. Likewise, only within the past several decades has there been a wider acknowledgment that sexual harassment, rather than an issue of misplaced affection, is "more appropriately understood as discriminatory conduct that has little to do with sexual desire and much to do with hostility."<sup>50</sup> Indeed, while some forms of violence against women have been addressed by law throughout recorded history, and some forms of workplace discrimination became mainstream legal subjects in the 1970s, it wasn't until the 1990s that sexual harassment began receiving wider and more specific recognition in law.

The foundational women's rights treaty adopted in 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), guaranteed equal rights at work and prohibited gender-based violence, but it did not

specifically address sexual harassment. Six years later, however, the Third World Conference on Women recognized the need to address sexual harassment in more detail through the Nairobi Forward-looking Strategies for the Advancement of Women, which urged countries to adopt “appropriate measures . . . to prevent sexual harassment on the job or sexual exploitation in specific jobs, such as domestic service.”<sup>51</sup> In 1989, the CEDAW Committee finally used the term “sexual harassment” in a binding recommendation urging countries to submit information in their periodic reports about “legislation in force to protect women against the incidence of all kinds of violence in everyday life (including . . . sexual harassment at the work place),” which was followed by a more detailed recommendation in 1992 that defined sexual harassment and urged countries to adopt “effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including . . . sexual harassment in the workplace.”<sup>52</sup> And at last, in 1995, the Beijing Declaration and Platform for Action, adopted unanimously by 189 countries at the Fourth World Conference on Women, directly called on governments to “enact and enforce laws and develop workplace policies against . . . discriminatory working conditions and sexual harassment.”<sup>53</sup>

Similarly, in many countries, antidiscrimination was addressed in national laws before sexual harassment was. In the United States, a series of cases in the 1970s found that protections against sex discrimination in Title VII of the recently passed Civil Rights Act of 1964 should encompass the sexual harassment of women.<sup>54</sup> In 1980, the Equal Employment Opportunity Commission, charged with implementing Title VII, adopted new guidelines clarifying that the law prohibited sexual harassment, which included “unwelcome sexual advances” and “requests for sexual favors” that were a condition of employment or that created a hostile work environment.<sup>55</sup> In 1991, the European Commission adopted a Code of Practices on measures to end sexual harassment, which it defined as “unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work. This includes unwelcome physical, verbal or nonverbal conduct.” By the following year, a survey by the International Labour Organization (ILO) found that three out of eighteen high-income European countries—France, Spain, and Sweden—had adopted laws explicitly addressing sexual harassment,<sup>56</sup> while in the mid-1990s, several countries in Asia, Africa, and Latin America—including Chile, Costa Rica, the Philippines, and South Africa—enacted new legislation.<sup>57</sup>

Alongside the gradual adoption of laws, fully defining what constitutes sexual harassment has been an ongoing process. For example, South Africa recognized both “quid pro quo” harassment, where sexual favors are the basis for employment or promotions, and the concept of “hostile work environment” in its first sexual harassment case, decided in 1989.<sup>58</sup> In 1998, the country adopted a specific sexual harassment law, though its detailed definitions of prohibited conduct were reserved for a nonbinding Code of Practice.<sup>59</sup> The first US cases focused only on

quid pro quo;<sup>60</sup> only later did courts expand the definition of sexual harassment to include hostile work environment, and it wasn't until 1998 that the US Supreme Court ruled that sexual harassment claims could be brought against a person of the same sex.<sup>61</sup> In the United Kingdom, only after a ruling from the Equal Opportunities Commission in 2007 was the sexual harassment law amended to offer protection against harassment by customers, clients, and other third parties, rather than simply supervisors and coworkers.<sup>62</sup>

Over the past thirty years, progress in laws and in courts has accelerated, though in much of the world women continue to work without any legal rights in this area.<sup>63</sup> In India, a groundbreaking sexual violence case brought by a coalition of women's groups resulted in the Supreme Court's issuance of detailed guidelines on sexual harassment at work in 1997, which paved the way for landmark legislation building on the guidelines in 2013.<sup>64</sup> In 2007, the High Court of Tuvalu issued the first decision on sexual harassment in the Pacific Islands,<sup>65</sup> while in 2008 a woman won the first sexual harassment case in Egypt—a ruling that energized advocacy efforts to adopt stronger legislation.<sup>66</sup> And in 2019, reflecting a remarkable degree of global consensus, the ILO adopted a new binding treaty on sexual harassment in the workplace, which broadly prohibited harassment in all work settings, including the informal economy. While a major step forward, however, the Violence and Harassment Convention (also known as C190) will require further action at the country level to be realized.<sup>67</sup>

#### ADDRESSING SEXUAL HARASSMENT IN NATIONAL LAWS: WHERE THE WORLD STANDS

Some of the earliest cases on sexual harassment determined that prohibitions of sex discrimination at work extended to sexual harassment. For example, in 1989 the Supreme Court of Canada found a violation of the sex discrimination provisions of the Human Rights Act after two waitresses were repeatedly subject to unwanted touching by a coworker, and then faced retaliation after they reported.<sup>68</sup> At the same time, similarly broad interpretations of antidiscrimination laws have not been adopted everywhere; likewise, broad protections for decent working conditions have had mixed results for addressing sexual harassment. Two cases illustrate why adopting more comprehensive and specific sexual harassment laws may make a difference.

First, in China, a woman brought the country's first sexual harassment case in 2001 after her boss had repeatedly touched her inappropriately at work while promising her a promotion.<sup>69</sup> On one occasion, he had also invited her to join him at a hotel room. When the woman complained about the behavior—which had persisted for years—she was reprimanded, lost her bonus, and eventually lost her job.<sup>70</sup> The woman brought a lawsuit alleging infringements of her right to “human dignity,” since no specific sexual harassment law was in place. However, when

none of her colleagues, fearing reprisal, were willing to testify on her behalf, her case was dismissed, with the court also questioning the relationship between the alleged behavior and “dignity.”<sup>71</sup> On appeal, the People’s Court in Lianhu District of Xi’an City upheld the ruling. For the country’s growing women’s rights movement, the case—alongside several other sexual harassment claims that failed in the courts between 2001 and 2003—highlighted a critical legal gap: in 2004, the All-China Women’s Federation began actively urging the adoption of a specific sexual harassment law.<sup>72</sup>

A more recent case from Uruguay illustrates how different the outcome can be when women’s rights in this area are legally protected. In 2015, a woman brought a sexual harassment claim after two years of harassment by one of her company’s directors, including one email with over seventy images of sexual content. She never responded to any of his harassing messages and eventually filed a formal internal complaint but only received an apology. After thirteen years of employment with the company, this spurred the woman to quit and sue for harassment. She won at trial but the director appealed, claiming that there was insufficient evidence and that she had consented to his advances. The Labour Court of Appeal rejected this argument, finding that his behavior had created a hostile work environment, and upheld the award of 880,272 pesos (around US\$20,000) and an additional fine against the company.<sup>73</sup>

The case was decided on the basis of detailed sexual harassment legislation adopted in 2009, which reflected persistent efforts to strengthen the law. Uruguay was among the first of Latin American countries to legally address sexual harassment at work.<sup>74</sup> Regulations adopted in 1997 clarified that a 1989 law on sex discrimination covered sexual harassment at work,<sup>75</sup> and a sexual harassment law was passed in December 1999 but was rarely used.<sup>76</sup> Finally, a decade later, Uruguay passed the comprehensive sexual harassment legislation that the court invoked in *Caeiro v. Tecnosolar*.<sup>77</sup> To support its implementation, the Instituto Nacional de las Mujeres, a government agency, carried out an awareness-raising campaign for the law and also began providing trainings for lawyers and labor inspectors.<sup>78</sup> And notably, in 2020, Uruguay became the first country worldwide to ratify the new ILO Violence and Harassment Convention.

As these cases demonstrate, ensuring laws directly prohibit sexual harassment provides an important foundation for redress. In this section we examine how 193 countries address some of these key questions through legislation specifically targeting sexual harassment at work, and identify key gaps.

### *Is Sexual Harassment in the Workplace Prohibited?*

Across countries, lawyers and courts have used nonspecific laws to address particular aspects or types of sexual harassment; for example, penal code provisions addressing assault have provided a tool for reaching certain forms of harassment.<sup>79</sup> Nevertheless, these approaches generally allow for reaching only a fraction of the

sexual harassment experienced in the workplace, and offer no substitute for a comprehensive, workplace-specific law.

Around the world, nearly three-quarters of countries, including a majority of countries in all regions, have enacted laws specifically prohibiting sexual harassment in the workplace.<sup>a</sup> This includes 78 percent of high-income countries, 74 percent of middle-income countries, and 65 percent of low-income countries. An additional four countries do not explicitly prohibit sexual harassment but have at least some protection from sexual harassment, such as being able to terminate an employment contract on the basis of sexual harassment or stating that employers have a duty to respond to incidents of sexual harassment. Though this broad global coverage is encouraging, these overall gaps in coverage, as well as disparities in coverage across country income groups, are far greater than for workplace sex discrimination more broadly, which is covered by 93 percent of high-income countries, 94 percent of middle-income countries, and 89 percent of low-income countries.

Importantly, legally prohibiting sexual harassment is immediately feasible for countries in all income groups. Further, given the extensive evidence about how sexual harassment has economic consequences not only for individual women and their households but also for entire countries, this is a step that could powerfully support countries' economic growth.

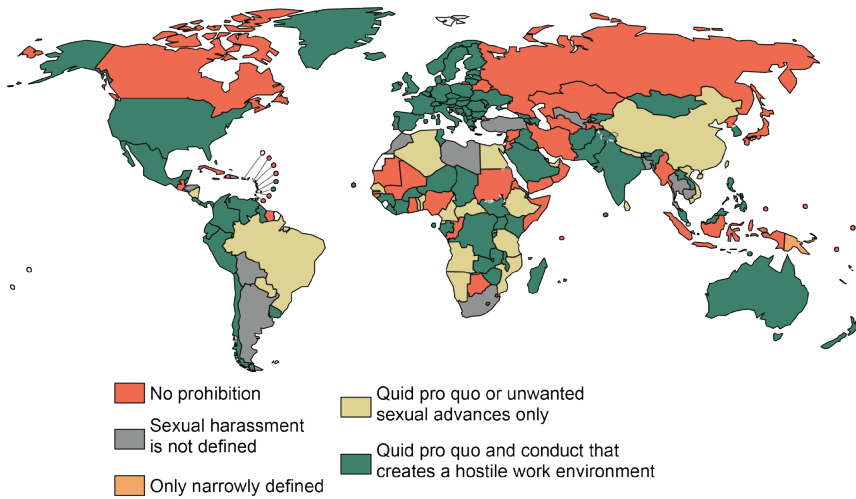
#### *Which Perpetrators Are Covered?*

Some of the first court cases that litigated sexual harassment involved bosses abusing their authority, such as by seeking sexual favors in exchange for employment opportunities. While this type of sexual harassment remains common and critical to address, ensuring safety and equal rights in the workplace also requires covering sexual harassment by coworkers, clients and customers, and other third parties. In some types of work, such as hospitality and food service, this type of harassment is especially common.<sup>80</sup> For example, a study focused on hotel workers in Accra, Ghana found that young, unmarried women working at the front desk or in food and beverage faced particularly high rates of sexual harassment by guests.<sup>81</sup> Moreover, without clear protections in the law, companies have been known to argue that they are not responsible for harassment perpetrated by other workers or third parties.

Employers have the power to create environments where it is clear that they won't tolerate any form of sexual harassment; alternatively, they can put workers at risk by fostering a workplace culture that suggests they will look the other way. By

a. In 4 percent of countries, sexual harassment prohibitions may cover only women. These are provisions that either explicitly prohibit sexual harassment of women or are located only in legislation specific to women or sections of legislation specific to women. It is critical that legislation equally covers all genders.

### What sexual behaviors are legally defined as sexual harassment at work?



### Do countries prohibit sexual harassment across a range of relationships in a workplace?

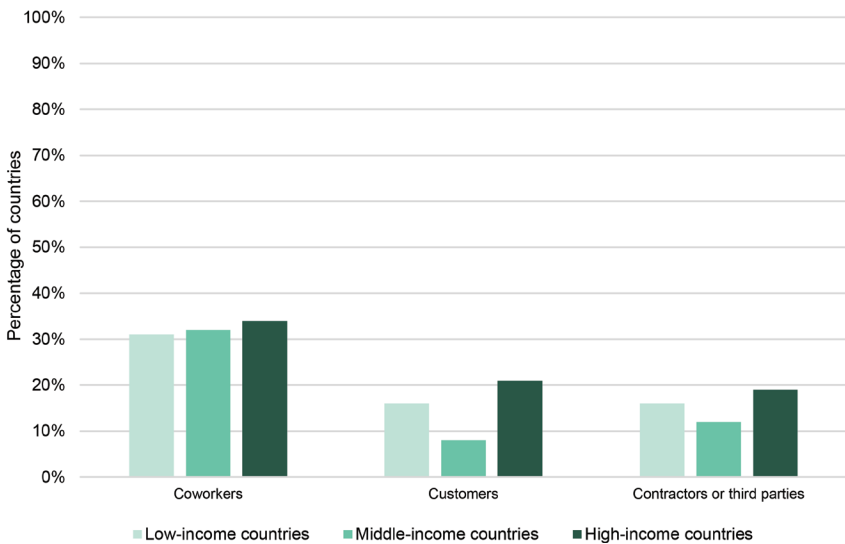


FIGURE 9. How comprehensive are countries' protections against sexual harassment? What sexual behaviors are legally defined as sexual harassment at work?

prohibiting sexual harassment not only by supervisors but also by coworkers and clients, laws can move employers to take proactive steps. Yet as of 2021, only a third of countries prohibited sexual harassment by coworkers either by explicitly prohibiting it (29 percent) or by using language that would broadly apply to anyone in the workplace (4 percent). Just 13 percent of countries explicitly prohibit sexual harassment by customers or anyone else in the workplace. Similarly, 15 percent of countries explicitly address contractors or other third parties or broadly prohibit sexual harassment by anyone in the workplace. Gaps in protections span countries across income groups.

### *How Is Sexual Harassment Defined?*

Beyond whether the law addresses sexual harassment, how it defines sexual harassment can have vast implications for whether it offers a remedy for the most common types of harassing behavior. To be comprehensive, legislation should cover sexual-behavior-based harassment, including both quid pro quo and hostile work environments, and sex-based harassment. In sex-based harassment, women are harassed because of their sex. This harassment does not necessarily take a sexual form. Notably, both sex-based and sexual-behavior-based harassment are covered by the ILO Violence and Harassment Convention.

It is important that national laws clearly prohibit all three of these aspects of sexual harassment: sex-based harassment, quid pro quo, and hostile work environment.<sup>b</sup> However, this comprehensive approach is found in only a third of countries (37 percent). While nearly two-thirds of high-income countries explicitly address all three aspects, 30 percent of middle-income countries and only 12 percent of low-income countries do so.

In nearly a third of countries, sexual-behavior-based harassment is prohibited, but sex-based harassment is not. In 20 percent of countries, sexual harassment either is not defined, covers quid pro quo only, or is narrowly defined. In some countries, legislation explicitly specifies that a single serious incident can constitute sexual harassment, whereas others indicate that the harassment must be persistent for individuals to have legal remedies.

b. For example, Kenya's 2007 Employment Act prohibits harassment on the basis of sex broadly and stipulates: "An employee is sexually harassed if the employer of that employee or a representative of that employer or a co-worker—(a) directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express—(i) promise of preferential treatment in employment; (ii) threat of detrimental treatment in employment; or (iii) threat about the present or future employment status of the employee; (b) uses language whether written or spoken of a sexual nature; (c) uses visual material of a sexual nature; or (d) shows physical behaviour of a sexual nature which directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee and that by its nature has a detrimental effect on that employee's employment, job performance, or job satisfaction."



Sexual harassment can occur outside the workplace, whether during travel to work sites, during offsite meetings, or over electronic communications, among others. While 14 percent explicitly limit prohibitions to the workplace, 10 percent of countries explicitly cover sexual harassment that occurs offsite. For example, Barbados's 2017 Employment Sexual Harassment (Prevention) Act specifies that "'workplace' means any location or place where persons work and includes (a) any other location or place where an employee is required to conduct the business of the employer; or (b) any location or place to which that person is sent by the employer for the purpose of receiving training or attending a conference on the employer's behalf."

#### *Are Workers Covered Regardless of Position?*

Individuals with potentially uncovered employment relationships are hugely vulnerable. Some countries have taken affirmative steps to cover individuals without formal employment contracts. For example, Belize's 2000 Protection against Sexual Harassment Act explicitly includes "apprentices, persons on probation, full and part-time employees and commission agents." Globally, only 20 percent of countries explicitly extend prohibitions of sexual harassment to cover interns, trainees, and apprentices. Sexual harassment can also begin even before employment officially starts (for example, quid pro quo demands during job interviews), yet only 27 percent of countries explicitly prohibit sexual harassment against job applicants.

Domestic workers are particularly vulnerable to sexual harassment and violence because of the private settings in which they work; surveys from countries including India, Brazil, Portugal, Egypt, and the United States have all found high rates of sexual harassment among domestic workers.<sup>82</sup> At the same time, domestic workers are often excluded from protections against sexual harassment that extend to other workers, particularly if they work in the informal economy. However, some countries have taken steps to ensure coverage also extends to domestic workers. For example, Peru's Domestic Worker Law explicitly prohibits discrimination and sexual harassment against domestic workers.

Moreover, some countries have also taken steps to prohibit sexual harassment in the purchase or provision of goods and services as well as harassment by public officials. This can be particularly important for women working in the informal economy selling goods in markets and public places. For example, the Philippines's Safe Spaces Act prohibits sexual harassment in public spaces, which it defines to include "streets and alleys, public parks, schools, buildings, malls, bars, restaurants, transportation terminals, public markets, [and] buildings and other privately-owned places open to the public."

Sexual harassment is damaging for women in leadership positions as well, making it critical to cover across all levels. One study of Sweden, the United States, and Japan found that women in supervisory roles were between 30 percent and

100 percent more likely to have experienced sexual harassment in the preceding year than nonsupervisory employees.<sup>83</sup> Female politicians also report high rates of sex-based and sexual harassment globally; according to an Inter-Parliamentary Union study based on interviews with fifty-five female parliamentarians spanning thirty-eight countries across five continents, 66 percent had experienced sexual or sexist remarks as part of their work, 33 percent had experienced workplace harassment, and 22 percent had experienced sexual violence.<sup>84</sup> Some countries affirmatively protect women from sexual harassment regardless of their position within the workplace. For example, Bangladesh's 2006 Labour Law covers "where any female worker is employed in any work of the establishment, irrespective of her rank or status."

*Are Workers Covered Regardless of Sex, Sexual Orientation,  
and Gender Identity?*

Although global evidence shows that women are most likely to face sexual harassment at work, workers of all genders can be targets. However, in eight countries, laws prohibiting sexual harassment at work apply specifically to women only. These gaps in coverage have consequences for everyone, as cases involving sexual harassment of men illustrate how sexual harassment often serves to reinforce discriminatory gender norms.<sup>85</sup> In many cases, men who face sexual harassment at work are targeted by other men due to their perceived femininity or departure from "traditional" expectations about gendered behavior.<sup>86</sup> These dynamics also shape experiences of sexual harassment by women; one influential study found that more "masculine" women (i.e., "gender-role deviants") face a higher degree of sexual harassment at work.<sup>87</sup>

Further, while data are limited, surveys have shown that LGBT+ workers experience high rates of sexual harassment, which again often focuses on policing gender norms. For example, a 2019 UK survey found that nearly seven in ten LGBT+ workers had experienced some form of sexual harassment at work.<sup>88</sup> Rates of experiencing physical harassment and violence were particularly high among LGBT+ women, of whom 35 percent reported unwanted touching, 21 percent reported sexual assault, and 12 percent reported serious sexual assault or rape. Further, LGBT+ women with disabilities and LGBT+ women from marginalized racial or ethnic groups reported even higher rates. Verbal harassment often specifically focused on workers' LGBT+ identities, with 43 percent of LGBT+ workers reporting sexual comments about their sexual orientation, 30 percent reporting sexual comments about their gender identity, and 42 percent reporting unwanted comments or questions about their sex lives.

Around the world, 20 percent of countries explicitly prohibit same-sex sexual harassment or sexual harassment based on sexual orientation. Twelve percent of countries explicitly prohibit sexual harassment based on gender identity. Though these protections are currently far more common in high-income countries, they

exist in countries at all income levels and are critical to the full inclusion of workers everywhere.

### CHANGING THE CONVERSATION

Laws prohibiting gender discrimination of all kinds can directly affect women's lives by providing a tool for seeking justice. Sexual harassment laws are no exception. In countries around the world, workplace sexual harassment laws have had an impact:

- In South Korea, a group of hotel workers won the country's first collective sexual harassment lawsuit in 2002—illustrating the power of union representation and group legal actions for securing justice for a whole class of workers.<sup>89</sup> The lawsuit originated during a workers' strike protesting low wages and general working conditions at the Lotte Hotel, one of the major five-star hotels in Seoul. During the walkout, the workers' union conducted a survey finding that 70 percent of women the hotel employed had been sexually harassed by supervisors or customers. Citing inappropriate touching, obscene jokes, and forced resignations if they complained, over 200 female workers initiated litigation. In 2002, the Seoul District Court ruled in favor of forty of the women, finding seven male executives liable, though a subsequent court ruling authorized damages to only nineteen of the women. Nevertheless, the case—the first to recognize the employer's responsibility to prevent harassment—represented an important victory in an industry in which workers describe sexual harassment as pervasive and widely tolerated.<sup>90</sup>
- In the United States, collective litigation likewise resulted in a powerful outcome in a case brought by female mine workers, while highlighting the potential of sexual harassment laws to address harassment against women in male-dominated fields.<sup>91</sup> The case was initiated by Lois Jenson, a single mother who was one of the first women to join the mine in 1975; within her first days, a male coworker told her, "You [expletive] women don't belong here. If you knew what was good for you, you'd go home where you belong."<sup>92</sup> For the next decade, she and her female coworkers would face relentless and extreme sexual and sex-based harassment; when Jenson finally reported the behavior to the Minnesota Department of Human Rights in 1984, her tires were slashed. In 1988, she and fourteen other female mine workers initiated what would become the country's first sexual harassment class action. After a victory at the trial level, the women endured another decade of litigation and invasive questioning about their personal lives. Ultimately, however, they won a \$3.5 million settlement in 1998, securing some measure of recompense and

putting companies on notice that their failure to address sexual harassment could have substantial costs.<sup>93</sup>

- In France, a landmark court ruling in 2017 showed the potential of sexual harassment laws to reach vulnerable workers.<sup>94</sup> In the case, four immigrant women who worked as cleaners at the Gare du Nord, the busiest train station in Paris, had been physically harassed by their supervisor over an extended period, and the harassment intensified after the four women supported another male colleague, also an immigrant, who was fired after reporting a kickback scheme. When he sued as well, all five employees had their cases heard together, and the man who had been terminated testified on behalf of his female coworkers. Though the workers “hardly thought they had a chance,” particularly given the low rates of success in sexual harassment cases in France historically, the Labor Court ruled in their favor, sending an important signal about a potential shift in the legal culture just as #MeToo was picking up steam.<sup>95</sup>

Notably, for each of these cases, the impacts were not limited to individual justice but also extended to norms and workplace cultures more broadly. In this way, laws prohibiting discrimination, and the movements that are often pivotal to their enactment, can play a critical role in changing the conversation about equal rights. Over the past fifty years, expectations about unacceptable behavior in many workplaces have begun to change. In the United States, 68 percent of Americans stated that sexual harassment was a “very serious” or “extremely serious” problem in a 2017 poll, compared to just 34 percent in 1998.<sup>96</sup> While in some countries shifts in norms have begun in earnest only more recently, the fact remains that efforts to identify and legally address sexual harassment across countries have had and are continuing to have impact on public consciousness.<sup>97</sup>

These shifts in norms matter and can affect the impacts of the laws themselves. In particular, greater awareness and understanding can improve enforcement of laws already on the books. For example, in a range of countries, courts determine whether a particular behavior amounts to sexual harassment based on whether a “reasonable person” would view it as such. Consequently, building a shared popular understanding of what constitutes sexual harassment, and closing gaps in perceptions of sexual harassment between men and women, is critical to the law’s capacity to make a difference.<sup>98</sup>

Greater awareness can also spur the adoption of new laws and efforts to address legal gaps. For example, the awareness-raising of #MeToo and related regional movements has inspired legal change.<sup>99</sup> In 2019, Chile adopted a new law banning sexual harassment in public spaces, becoming the second country in Latin America to do so.<sup>100</sup> In South Korea, eleven new “#MeToo-related laws” were passed in 2018.<sup>101</sup> In the United States, at least fifteen states passed stronger laws against

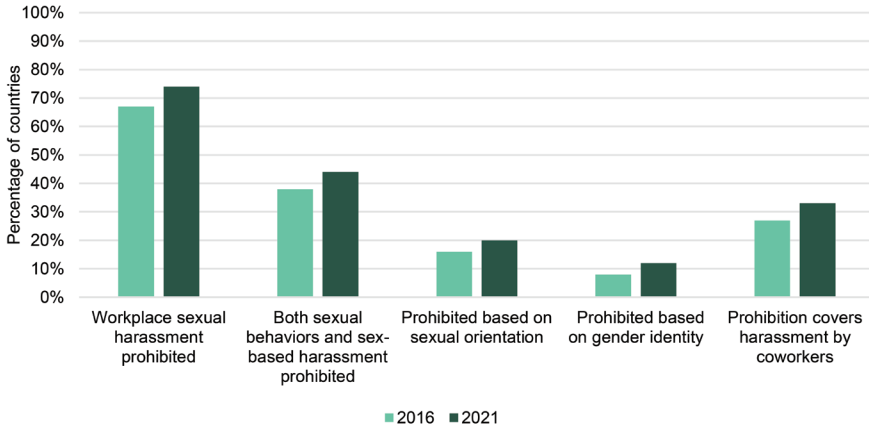


FIGURE 10. Have countries strengthened laws prohibiting sexual harassment at work?

NOTE: Figure describes coverage of sexual harassment laws at work for women. As noted in text, sexual harassment laws should cover all genders. In the vast majority of countries, legislation uses gender-neutral language or is inclusive of all genders. However, in some countries legislation explicitly prohibits sexual harassment of women, but not men, or is found in laws or sections of laws specific to women.

workplace sexual harassment between 2017 and 2020, many of which prohibited nondisclosure agreements that barred workers from speaking out about their experiences of sexual harassment.<sup>102</sup> Movements are also underway in the United States to address related policies that undermine sexual harassment laws, such as the establishment of a lower minimum wage for service workers, which creates a dynamic wherein workers often must tolerate harassing behavior from customers in exchange for a decent tip. As these examples illustrate, shifts in norms and shifts in laws often go hand in hand.

In just the five years between 2016 and 2021, eleven countries adopted new laws explicitly prohibiting sexual harassment at work for workers regardless of gender, while two countries that previously prohibited sexual harassment only of women passed new gender-neutral legislation. At the same time, eight countries newly enacted or amended legislation to specifically prohibit sexual harassment based on sexual orientation, as did nine countries for gender identity. Protections against both sex-based and sexual-behavior-based harassment have likewise increased over this period, as have prohibitions of harassment by coworkers and others at work.

Still, more research is needed on the effectiveness of laws, trainings, and other prevention efforts across countries as well as how experiences of sexual harassment vary in different contexts. To date, most sexual harassment studies have focused on a few high-income countries. While existing evidence suggests that women across countries face similar types of harassing behaviors in the workplace, developing more robust evidence from a wide array of settings would strengthen efforts to identify effective solutions for all workers.

TABLE 3 Comprehensiveness of legal prohibitions of sexual harassment at work, by country income level

	Low-income countries	Middle-income countries	High-income countries
<i>Are both sexual behavior-based and sex-based harassment explicitly prohibited in the workplace?</i>			
No prohibition	9 (35%)	26 (24%)	8 (14%)
No prohibition, but at least some protection	0 (0%)	2 (2%)	2 (3%)
Only sexual behavior-based harassment prohibited	13 (50%)	36 (33%)	9 (16%)
Only sex-based harassment prohibited	0 (0%)	0 (0%)	3 (5%)
Both sexual behavior-based and sex-based harassment prohibited	4 (15%)	44 (41%)	36 (62%)
<i>What sexual behaviors are legally defined as sexual harassment?</i>			
No prohibition	9 (35%)	28 (26%)	13 (22%)
Only narrowly defined	0 (0%)	1 (1%)	0 (0%)
Quid pro quo or unwanted sexual advances only	4 (15%)	16 (15%)	3 (5%)
Quid pro quo and conduct that creates a hostile work environment	12 (46%)	50 (46%)	41 (71%)
Sexual harassment is not defined	1 (4%)	13 (12%)	1 (2%)
<i>Does legislation explicitly prohibit work-related sexual harassment that happens outside the workplace?</i>			
No explicit prohibition of sexual harassment at work	9 (35%)	28 (26%)	13 (22%)
Only workplace sexual harassment explicitly covered	4 (15%)	14 (13%)	8 (14%)
Explicitly covers harassment outside the workplace	1 (4%)	14 (13%)	4 (7%)
Place not specified	12 (46%)	52 (48%)	33 (57%)
<i>Do sexual harassment prohibitions cover job seekers?</i>			
No explicit prohibition of sexual harassment at work	9 (35%)	28 (26%)	13 (22%)
Covers employees or other specific groups only	11 (42%)	35 (32%)	15 (26%)
Yes, explicitly covered	1 (4%)	26 (24%)	25 (43%)
Coverage not specified	5 (19%)	19 (18%)	5 (9%)
<i>Do sexual harassment prohibitions cover interns, apprentices, or employees in training?</i>			
No explicit prohibition of sexual harassment at work	9 (35%)	28 (26%)	13 (22%)
Covers employees or other specific groups only	10 (38%)	44 (41%)	21 (36%)
Yes, explicitly covered	2 (8%)	17 (16%)	19 (33%)
Coverage not specified	5 (19%)	19 (18%)	5 (9%)

(contd.)

TABLE 3 (continued)

	Low-income countries	Middle-income countries	High-income countries
<i>Is there a prohibition of workplace sexual harassment based on sexual orientation?</i>			
Sexual harassment not explicitly prohibited	9 (35%)	28 (26%)	13 (22%)
No prohibition explicit to sexual orientation and sexual harassment prohibition covers women only	1 (4%)	6 (6%)	0 (0%)
Prohibition extends to both genders, but no prohibition explicit to sexual orientation	14 (54%)	60 (56%)	22 (38%)
Prohibition explicit to sexual orientation or same sex sexual harassment	2 (8%)	14 (13%)	23 (40%)
<i>Is there a prohibition of workplace sexual harassment based on gender identity?</i>			
Sexual harassment not explicitly prohibited	9 (35%)	28 (26%)	13 (22%)
No prohibition explicit to gender identity and sexual harassment prohibition covers women only	1 (4%)	6 (6%)	0 (0%)
Prohibition extends to both genders, but no prohibition explicit to gender identity	15 (58%)	67 (62%)	29 (50%)
Prohibition explicit to gender identity	1 (4%)	7 (6%)	16 (28%)

## CONCLUSION

Recent decades have brought significant and overdue attention to the prevalence of sexual harassment, its economic consequences for women and workers of all genders, and the importance of a legal response. The laws that have already been passed matter: sexual harassment legislation has offered recourse to individual women all over the world and has played an important role in beginning to shift expectations about workplace cultures.

At the same time, there's still far to go: one in four countries globally, including one in three low-income countries, still lack explicit provisions prohibiting sexual harassment at work. This represents a missed opportunity. Prohibiting sexual harassment comprehensively is a straightforward step all countries can take to advance gender equality and also boost their economies by enabling everyone to contribute to their full potential.

Further, to shift norms long-term and ensure equal rights are realized, laws must not only be in place but be effectively enforced for all. This means not only that all workers must have access to effective reporting mechanisms, but also that workers who do report—and their colleagues who stand with them—must be protected from retaliation. Moreover, employers must have affirmative duties to prevent harassment. The following chapter—concluding section 1 of this book—details important considerations and effective approaches from across countries, designed to ensure that the potential of sexual harassment laws and of other anti-discrimination legislation is fulfilled.

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# Putting Nondiscrimination into Practice

## *Realizing the Promise of Gender Equality Laws*

As this book's first chapters have shown, substantial gaps exist worldwide in the adoption of laws to address workplace discrimination and sexual harassment. At the same time, some types of protection against discrimination have been passed in the majority of countries. But have these protections been fully realized? Some examples offer insights:

- In Europe and Central Asia, all countries but one have passed employment discrimination laws addressing gender and disability. Greater protections for workers with disabilities have likely helped make workplaces more inclusive; according to the European Social Survey, the gap in employment between people with and without disabilities fell by nearly 5 percentage points from 2006 to 2011.<sup>1</sup> At the same time, inequalities remain large, and women are especially disadvantaged: across twenty-eight European countries, women with disabilities are between 17 and 25 percentage points less likely to be employed than women without disabilities.<sup>2</sup>
- In the Americas, all countries but one address employment discrimination based on gender and race. For example, in Canada, the 1986 Employment Equity Act, which prohibited employment discrimination on the basis of gender and race/ethnicity, preceded a decline in occupational segregation and an increase in women's employment; however, these trends leveled off less than a decade after the law was strengthened in 1995, which researchers hypothesized was "the consequence of a weak enforcement mechanism, with the penalties for not following the law being too weak and/or the likelihood of such sanctions even being imposed being small."<sup>3</sup> Today, it's clear equality has

yet to be achieved: Indigenous women earn just 65 cents per dollar compared to the earnings of non-Indigenous men, while racialized women earn just 67 cents compared to nonracialized men.<sup>4</sup>

- Every country in South Asia takes some approach to prohibiting sexual harassment. These laws have contributed to growing public awareness that sexual harassment is a barrier to women's participation in the economy.<sup>5</sup> However, experiences of sexual harassment remain common in the region: in Bangladesh, one-third of women report that sexual violence in the workplace is likely, while in Delhi, 66 percent of women and girls have experienced sexual harassment in public spaces.<sup>6</sup>

In other words, in each of these regions, the adoption of laws addressing discrimination has mattered—yet it's also clear that the promise of these laws has not been fulfilled. Addressing this unrealized potential is the focus of this chapter.

To be sure, discrimination laws alone, even if perfectly implemented, are not enough to eliminate gender inequalities in the economy (which is why the second half of this book focuses on other critical areas of law, such as those impacting gender equality in caregiving and education). Yet these protections, which can reduce discrimination and influence norms and expectations about workplace behavior, are an important piece of the solution—and, when fully realized, can have transformative impacts on people's lives.

Around the world, countries have adopted a variety of strategies and legal mechanisms designed to facilitate broader and more effective realization of protections against discrimination and sexual harassment, and to ensure that the benefits of these laws are accessible to all workers regardless of socioeconomic status. These measures range from reducing barriers to litigation by guaranteeing legal aid and enabling workers to approach the courts collectively, to providing alternative methods of dispute resolution that require less time and money, to requiring employers to take preventive measures against discrimination and establishing human rights commissions specifically tasked with enforcing equal rights legislation.

This chapter examines these strategies and the evidence to support them, looks at how widely they've been adopted worldwide, and assesses the key obstacles to justice that must be addressed. Why doesn't the court system already work for all people, and how can barriers to litigation be addressed? Are there effective alternatives to the formal judicial process? What can countries do to not only address discrimination after it occurs but also prevent it from happening in the first place? And most fundamentally, what would it take—and what more do we need to learn—to ensure that laws comprehensively addressing discrimination and harassment are not only in place but actually realized in a way that improves workers' lives and increases gender equality in the economy?

## ACCESS TO JUSTICE: COMMON BARRIERS ACROSS COUNTRIES

Going to court remains one of the central avenues to seek remedies for employment discrimination when other approaches fail. While they can be lengthy and costly, with no guarantee that they will provide a remedy, lawsuits can lead to powerful outcomes for individuals and groups, increase public awareness about critical issues of discrimination, contribute to shifts in public opinion, and mandate impactful changes to discriminatory laws and employer practices. For example:

- In a 2014 Supreme Court of Justice case from Argentina, a female bus driver, in partnership with the Women’s Foundation, a civil society organization, brought a collective lawsuit successfully challenging a pattern of gender discrimination across seven different transport companies, all of which refused to hire women who met all the qualifications for the job.<sup>7</sup> As part of its remedy, the Court ordered the establishment of a 30 percent quota for women bus drivers in Salta, the city that was the focus of the litigation. Though companies have yet to meet the quota, as of 2019 the number of women drivers in the city had increased to 140.<sup>8</sup>
- In a 2010 Supreme Court case from Finland, the public prosecutor won a conviction against a company managing director who had sexually harassed and discriminated against at least four young female employees. The women, who were ambulance drivers, had all been subjected to unwanted touching by the director while resting in the breakroom, typically during the night shift. Though the women had not filed a complaint within the one-year statute of limitations, the Court determined that the matter met the standard of being “very important to the public interest,” and that it was understandable that the women hadn’t immediately pursued litigation given the power imbalance and economic risks of doing so. Consequently, the Court held that the public prosecutor could bring the case of their own accord.<sup>9</sup>
- In the United States, court-ordered mandates to change workplace policies following discrimination litigation improved outcomes for women and workers of color; for example, an analysis of 500 high-profile employment verdicts found that mandates to institute formal progress and performance reviews improved representation in management for both White and Black women.<sup>10</sup>

Across countries, however, a range of common barriers often deters women from pursuing their rights through courts; some of the same barriers likewise deter reporting through internal workplace processes or other formal mechanisms. While many of these obstacles affect workers regardless of gender, others intersect with underlying norms and forms of discrimination to create even higher hurdles for women whose rights have been infringed in the workplace.



Understanding the nature and prevalence of these barriers is critical for identifying responsive solutions.

### *Financial Barriers*

Pursuing a discrimination claim can impose a range of financial costs, including court fees and the costs of hiring an attorney. Alongside these direct costs, indirect costs—such as transportation costs, loss of income from missing work, and childcare costs while attending hearings—can quickly escalate. Particularly given the often lengthy duration of litigation, with lawsuits commonly enduring for months or years, these costs can easily become overwhelming and serve to deter many workers who've experienced discrimination from seeking justice through the courts. At the same time, workers seeking to enforce their rights through any mechanism—whether the formal court system or an internal workplace process—often fear losing their jobs or income due to retaliation. And while this is true for workers personally filing a claim or complaint, it can also extend to colleagues who participate in the investigation.

These barriers span countries at all income levels. In Wales, for instance, a study involving in-depth interviews with workers who had filed employment discrimination claims based on sex, race, or disability found that financial costs and fear of retribution by employers were among the most common obstacles to pursuing justice.<sup>11</sup> In Indonesia, a United Nations Development Programme survey conducted in five provinces found that 83 percent of respondents cited “costs” as their greatest problem in working with lawyers.<sup>12</sup> In South Africa, the 2014 Social Attitudes Survey found that “lack of funds to pay for expenses” was the most frequently cited barrier to the courts, named by 59 percent of respondents; people in rural areas, from marginalized racial groups, and with less education were even more likely to indicate costs were an obstacle.<sup>13</sup> Moreover, while financial barriers affect workers regardless of gender, due to gender gaps in pay, assets, and control over household finances, women are often even less equipped than other workers to pay filing fees, other court costs, and attorneys' fees. For example, in Jordan, women are more likely than men to either refrain from going to court or go to court without a lawyer due to financial barriers.<sup>14</sup>

### *Knowledge Barriers*

Alongside lack of financial resources, lack of awareness about the law and how to access legal institutions creates a second barrier to taking action in the face of discrimination. Across countries, the legal system is often notoriously complex to navigate, and bureaucratic obstacles to justice are common. The ability to access the courts or other justice mechanisms requires not only knowing what rights the law protects but also having an understanding of how to file and pursue a claim.

Knowledge barriers to justice are widespread. For example, a survey in Colombia found that 66 percent of people felt that a lack of information about their rights was a serious obstacle to justice.<sup>15</sup> In South Africa, the same 2014 Social Attitudes survey noted in the previous section found that “lack of knowledge about laws and legal rights” was the second-most-cited deterrent to court access, mentioned by over a quarter of respondents.<sup>16</sup> And in countries where women still have significantly lower access to formal education than men, these knowledge gaps can likewise reflect and exacerbate gender disparities. In Timor-Leste, for instance, where just half of girls completed lower secondary school as of 2008,<sup>17</sup> a survey completed that year found that only 59 percent of respondents (68 percent of men versus 50 percent of women) had heard of the formal court system, while just 27 percent (32 percent of men compared to 22 percent of women) were aware of any nongovernmental organization (NGO) that provided legal services; those least likely to have knowledge of these institutions disproportionately lived in rural areas and/or had lower levels of education.<sup>18</sup>

#### *Distance and Accessibility Barriers*

Third, geographical distance from courts and legal services can create another obstacle to pursuing justice through formal mechanisms.<sup>19</sup> In some countries, the nearest lawyer may be hundreds of miles away. For example, a 2006 study found that in Sierra Leone, which was home to nearly six million people at the time, there were only around 100 lawyers across the country, and that over ninety of them were based in the capital city, Freetown.<sup>20</sup> Meanwhile, 62 percent of survey respondents in Indonesia reported that courts were not at an accessible distance from home.<sup>21</sup> These geographic barriers are particularly burdensome given that the average legal case can require a series of court appearances; one study in the Delta state of Nigeria, for example, found that the average case required nine separate trips to court.<sup>22</sup> Moreover, as with barriers linked to financial costs, geographic barriers disproportionately affect women, given restrictive norms and even laws that discourage or restrict women from traveling by themselves.

Lack of accommodations for specific groups can also hinder accessibility. For example, for some migrant, Indigenous, and ethnic minority women, language barriers and a lack of interpretation services can put formal court proceedings out of reach.<sup>23</sup> For women with disabilities, a lack of accommodations within court-houses—such as ramps to enable entry by wheelchair users, sign language interpreters, and forms available in Braille or by screen reader for those with visual impairments—are common and substantial barriers to realizing rights. A survey of court users’ satisfaction in Armenia, for example, found that “access for persons with disabilities” received the lowest score among thirty-five different aspects of the court experience.<sup>24</sup>

*Normative Barriers and Expectations about the Judicial System*

Finally, normative and societal barriers that discourage women from pursuing justice through formal mechanisms can pose a significant barrier to the realization of rights, particularly for cases concerning sexual harassment, gender-based violence, or rights within the family. Similarly, the expectation that pursuing litigation will not lead to the favorable resolution of a claim—whether informed by past negative experiences with unfulfilled legal rights, the experiences of friends or family, or even empirical evidence about the likelihood of success—can likewise discourage women who've faced discrimination from seeking a legal remedy.

Speaking up about one's experience of discrimination or harassment is a first step toward pursuing redress.<sup>25</sup> Yet women often don't raise their legal rights. In some contexts this may reflect limited awareness of newer laws (since only in more recent decades have most countries begun to legally prohibit sexual harassment in the workplace); in others, community norms may inhibit women from labeling discriminatory or even violent behavior as a violation of legal rights. The 2017–20 World Values Survey, for instance, found that over a quarter of people across fifty-seven countries and territories—and over half in some countries—believed it was acceptable in at least some circumstances for a man to beat his wife.<sup>26</sup> Yet in many places, women's reluctance to assert their claims of discrimination, harassment, or violence likely also reflects a fear of the social and economic consequences.

In Jordan, for example, a study analyzing the Statistical Survey on the Volume of Demand for Legal Aid found that 26 percent of women, compared to 17 percent of men, noted that they were likely to avoid going to court to resolve a dispute due to customs and traditions.<sup>27</sup> In Timor-Leste, a survey of over 1,120 residents conducted by the Asia Foundation found that a higher share of respondents were comfortable resolving disputes through traditional institutions (*adat*) (79 percent) than through the courts (64 percent), and that 58 percent of respondents disapproved of women speaking on their own behalf in the *adat* proceedings.<sup>28</sup> And in the United States, a study by the Equal Employment Opportunity Commission (EEOC) found that most workers who were harassed on the job elected to avoid their harassers, downplay the incident(s), or “attempt to ignore, forget, or endure the behavior”; reporting the harassment or filing a legal complaint were the least common responses, due to fear of “disbelief of their claim, inaction on their claim, blame, or social or professional retaliation.”<sup>29</sup>

In a range of countries, these concerns and attitudes are often amplified by the judicial process itself due to stigmatizing court practices that compel accusers to publicly answer questions about their relationships and sexual history. For high-profile incidents, media coverage only exacerbates the public scrutiny of women who bring discrimination and sexual harassment cases, often by way of attacks on their character or “blame-the-victim” narratives. A group of female mine workers who brought a landmark sexual harassment case in the United States, for

example, had to contend with gross violations of privacy throughout their decade-long lawsuit, including a federal magistrate's report that disclosed one of the plaintiff's children had resulted from a rape, and a line of questioning in court of another plaintiff regarding her husband's purported low sperm count.<sup>30</sup> Troublingly similar stories abound across countries, with some women even facing violent retribution for asserting their rights. As one case study of women's access to justice in Egypt summarized, given the combined effects of social pressure, financial costs, lengthy proceedings, and emotional and economic consequences of litigation, "for women to go to court, it means that they have exhausted all other avenues and that going to court is worth the price they pay."<sup>31</sup>

More broadly, a learned distrust of institutions, and of the legal system in particular, can deter people in many settings from pursuing a legal remedy after facing discrimination. Closely related to this is the perception that the judicial system is corrupt and delivers justice only to the wealthy. Surveys from a range of countries over the past several decades have confirmed this is a common view. In Ecuador, for instance, a 2000 survey found that 91 percent of people felt that corruption was the biggest problem with their judicial system.<sup>32</sup> According to the most recently completed World Values Survey, an average of 15 percent of people across fifty-seven countries and territories, when asked how much confidence they have in the courts, report "none at all"; an additional 29 percent report "not very much."<sup>33</sup>

Critically, this lack of confidence is not unfounded; corruption is indeed a problem that plagues countries at all income levels to varying degrees. Further, the odds of success in litigation—particularly for individuals with fewer economic resources—are often quite low. For example, an analysis of employment cases filed in the United States between 2009 and 2017 found that just 101 out of 2,431 sex discrimination claims were decided in favor of the plaintiff—a win rate of 4 percent. Likewise, just 3 percent of race discrimination claims were successful; some evidence suggests that biases within the judiciary help explain the even lower rate of success for employment discrimination claims compared to other civil lawsuits.<sup>34</sup> These barriers to enforcement at the individual level create a vicious cycle, as the lack of justice and accountability experienced reinforce distrust in the legal system and feelings of disempowerment, thereby impeding laws' potential for impact.

#### MECHANISMS FOR ACTION

Collectively, the barriers articulated in the previous section—from financial and personal costs to infrastructural and social barriers to many women's well-founded concerns that they won't be heard, believed, or provided with justice in court—underscore the importance of ensuring the burden of enforcement does not fall primarily on individual women. Indeed, efforts to monitor employers' compliance with the law and prevent discrimination before it happens are critical elements of

any effective approach to equal rights at work. At the same time, providing viable pathways for individuals and groups of workers to seek legal remedies when their rights have been violated, including by making litigation more accessible and by providing alternative methods of seeking justice, will remain essential for antidiscrimination laws to be effective. Importantly, beyond their substantive protections against discrimination and harassment, laws shape what tools women have access to if and when their rights at work are infringed. In particular, laws determine:

- Who can go to court to claim their rights
- Whether claims have to be brought individually or can be initiated and decided on behalf of a group that has experienced discrimination
- Whether options are available for seeking individual remedies and compensation that are less costly than litigation—in time, resources, and reputation
- Whether workers who claim their rights are protected from retaliation

How do laws vary in these areas worldwide, and what do we know about the strengths and drawbacks of different approaches to enforcement of laws to end discrimination and sexual harassment at work?

#### *Access to Legal Aid*

Although the barriers to litigation are many, access to legal assistance can make a critical difference for individuals seeking to enforce their rights through the courts. For example, an evaluation of a legal aid program that deployed paralegals trained in law and mediation to rural Liberia found that access to legal aid substantially increased the share of individuals involved in legal disputes who reported that their case outcome was fair, who were satisfied with the result, and who felt “it left them better off”; women who had access to the program were particularly likely to opt into paralegal assistance, when their other option was customary dispute resolution.<sup>35</sup> Always important, the impact of legal assistance on gender equality is heightened in settings where the alternative is customary mechanisms with gender inequality embedded in practice. In Ecuador, an evaluation of a five-year pilot program providing legal aid to low-income women, many of whom needed help with family law cases, found that participants in the program were more likely to receive child support payments, less likely to experience domestic violence following their divorce, and more likely to view the justice system positively than women with similar legal issues who did not receive legal aid.<sup>36</sup> In the United States, a systematic review of studies examining the impact of bringing a civil case either with a lawyer or pro se (representing oneself) found that those represented by an attorney were between 1.2 and 14 times as likely as pro se litigants to win their cases.<sup>37</sup>

Under international law, there is a well-established right to counsel for people facing criminal charges.<sup>38</sup> In recent decades, international and regional instruments and courts have likewise begun to more strongly embrace the right to an attorney in civil cases, which can address issues as consequential as custody of

one's children, eviction from one's home, or loss of employment. For example, the Charter of the Organization of American States, adopted in 1967, requires that all countries in the region "dedicate every effort to . . . adequate provision for all persons to have due legal aid in order to secure their rights."<sup>39</sup> In 1979, a decision of the European Court of Human Rights found that a woman had a right to legal aid in her divorce case against her abusive husband, establishing a precedent used to advance the right to counsel in civil cases more broadly.<sup>40</sup>

International treaty bodies have also made clear that access to justice should include representation in civil matters related to fundamental human rights. For example, in 2005, the United Nations (UN) Committee on the Elimination of Racial Discrimination, charged with monitoring the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, issued an official interpretation of the treaty's right to equality before the law in which it made clear that "in order to make it easier for the victims of acts of racism to bring actions in the courts, the steps to be taken should include the following: Granting victims effective judicial cooperation and legal aid, including the assistance of counsel and an interpreter free of charge."<sup>41</sup> Similarly, in 2007, the UN Human Rights Committee published guidance on Article 14 of the International Covenant on Civil and Political Rights, which establishes the right to counsel for people charged with a crime, in which it clarified that "states are encouraged to provide free legal aid in [noncriminal cases], for individuals who do not have sufficient means to pay for it. In some cases, they may even be obliged to do so."<sup>42</sup>

International treaties and agreements have also recognized the specific importance of legal aid for gender equality. The Beijing Declaration and Platform for Action, adopted unanimously by 189 countries in 1995, committed governments to "ensure access to free or low-cost legal services, including legal literacy, especially designed to reach women living in poverty."<sup>43</sup> Most recently, the Protocol to the African Charter on the Rights of Women ("Maputo Protocol"), ratified by forty-two out of fifty-five African countries and signed by seven more,<sup>44</sup> established that: "States Parties shall take all appropriate measures to ensure: 1) effective access by women to judicial and legal services, including legal aid; 2) support to local, national, regional and continental initiatives directed at providing women access to legal services, including legal aid."<sup>45</sup>

At the national level, however, there is substantial variation in whether individuals have the right to legal aid in civil cases, and in particular in employment discrimination and sexual harassment cases. In some countries, the provision of legal aid is at the discretion of the court or other bodies and may depend on whether the matter is deemed important enough. For example, Australia's legislation requires that legal aid be "in the interest of justice" and "reasonable given the importance of the matter." In some cases, legal aid is limited to "complex" matters, which may limit access to justice for women in cases that are not deemed legally complex but are still too difficult for an individual unfamiliar with the legal system to navigate.

For example, Ireland limits legal aid to cases where it “should be unreasonable for the applicant to deal with the matter because of its complexity.”

In other countries, the availability of legal aid is based not on the importance or complexity of the case but rather on whether litigation is reasonable or likely to be successful. The strength of these restrictions varies. For example, Djibouti’s legal aid law states that “legal aid is granted in gratuity and in contentious matters both to the applicant and the defendant whose action does not appear, manifestly, inadmissible or unfounded.” Other countries, such as Malaysia and Zimbabwe, require that individuals have a “reasonable ground” to sue. Stronger restrictions are found in some countries, such as Germany, Iceland, and South Africa, that require that litigation have a reasonable chance to be successful.

Moreover, further details of countries’ legal aid policies and programs often shape their coverage and impact, particularly for marginalized women. For example, some countries’ legal aid programs exclude certain undocumented immigrants from eligibility; migrant workers are often particularly vulnerable to discrimination and sexual harassment because of their lack of legal rights and protections.<sup>46</sup> Some also restrict eligibility to the very poorest workers, leaving out many who have slightly higher incomes but nevertheless cannot afford private counsel. In some countries, legal aid systems are established but there is no explicit individual right to legal aid or guarantee that all individuals have access to legal aid. For example, in Rwanda, legislation requires the Law Society Council to establish a bureau for individuals with insufficient resources “in such manner as it sees fit.” In Fiji, legal aid is subject to the resources available.

Quality of representation also varies; in Bangladesh, for example, NGO lawyers representing women in family law cases have much higher success rates than do government legal aid lawyers.<sup>47</sup> This may be due to capacity rather than ability: in many countries, legal aid offices handle a high volume of cases with only minimal resources, inevitably creating barriers to full and comprehensive representation of every client.

The overburdening and underfunding of legal aid offices also require public interest lawyers to turn away potential clients, especially since few countries fulfill a “right” to legal assistance for civil cases. For example, one study from Australia found that 45 percent of women seeking legal aid for a discrimination claim were turned down.<sup>48</sup> In Wales, a study found that the Equal Opportunities Commission provided litigation support in only a small fraction of discrimination claims brought to their attention: two out of thirty-four for race discrimination in employment and two out of eight for sex discrimination.<sup>49</sup> And again, would-be litigants in rural or remote areas may face even higher hurdles to representation. For example, in Canada, a 1998 study of legal aid services provided to women found that “most lawyers in the smaller towns had stopped accepting legal aid cases since it was not financially worthwhile”;<sup>50</sup> nearly two decades later, reports

from across provinces continued to find that legal aid was largely inaccessible in rural areas.<sup>51</sup>

### *Collective Legal Actions*

Although legal aid to individuals is critical—especially since some acts of discrimination or harassment target only a small number of people, and individuals may not know who else is affected—a second mechanism for expanding access to justice is group legal actions. Group-based litigation has two key benefits: (1) allowing more people to access the court system, despite the aforementioned barriers, and (2) increasing judicial efficiency by addressing a significant number of similar claims at once. Different forms of collective lawsuits are available across countries, including:

- **Class actions**, in which a small group of representative plaintiffs brings a claim on behalf of a large group of people in the same circumstances, seeking a judgment and ruling on damages that will typically bind the whole group. These types of actions have had demonstrated impacts in discrimination cases: in the United States, for instance, a study of over 500 employment discrimination cases found that class actions were far more likely than other cases to result in substantive remedies requiring the employer to take specific actions, such as analyzing demographic data on compensation and promotions, taking affirmative measures to recruit and hire members of marginalized groups, establishing new job training or mentoring programs, hiring an equal employment opportunity consultant, or complying with reviews by an external monitor tasked with overseeing implementation of the court's orders.<sup>52</sup> In relation to more “pro forma” remedies—such as simply posting workers' rights more conspicuously—research suggests these actions have greater impacts on inequality.<sup>53</sup>
- ***Amparo colectivo***, a collective lawsuit available in some Latin American countries, through which a group of individuals can approach the courts for a fast-track ruling on an action that has infringed their fundamental rights. Whereas traditional class actions are rare in Latin America, *amparo colectivo* can be a similarly important tool for realizing rights on behalf of a group. In Argentina, the case brought against the bus companies by Mirtha Sisnero was an *amparo colectivo*.<sup>54</sup>
- **Mass torts**, in which a group of individual lawsuits seeking remedies based on the same conduct by the same defendant are joined together. Mass torts have been used to seek redress in cases of sexual harassment, assault, and other forms of discrimination.<sup>55</sup> For example, one of the key lawsuits targeting former Hollywood producer Harvey Weinstein, whose long history of sexual abuse and harassment served to catalyze the #MeToo movement, was a mass tort.<sup>56</sup>



- **Public interest litigation (PIL)**, which refers to cases brought by or on behalf of large groups that address issues of substantial public concern. In India, it was a PIL case, *Vishakha and others v. State of Rajasthan*, that led to the landmark Supreme Court ruling on sexual violence and harassment in 1997, which in turn paved the way for the country's groundbreaking workplace sexual harassment law sixteen years later.
- ***Actio popularis***, which likewise refers to a case brought on behalf of a group to advance a public interest, and which may or may not name specific parties. Some countries also allow an *actio popularis* to be brought before an ombudsman or human rights commission. In Macedonia, for example, a civil society organization brought an *actio popularis* to the ombudsman regarding the policy of public and private hospitals to allow only a child's mother, rather than their father, to accompany them during a hospitalization, arguing that the policy discriminated based on sex and reinforced gender stereotypes about care.<sup>57</sup>
- **Strategic litigation**, in which lawyers bringing a case on behalf of one person or a small group of people aim to change the law in a way that will affect a much larger population. For example, in Switzerland, a group of nurses, vocational teachers, and physical and occupational therapists brought a lawsuit on July 1, 1996—the day the Equality Law came into force—arguing that their low pay classifications constituted gender discrimination, particularly when contrasted to higher-pay, male-dominated occupations such as police officers. In 2001, the nurses succeeded in having their occupation upgraded by one or two pay classes, which translated into around \$540 to \$1,080 more per month for nurses nationwide.<sup>58</sup>

As these examples demonstrate, these and other collective approaches to litigation have had an impact for workers facing discrimination across countries. However, the availability of these mechanisms varies within and across countries. In Canada, for example, a study found that cases addressing systemic discrimination were five times as likely in the British Columbia Human Rights Tribunal, which allows for group litigation akin to class actions, than in the Human Rights Tribunal of Ontario, which has no standard group litigation procedure.<sup>59</sup> Moreover, the specific requirements and limitations that different countries assign to these mechanisms in the law can shape the extent to which they are effective. Three elements in particular that can make a difference are:

- Who can legally bring a claim on behalf of a group, often referred to as who has “standing”
- What types of claims are eligible for collective litigation
- What types of damages are available to participants in different kinds of collective lawsuits

Further, for class actions in particular, two additional rules can be particularly consequential:

- How potential class members learn about and join the lawsuit, also known as “notice” requirements; and
- Whether the class needs to be “certified” before litigation can move forward.

*Right to Bring a Claim.* An individual’s right to bring a discrimination lawsuit varies across contexts, depending on factors including whether a private right of action is available (meaning that a private person, rather than the government, can seek to enforce a violation of the law) and whether someone must exhaust other remedies before approaching the courts. Generally, the person bringing the claim must also show that they have been personally harmed to be eligible to seek a remedy through the court; in some jurisdictions this is known as “standing.” In group-based litigation, this varies. In some countries, only certain government bodies are empowered to bring a claim on behalf of a group; in others, any concerned citizen can do so, even if they were not directly affected. For example, the Constitution of Kenya specifies that:

(1) Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened. (2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by . . . a person acting in the public interest.<sup>60</sup>

In some countries, however, collective lawsuits are permitted only if brought by an organization rather than a group of individuals with no organizational affiliation.

Some countries also empower civil society organizations to initiate collective or public interest lawsuits. In Switzerland, the Federal Act on Gender Equality provides that “organisations that have been in existence for at least two years and that have as their object in terms of their articles of incorporation the promotion of gender equality or safeguarding the interests of employees may in their own names have a finding of discrimination declared if the probable outcome of proceedings will have an effect on a considerable number of jobs.”<sup>61</sup>

Enabling individuals and organizations representing their interests, rather than government bodies alone, to initiate discrimination claims is likely to support wider access to justice. Particularly in countries where state institutions have been slow to act to protect the rights of marginalized groups, so-called third party public interest standing or other mechanisms for ensuring a broad right to approach the courts can be powerful tools.<sup>62</sup>

*Types of Claims.* In a range of countries, class actions or PIL are available only for certain types of claims. In particular, a significant number of countries restrict

collective legal actions to those addressing environmental or consumer claims.<sup>63</sup> Explicitly ensuring that collective mechanisms are available for employment discrimination is important for enabling these mechanisms to serve as a tool for workers.

*Damages Available.* Countries vary in terms of the damages available for different kinds of collective lawsuits and the processes for securing them. Class actions may determine damages for the entire class and foreclose class members bringing their own separate lawsuits or may allow class members to opt out. In the United States, class actions allow for attorneys' fees and punitive damages, making it more likely that lawyers will be eager to take them on. In Brazil, class actions can establish liability on behalf of a group, but each individual must then file their own suit to claim damages.<sup>64</sup> In Australia, only low damages are available for "representative" discrimination lawsuits—those brought on behalf of a group—which disincentivizes the pursuit of collective legal action.<sup>65</sup> Consequently, a number of high-profile sex discrimination lawsuits that could have been brought together were instead initiated as individual cases, decreasing efficiency for claimants and courts alike.<sup>66</sup>

*Class Actions: Notice Requirements.* For class actions, one important step is identifying all potential members of the class—or, in the case of workplace discrimination, all workers who faced the same type of discrimination while working for the same employer. This process involves two key decisions: (1) what steps must be taken to inform all potential class members of the lawsuit, and (2) whether class members have to opt out or opt in to be a part of it. The United States and Australia, for example, employ an opt-out model, meaning that all potential class members are automatically part of the lawsuit.<sup>67</sup> In contrast, in the United Kingdom, Group Litigation Orders, a class action mechanism introduced in 2000, require plaintiffs to affirmatively opt in.<sup>68</sup> From a judicial efficiency perspective, an opt-out model has clear advantages, as it vastly reduces the likelihood of individuals with repetitive claims coming before the courts. An opt-out model is also most likely to secure a remedy for the largest number of people, especially since the number of people who do opt out is extremely low.

Providing adequate notice to potential class members is important whether countries take an opt-in or opt-out approach. For those with an opt-out model, learning about the lawsuit is important for ensuring they do not become bound by the judgment affecting the class if they would prefer to bring an individual lawsuit, especially if they have more detailed or specific claims relating to the same conduct. For those with an opt-in model, adequate notice requirements are essential to ensure that a class action reaches a substantial share of people affected.<sup>69</sup>

*Class Actions: Class Certification.* Some countries, such as Australia, allow for class actions and do not require class certification before the lawsuit can proceed, instead putting the burden on the defendant to challenge the lawsuit's validity at any time.<sup>70</sup> In other countries, such as the United States, the court must first certify the class by confirming that all the members of the class have enough in common, including shared questions of law or fact, to bring their case together.

These structural choices, and courts' application of them, matter to the accessibility of class actions. Particularly stringent requirements or narrow interpretations of commonality can limit workers' ability to assert common claims. In the United States, for instance, the Supreme Court's ruling in *Wal-Mart v. Dukes*—the largest sex discrimination lawsuit in US history—dealt a blow to class actions challenging systemic discrimination by finding that the members of the class, 1.5 million women who worked at Wal-Mart branches all over the country, did not have enough in common to be certified as a class. As the lawsuit alleged, Wal-Mart's practice of leaving decisions about pay and promotions up to local managers had systematically disadvantaged women, resulting in a workforce in which women comprised 70 percent of hourly workers but less than 10 percent of store managers and just 4 percent of district managers. Since the ruling, according to lawyers in the field, employment discrimination class actions have markedly decreased, and past successful class actions have faced new appeals.<sup>71</sup>

#### *Alternative Dispute Resolution*

Although litigation can yield powerful impacts—especially in individual cases that result in structural changes or in cases that are brought and decided on behalf of large groups of workers—the process can also exact significant financial and emotional tolls on participants. Moreover, the duration of lawsuits, which can easily extend for years, are highly disruptive to litigants' lives and work. Indeed, studies across countries find that the length of judicial proceedings is one of the primary sources of dissatisfaction for people accessing the courts. In Turin, Italy, for instance, a survey found that 75 percent of court users did not agree that “judicial timeframes were reasonable”—by far the greatest area of dissatisfaction recorded.<sup>72</sup>

In recent decades, methods of alternative dispute resolution (ADR)—including mediation, negotiation, and arbitration—have grown as mechanisms that can provide remedies to common individual workplace discrimination claims at lower cost and in a shorter period of time than going to court.<sup>73</sup> In South Africa, for example, an analysis of employment cases referred to arbitration in 2005/2006 found that they were resolved in just seventy-nine days, on average,<sup>74</sup> whereas civil trial proceedings typically take eighteen to thirty-six months.<sup>75</sup> In the United States, a 2009 study found that the average duration of a class action

employment discrimination lawsuit to settlement was 1,327 days; in contrast, the average duration of arbitration for employment cases ranged from 233 to 383 days.<sup>76</sup>

ADR mechanisms can serve several functions and take a range of forms.<sup>77</sup> These include:

- Independent investigations of disputes
- Mediation or counseling, which typically involves working collaboratively with a trained third party to reach a solution
- Conciliation, through which a third party helps the two parties to the dispute communicate and evaluate the problem, but does not personally propose a solution<sup>78</sup>
- Administrative hearings, where both parties can present their evidence in arguing their case, and
- Arbitration, in which the two parties present their claims before a trained third party empowered to make a legally enforceable decision, similar to a judge or jury in a trial. In most cases, parties submit to arbitration having agreed in advance that the arbitrator's decision will be binding; in nonbinding arbitration, the arbitrator's decision is advisory and can become legally enforceable only if both parties accept it or if the terms of their agreement specify that it will become binding if neither party objects within a certain period of time.<sup>79</sup>

*Availability of ADR.* Some countries provide options to pursue ADR at low or no cost through public institutions, including labor commissions, equality bodies, and human rights commissions. Around the world, more than half of countries (54 percent) have independent bodies that handle claims of workplace gender discrimination, sexual harassment, and retaliation or inability to take paid parental leave. However, a third of countries have ADR mechanisms only for some areas, and 14 percent have no independent complaint mechanism for any of these areas.

Countries vary greatly in the extent to which these independent bodies investigate claims or can arrive at a decision that is legally enforceable. For example, in one ADR mechanism in Angola, parties can agree voluntarily to go to arbitration and the matter will be decided by three arbitrators; once they agree to arbitration, the decision of the arbitrators is enforceable in the same way as a court judgment. In some countries, the dispute is settled at administrative hearings, which operate similarly. For example, in Venezuela, labor officials first attempt to provide a solution through mediation, but if that process does not reach an agreement, the employer can provide a written response, and the matter is decided by the labor official. The utility may vary greatly depending on the accessibility, fairness, resolution availability, and quality of execution.

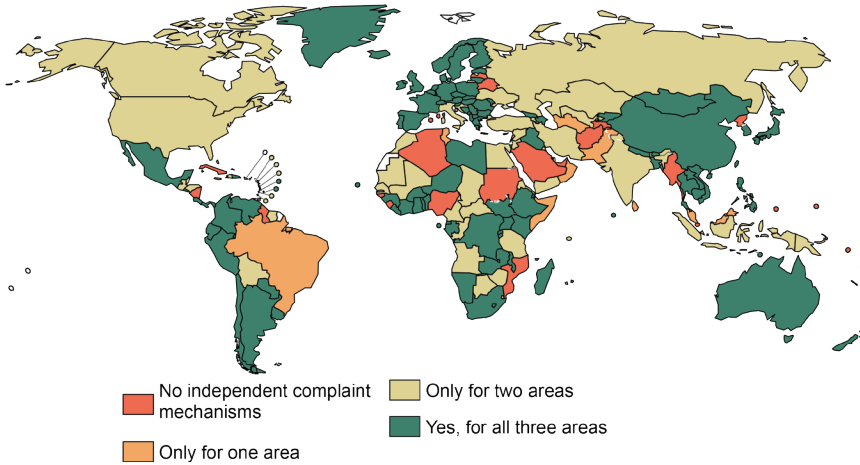


FIGURE 11. Can employees seek justice through an independent body for gender discrimination?  
 NOTE: The three areas of gender discrimination examined were: (1) gender discrimination, (2) sexual harassment, and (3) inability to take paid parental leave because of caregiving-related gender discrimination.

While some countries offer mediation alongside other ADRs, some exclusively offer mediation as the first step, and if the parties do not reach an amicable resolution, the employee must rely on litigation. For example, in the United States, the EEOC may conduct an investigation to see if a claim is plausible and, if so, attempts to use “informal methods of conference, conciliation, and persuasion” to arrive at an agreement. Some countries reduce the onus on the employee to produce evidence by tasking independent bodies with undertaking investigations. In Iceland, for example, workers can choose to pursue their claims through mediation or an independent investigation, which will result in a decision that is legally enforceable; likewise, in Bolivia, decisions of independent bodies following their investigations are enforceable. In other countries, such as the Netherlands, the body issues only a recommendation or opinion that can not be legally enforced, requiring the employee to take further legal steps if their employer does not follow the recommendation given.

For workers who pursue justice through ADR, legislation guarantees that they can receive at least some form of monetary compensation in nearly half of countries for gender discrimination cases and a third of countries for sexual harassment cases. However, in nearly a third of countries for gender discrimination cases and nearly a quarter of countries for sexual harassment cases, legislation establishes ADR processes but does not contain explicit provisions enabling workers to claim monetary compensation.

The extent to which independent bodies can impose penalties on individuals or companies when they find through ADR processes that gender discrimination

or sexual harassment has occurred is also limited. Only half of countries legally provide for fines, sanctions, or disciplinary action on perpetrators in gender discrimination cases through ADR. Even fewer (34 percent) do so in sexual harassment cases.

*Limitations of ADR.* As noted earlier, while ADR mechanisms can provide a promising alternative for workers facing discrimination, their potential depends on their effectiveness, fairness, and the remedies they have available. The availability of ADR should not foreclose the opportunity to take a case to court. A noteworthy development in the past two decades is the increase in mandatory arbitration clauses in employment contracts, which prohibit workers from initiating litigation for employment claims.<sup>80</sup> Requiring that workers resolve claims through arbitration has been found to largely favor employers and can prevent employees from making grievances public.<sup>81</sup> For example, an analysis of all employment arbitration cases administered by the American Arbitration Association between 2003 and 2007—nearly 4,000 cases total—found that employees won just 21 percent of cases, compared to a 36 percent win rate for employment discrimination cases heard in federal court.<sup>82</sup> These gaps matter as mandatory arbitration becomes more common. In the United States, the share of workers subject to mandatory arbitration has risen from 2 percent in 1992 to over half; among those, 30 percent have contracts that also waive their right to pursue class actions, excluding nearly twenty-five million workers from the ability to initiate discrimination lawsuits as part of a group.<sup>83</sup> The catalyst was a 1991 Supreme Court decision finding that a worker with an age discrimination claim could be compelled to resolve it through arbitration rather than litigation.<sup>84</sup>

While many European countries have historically prohibited mandatory binding arbitration for individual employment disputes, this is an important area for ongoing monitoring, especially given the many people employed by multinational companies.<sup>85</sup> As just one example, in 2020, the Supreme Court of Canada held that a mandatory arbitration clause for Uber drivers, which required that all disputes be resolved through arbitration in the Netherlands at the cost of \$14,500 to the plaintiff, was “unconscionable” and thus invalid.<sup>86</sup> Following the ruling, Uber adopted a contract for drivers in Canada that specified that arbitration could take place where they lived and that they would be responsible only for basic court filing fees. At the same time, the new contracts still defaulted drivers into arbitration as well as a class action waiver, with the option to opt out only by contacting the company within thirty days after signing their contract.<sup>87</sup>

Moreover, beyond employment contracts, laws that require workers who have faced discrimination to go through ADR before they can go to court may also serve to curb transparency about employers’ behaviors. This critique of mandating or defaulting to ADRs has intensified in the context of #MeToo. For some workers

who've experienced sexual harassment at work, the privacy afforded by ADR may be a strength of this approach; for those who wish to make their claims public, however, being pushed toward private settlement will allow employers to avoid media and public scrutiny.<sup>88</sup>

A second important consideration is the amount of damages available through ADR, which can potentially be much lower than is available through litigation. In the same American Arbitration Association analysis, for example, among employees who won their cases, the median award was \$36,500 and the mean was \$109,858—far lower than typical damages won through federal employment discrimination litigation (\$150,500 median damages, \$336,291 mean damages).<sup>89</sup> Further, some empirical studies have found that women and minority participants receive lower compensation through ADR than do their White, male counterparts, suggesting that the biases and disadvantages commonly embedded in the traditional judicial system often likewise extend to alternative mechanisms.<sup>90</sup>

#### WHAT HAPPENS TO WORKERS WHO PURSUE THEIR RIGHTS?

While ensuring workers have the ability to take action and access remedies is critical, ensuring that seeking justice is not penalized by employers is equally necessary. In particular, guaranteeing workers will be protected against retaliation if they initiate or participate in a claim is essential for discrimination laws to achieve the intended impacts.

Research shows that retaliation against workers who bring discrimination claims is widespread. For example, a study of workers who took action to address employment discrimination in the Netherlands found that 17 percent reported being unfairly denied a promotion, 17 percent were transferred to a less desirable job, and 10 percent were excluded from a training opportunity in retaliation for their discrimination complaint.<sup>91</sup> Similarly, a US-based survey found that more than two-thirds of women who reported sexual harassment faced some form of retaliation, ranging from being denied a promotion or training opportunity to being given a poor performance review to facing threats or unfair discipline.<sup>92</sup> Overall, an American Bar Association analysis of nearly 1,800 federal employment discrimination claims filed between 1987 and 2003 found that 40 percent of cases alleged retaliation.<sup>93</sup> And even when women are successful in litigation, it may cost them. For example, years after winning her case challenging gender discrimination by bus companies in Argentina—a country that has no explicit protections against retaliation for workers who report discrimination—Mirtha Sisnero has yet to be hired as a driver.<sup>94</sup>

Globally, more than a quarter (28 percent) of countries prohibit gender discrimination at work but fail to ensure any protection from retaliation for reporting



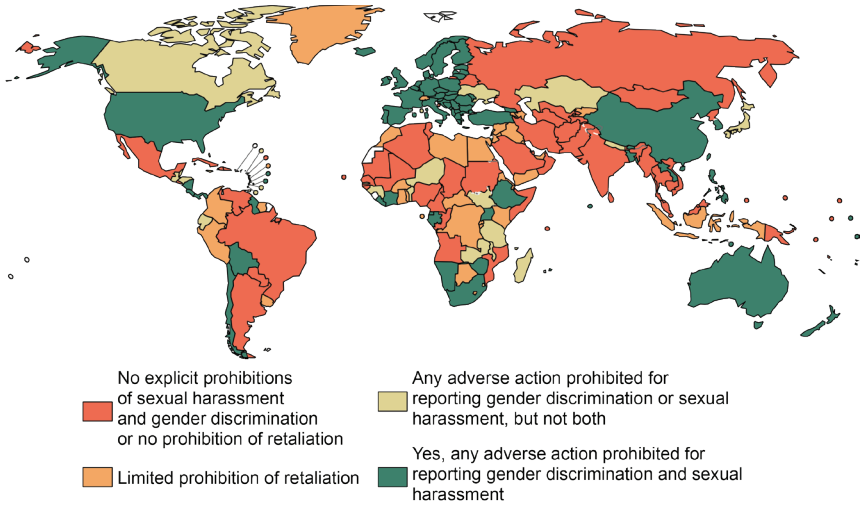


FIGURE 12. Do countries prohibit retaliation for reporting sexual harassment and gender discrimination at work?

discrimination, whether internally, through independent bodies, or by initiating litigation. Twenty percent prohibit sexual harassment at work but fail to prohibit any form of retaliation.

Even among the nearly two-thirds of countries that prohibit at least some forms of retaliation for individuals who report workplace gender discrimination and the more than half that do so for sexual harassment, provisions often fall short of ensuring comprehensive protections. In 14 percent of countries globally, retaliatory dismissal is the only form of retaliation legally prohibited after an individual reports gender discrimination, leaving the door open to other forms of retaliation. Five percent of countries also prohibit other specific aspects, such as harassment or disciplinary actions, but fail to protect comprehensively. Only 46 percent of countries globally prohibit gender discrimination at work and ensure that workers who report discrimination are protected from any adverse retaliatory action. Forty-five percent do so for sexual harassment. These stronger prohibitions are more common in high-income countries than low- and middle-income countries.

In addition to ensuring that workers who report gender discrimination or sexual harassment are legally protected from adverse action, it is also important to prohibit retaliation against workers who participate in investigations. Witnesses have a powerful role in supporting or undermining claims of workplace discrimination or harassment, so ensuring that they feel safe to participate in internal investigations, external hearings, or litigation is critical. Forty-four percent of countries prohibit at least some form of retaliation for workers who

participate in investigations related to gender discrimination, and 39 percent do so for sexual harassment. However, in 20 percent of countries, legislative provisions cover only individuals who report gender discrimination, while 14 percent of countries take the same approach for sexual harassment. Similar to the types of adverse action covered, high-income countries are more likely than low- or middle-income countries to prohibit retaliation against workers participating in investigations.

PREVENTING DISCRIMINATION BEFORE IT HAPPENS:  
IT TAKES ALL OF US

For employees and employers alike, reducing the incidence of discrimination and harassment in the workplace, rather than merely providing remedies after it occurs, has profound benefits: it protects workers' well-being, helps foster a productive and healthy workplace culture, and enables employers to retain talented employees and avoid costly litigation. Moreover, given the many barriers to pursuing justice on an individual basis—and the greater obstacles and deterrents that persist across gender, race, migration status, and class<sup>95</sup>—effective preventive measures can play an important role in shifting the burden for enforcing equal rights at work from workers themselves to employers and society more broadly.

Yet realizing this vision is far from the current reality. What can employers, labor unions, and labor and human rights commissions do to accelerate progress, and how can national laws create the conditions for everyone to do their part?

*The Role of Employers*

Evidence suggests that workplace cultures—and the leaders and policies that shape them—make a critical difference for whether discrimination and harassment take place. Indeed, prior research has found that “organizational climate” is the biggest predictor of whether sexual harassment will occur in a given workplace.<sup>96</sup> In a study from Spain, for example, employees who reported through the National Survey on Working Conditions that in their organization there was “tolerance to mobbing and tolerance to threats” were also substantially more likely to report having been sexually harassed.<sup>97</sup> In the words of psychologist Mindy Bergman, testifying before the US EEOC, “organizational climate is an important driver of harassment because it is the norms of the workplace; it basically guides employees . . . to know what to do when no one is watching.”<sup>98</sup> Key aspects of the workplace climate include whether perpetrators are held accountable, the extent to which targets of sexual harassment expect to face retaliation if they report, and workers' perceptions of whether their reports of discrimination and harassment will be taken seriously.

Within organizations, leadership plays a crucial role in shaping the workplace climate by setting the tone for whether everyone will be treated equally, including

whether sexual harassment or discrimination will be tolerated.<sup>99</sup> The values leaders hold can also directly influence workplace policies; for example, one study of 350 firms found that those in which top management expressed stronger support for equal employment opportunities were more likely to have voluntarily adopted internal policies designed to promote the recruitment and retention of women and people of color, which were in turn associated with better employment outcomes for those groups of workers.<sup>100</sup> The leaders of any organization or workplace therefore have an immensely important responsibility to set expectations about workplace culture that are conducive to all employees' well-being and equal opportunities.

Once this leadership is in place, well-designed trainings, internal enforcement processes, and other accountability mechanisms can play an important role in maintaining an organizational climate that clearly repudiates discrimination and sexual harassment. Both the existence of these policies and their details matter. Overall, while studies suggest that diversity and inclusion efforts within workplaces can make a difference, the extent of their impact is likely to depend on factors including whether leaders and institutions genuinely respect and commit to these ideals, whether adequate and sustained resources are allocated to implementation, and whether a given initiative provides pragmatic tools for reducing bias, rather than merely symbolic or superficial gestures. For example, past research in the United States has shown that women working for employers without sexual harassment policies experience higher rates of sexual harassment than those with policies; moreover, "proactive" approaches to preventing harassment (e.g., explicit complaint procedures and training programs) were found to be more effective than "informational" approaches (e.g., including sexual harassment in the employee handbook).<sup>101</sup> Similarly, efforts to establish organizational responsibility for increasing the managerial diversity of a given workplace have been found to be more effective than managerial trainings on diversity alone.<sup>102</sup> Moreover, while further research is needed across contexts to identify which employer practices are most likely to measurably reduce discrimination at work, an organization's public commitments to equal treatment can help shape norms to discourage the expression of biases in the workplace.<sup>103</sup>

In short, neither leadership nor policy adoption alone is enough. Both are needed to ensure that, in practice, the steps taken are effective at reducing harassment and instilling confidence in employees that any claims they do have will meet with a fair response. Importantly, laws can both influence the policies in place and help shape leadership priorities.

*What Steps Must Employers Take to Prevent Sexual Harassment?* Forty percent of countries require employers to prevent sexual harassment in the workplace. In 12 percent of countries, prevention is a general requirement, but legislation does not specify the particular steps employers need to take. In 28 percent of countries, however, legislation outlines specific measures to prevent sexual harassment,

including holding trainings, creating a code of conduct or outlining penalties for committing sexual harassment, raising awareness of sexual harassment laws, or devoting human resources to handling sexual harassment complaints. Laws containing specific employer requirements to prevent harassment are currently more common in high-income countries (40 percent) than in middle-income countries (24 percent) or low-income countries (15 percent).

Separately, laws may incentivize employers to take steps to prevent sexual harassment by holding them legally responsible for sexual harassment committed by employees at work. More than a third of countries (36 percent) have these types of provisions. For example, Macedonia's Law on the Prevention of the Harassment at work makes individual employees and their employers liable for damage caused by sexual harassment. Other countries, such as South Africa, hold employers vicariously liable unless they have taken steps to prevent harassment: "(3) If the employer fails to take the necessary steps referred to in subsection (2), and it is proved that the employee has contravened the relevant provision, the employer must be deemed also to have contravened that provision. (4) Despite subsection (3), an employer is not liable for the conduct of an employee if that employer is able to prove that it did all that was reasonably practicable to ensure that the employee would not act in contravention of this Act." While nearly half of high-income countries explicitly make employers legally responsible for sexual harassment at work, only 4 percent of low-income countries do. Similarly, while these provisions are somewhat common in Europe and Central Asia and the Americas, only 11 percent of countries in the Middle East and North Africa and 11 percent of countries in sub-Saharan Africa have explicit provisions making employers legally responsible.

Importantly, court cases demonstrate that these types of requirements matter for accountability. For example, in Costa Rica, a company urged a female employee to resign after she reported sexual harassment by her supervisor. When she went to court, the judge found that she had been sexually harassed and ruled that the employer had a responsibility to communicate sexual harassment policies, to take steps to ensure those policies were effective, and to protect whistleblowers, citing provisions of the labor code that required preventive measures.<sup>104</sup> The case also underscored the importance of vicarious liability: though the woman initially sued both the company and the individual who had harassed her, the Labor Court ruled that only her employer could be held liable and required to pay damages.

Meanwhile, in Australia, the Industrial Court ruled in a 1995 case that the dismissal of a truck driver who sexually harassed a woman working at a store where he was making a delivery was unjust because he had not been educated about sexual harassment. The court explained: "The broadening of the concept of sexual harassment . . . has cast a very wide net over conduct that heretofore

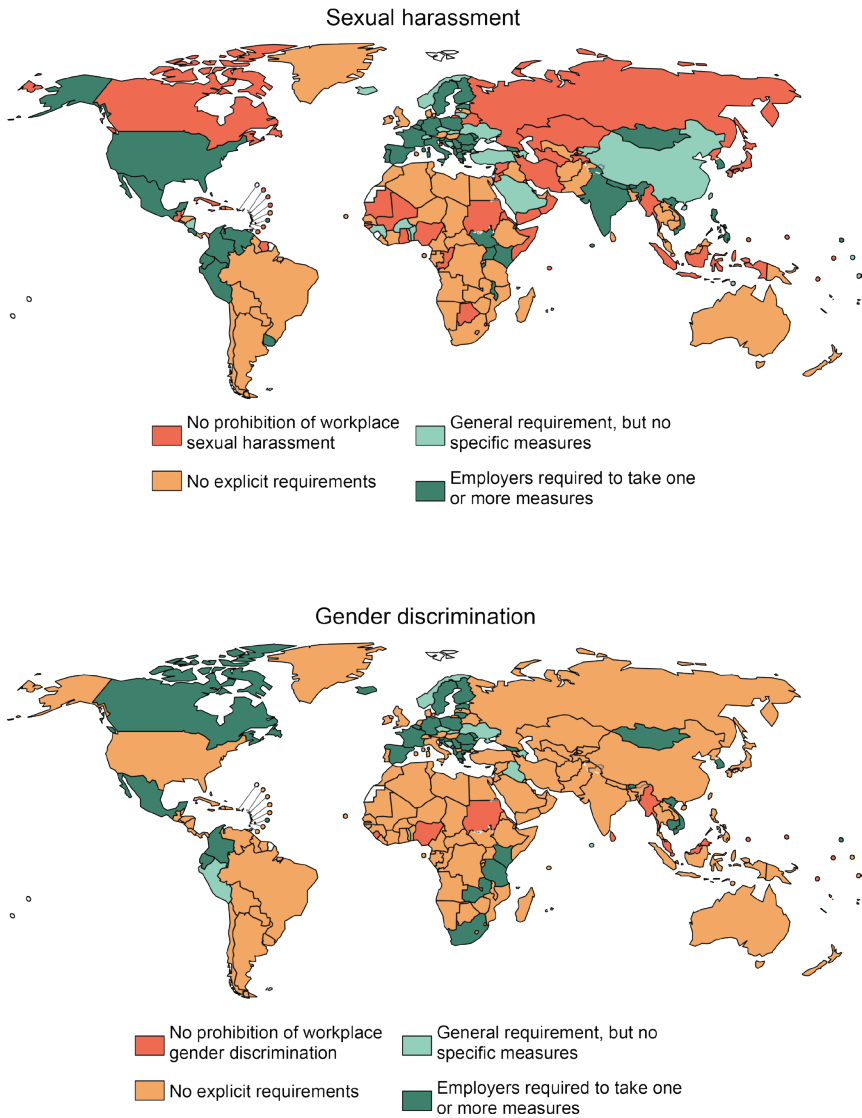


FIGURE 13. Are employers required to take steps to prevent workplace sexual harassment and gender discrimination?

was not unlawful. The failure of the respondent to bring to the applicant's attention, within its own workplace, his new obligations to avoid engaging in conduct that constitutes sexual harassment makes it harsh, in the context of his good service record, to terminate him for a single incident of this type."<sup>105</sup> In so doing, the court plainly indicated that employers have a responsibility to communicate sexual harassment policies clearly and comprehensively to their employees.<sup>106</sup>

*What Steps Must Employers Take to Prevent Discrimination?* Just a quarter of countries require employers to take steps to prevent gender discrimination in the workplace. In 5 percent of countries, this is a general requirement with no detail regarding particular actions, while in 20 percent of countries, employers are required to take specific steps to prevent discrimination. For example, Barbados requires employers to have a policy statement against discrimination that contains the following information:

a statement to the effect that the employer will make every reasonable effort to ensure that no employee is subjected to discrimination; a statement to the effect that the employer will take such disciplinary measures as the employer deems appropriate against any person under the employer's direction who subjects an employee to discrimination; a statement explaining how complaints of discrimination may be brought to the attention of the employer; . . . a statement informing employees of the provisions in this Act which give them a right to make a complaint where discrimination is committed against them and the relevant authority to whom the complaint may be made.

*Are All Private Employers Covered?* Critically, even when countries do require employers to take proactive steps to prevent gender discrimination and sexual harassment, exceptions built into the law often leave workers at certain employers uncovered. In particular, religious organizations and nonprofits are sometimes exempt from antidiscrimination laws that apply to other private employers. Altogether, discrimination laws in 12 percent of countries include exceptions for religious employers, while 3 percent do for nonprofits. These legal loopholes typically happen not by chance but as a result of extensive lobbying by the employers they affect.<sup>107</sup>

Moreover, exempt employers do indeed discriminate, and cases of religious organizations refusing admission or employment on the basis of sex, sexual orientation, race, and other characteristics have been documented across countries.<sup>108</sup> For example, a range of court cases in the United States have ruled that religious schools can validly discriminate against unmarried female employees who become pregnant, arguing that they are bad role models. The precedents established by these exemptions can even erode protections for workers in covered employment:

in *Chambers v. Omaha Girls Club*, a US federal district court ruled that a private, nonprofit organization—despite not being explicitly exempt—did not violate federal protections against sex, race, or marital status discrimination when it fired a twenty-two-year-old Black unmarried woman for getting pregnant. Citing cases involving religious employers, the court found that the organization’s policy of terminating unmarried pregnant employees was “a legitimate attempt by a private service organization to attack a significant problem within our society.”<sup>109</sup>

### *The Role of Labor Unions*

Like leadership within workplaces, leadership within labor unions can also play a powerful role in the extent to which sexual harassment and gender discrimination are addressed. Though unions have played a foundational role in strengthening labor rights legislation worldwide, they are affected by bias and discrimination just as other institutions are. Moreover, as with many membership-based organizations, they have often prioritized the interests of the majority at the expense of underrepresented groups.

Both factors contributed to the opposition of some early-twentieth-century unions, which were overwhelmingly male, to the expansion of women’s labor rights, as the entry of more women into the workforce was perceived as competition for “men’s” jobs. A more contemporary manifestation of this dynamic is the deprioritization of labor issues that are particularly important to women, such as paid leave and sexual harassment. These gaps are exacerbated by women’s underrepresentation in union leadership roles. Moreover, unions’ own policies may inadequately recognize and provide responses for discrimination and harassment, particularly when involving actions by one union member against another. Unions have also often prioritized seniority at the expense of increasing gender and intersectional equality. Examining these internal policies and practices and ensuring that gender and intersectional equality are sufficiently prioritized in governance and in the laws, policies, and practices that unions advocate for could powerfully support the realization of equal rights in the workforce.

### *The Role of Labor Commissions, Human Rights Commissions, and Other Independent Bodies*

Finally, labor commissions and human rights commissions have the potential to play an important role in creating safer and nondiscriminatory work environments by holding employers accountable.

First, these independent bodies can help raise awareness of discrimination and harassment at work and how to prevent it through education, awareness, and advocacy support. These efforts may broadly aim to reach the general public or take the form of more targeted approaches, including supporting employers who want to improve by identifying best practices and providing legal advice and support to

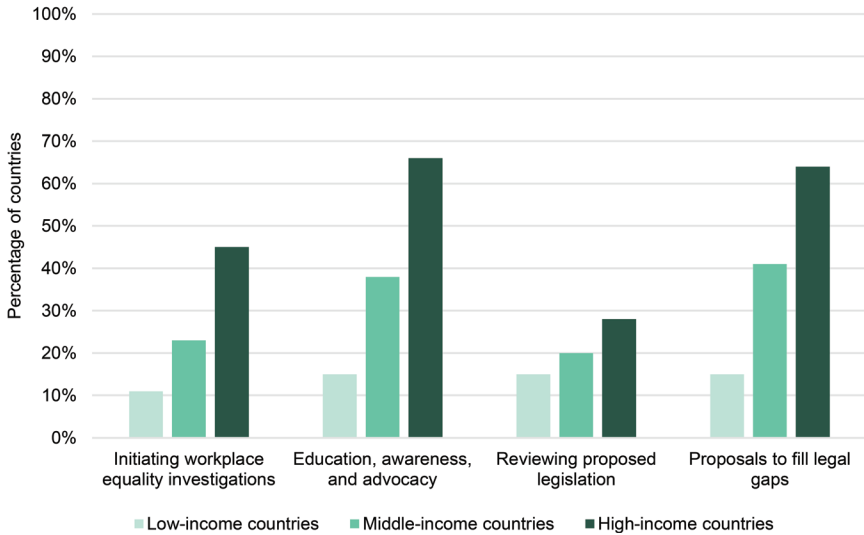


FIGURE 14. What responsibilities do independent bodies have for preventing workplace gender discrimination?

individuals whose rights have been violated. Forty-three percent of countries legally require an independent body to take on these roles, and an additional 20 percent of countries task independent bodies with at least some aspect of these roles.

Second, these independent bodies can help identify violations independently through data collection, monitoring, or routine or targeted investigations of workplaces even in the absence of a claim. Workplace investigations to ensure countries’ compliance with occupational health and safety laws or child labor laws are already commonly conducted by labor inspectorates in countries around the world. Ensuring there is dedicated staff monitoring compliance with discrimination and harassment provisions is critical to identifying and remedying violations in settings where workers may be hesitant to pursue claims on their own. Similarly, companies are already required to provide a significant amount of information to national governments about their finances and activities; requiring that they also submit sufficient information about workplace demographics, compensation across gender, race, and other statuses, and discrimination complaints would serve as a valuable tool for monitoring firms’ efforts to realize equal rights at work in practice. More than a quarter of countries (28 percent) have taken the important first step of making an independent body legally responsible for initiating investigations into gender discrimination or sexual harassment at work.

Third, independent bodies can help realize equal rights at work through systemic changes. As bodies responsible for supporting equality in employment and



investigating individual claims of discrimination or harassment, they are uniquely positioned to identify gaps in existing legislation. Forty-four percent of countries make independent bodies responsible for proposing new legislation, policies, or regulations to advance gender equality at work. An additional 13 percent task them with at least some aspect that may intersect with workplace gender equality, such as labor rights broadly or human rights generally. Additionally, these bodies have the potential to play an important role in advising government on the impact that legislation may have on workplace gender equality. More than a fifth of countries (22 percent) make these independent bodies responsible for reviewing proposed laws and policies for the impact that they're likely to have on gender equality at work.

#### BETTER DATA AND MONITORING TO REALIZE INTERNATIONAL TREATIES AND AGREEMENTS

Countries' proactive efforts to enforce discrimination laws and reduce barriers to accessing justice are critical in their own right—but they also play an important role in shaping whether governments are fulfilling their commitments under international treaties and agreements. Numerous widely adopted global instruments guarantee equal rights in employment, including:

- The Universal Declaration of Human Rights
- The International Convention on Economic, Social, and Cultural Rights
- The International Labour Organization (ILO)'s Discrimination (Employment and Occupation) Convention
- The Convention on the Elimination of All Forms of Discrimination against Women
- The Convention on the Elimination of All Forms of Racial Discrimination
- The Convention on the Rights of Persons with Disabilities
- The Beijing Declaration and Platform for Action
- The Sustainable Development Goals
- The ILO Violence and Harassment Convention

However, most international instruments' reporting mechanisms fall short of providing full accountability and transparency about the actions countries are taking to realize their guarantees in practice. Indeed, most international treaties only require that countries submit reports on their progress toward fulfilling treaty commitments every few years, and there are minimal repercussions for countries that fail to meet these deadlines. Moreover, the information that countries provide is often in the form of lengthy reports that do not facilitate an easy understanding of how a specific country's policies have changed over time or of how its policies compare to those of peer countries.

Both the global community and individual countries have important roles to play in realizing the promise of international treaties and agreements on discrimination and harassment at work. First, regularly collecting quantitative policy data on all 193 countries can help provide globally comparative, readily understandable information about progress and gaps in key areas of law. Second, more robust infrastructure around implementation and enforcement at the national level—including, for example, permanent national monitoring bodies provided for in law—can confirm that detailed information about laws’ implementation is being regularly collected and made publicly available.

TABLE 4 Legal approaches to access to justice for workplace gender discrimination and sexual harassment, by country income level

	Low-income countries	Middle-income countries	High-income countries
<i>Are there independent monitoring bodies that handle complaints of workplace gender discrimination, sexual harassment, and inability to use paid parental leave?</i>			
No complaint mechanism	6 (22%)	12 (11%)	9 (16%)
Only for one area	1 (4%)	8 (7%)	1 (2%)
Only for two areas	7 (26%)	32 (30%)	12 (21%)
Yes, for all three areas	13 (48%)	56 (52%)	36 (62%)
<i>What remedies are available through the independent body for individuals who experience workplace sexual harassment?</i>			
No prohibition of workplace sexual harassment	9 (35%)	26 (24%)	11 (19%)
No independent complaint mechanism for individuals	4 (15%)	22 (20%)	15 (26%)
No explicit remedies	8 (31%)	28 (26%)	5 (9%)
Re-employment only	0 (0%)	1 (1%)	0 (0%)
Some form of monetary compensation	5 (19%)	31 (29%)	27 (47%)
<i>What remedies are available through the independent body for individuals who experience workplace gender discrimination?</i>			
No prohibition of workplace gender discrimination	3 (11%)	7 (7%)	4 (7%)
No independent complaint mechanism for individuals	5 (19%)	13 (12%)	10 (17%)
No explicit remedies	7 (26%)	37 (35%)	12 (21%)
Re-employment only	1 (4%)	0 (0%)	1 (2%)
Some form of monetary compensation	11 (41%)	50 (47%)	31 (53%)
<i>Can the independent body impose penalties in workplace sexual harassment settlements?</i>			
No prohibition of workplace sexual harassment	9 (35%)	26 (24%)	11 (19%)
No independent complaint mechanism for individuals	4 (15%)	22 (21%)	15 (26%)

(contd.)

TABLE 4 (continued)

	Low-income countries	Middle-income countries	High-income countries
No explicit penalties	6 (23%)	22 (21%)	11 (19%)
Explicit penalties	7 (27%)	37 (35%)	21 (36%)
<i>Can the independent body impose penalties in workplace gender discrimination settlements?</i>			
No prohibition of workplace gender discrimination	3 (12%)	7 (7%)	4 (7%)
No independent complaint mechanism for individuals	5 (19%)	13 (12%)	10 (17%)
No explicit penalties	5 (19%)	36 (34%)	13 (22%)
Explicit penalties	13 (50%)	50 (47%)	31 (53%)
<i>What types of retaliation are prohibited for reporting gender discrimination at work?</i>			
No explicit prohibition of gender discrimination at work	2 (7%)	7 (6%)	4 (7%)
No prohibition of retaliation	11 (41%)	36 (33%)	8 (14%)
Only dismissal	9 (33%)	14 (13%)	4 (7%)
Harassment or disciplinary action	1 (4%)	9 (8%)	0 (0%)
Any adverse action	4 (15%)	42 (39%)	42 (72%)
<i>Is retaliation prohibited for participating in workplace investigations of gender discrimination?</i>			
No explicit prohibition of gender discrimination at work	2 (7%)	7 (6%)	4 (7%)
No prohibition of retaliation	11 (41%)	36 (33%)	8 (14%)
Only individuals who report	3 (11%)	26 (24%)	10 (17%)
Explicit coverage for workers participating in investigation	10 (37%)	39 (36%)	35 (60%)
Coverage not specified	1 (4%)	0 (0%)	1 (2%)
<i>Is retaliation prohibited for participating in workplace investigations of sexual harassment?</i>			
No explicit prohibition of sexual harassment at work	9 (35%)	28 (26%)	13 (22%)
No prohibition of retaliation	4 (15%)	31 (29%)	4 (7%)
Only individuals who report	3 (12%)	17 (16%)	7 (12%)
Explicit coverage for workers participating in investigation	9 (35%)	32 (30%)	33 (57%)
Coverage not specified	1 (4%)	0 (0%)	1 (2%)
<i>What types of retaliation are prohibited for reporting sexual harassment at work?</i>			
No explicit prohibition of sexual harassment at work	9 (35%)	28 (26%)	13 (22%)
No prohibition of retaliation	4 (15%)	31 (29%)	4 (7%)
Only dismissal	4 (15%)	4 (4%)	2 (3%)
Harassment or disciplinary action	1 (4%)	5 (5%)	1 (2%)
Any adverse action	8 (31%)	40 (37%)	38 (66%)

TABLE 4 (continued)

	Low-income countries	Middle-income countries	High-income countries
<i>Are employers required to take steps to prevent sexual harassment in the workplace?</i>			
Sexual harassment not prohibited	9 (35%)	28 (26%)	13 (22%)
No requirements	10 (38%)	41 (38%)	14 (24%)
General requirement, but no specific measures	3 (12%)	13 (12%)	8 (14%)
Employers required to take one or more of the specific measures	4 (15%)	26 (24%)	23 (40%)
<i>Can employers be held legally responsible for sexual harassment at work?</i>			
No explicit prohibition of sexual harassment at work	9 (35%)	28 (26%)	13 (22%)
No explicit legal responsibility	16 (62%)	39 (36%)	18 (31%)
Employers can be held legally responsible	1 (4%)	41 (38%)	27 (47%)
<i>Are employers required to take steps to prevent gender discrimination in the workplace?</i>			
No explicit prohibition of gender discrimination at work	2 (7%)	7 (6%)	4 (7%)
No explicit requirements	24 (89%)	75 (69%)	33 (57%)
General requirement, but no specific measures	1 (4%)	6 (6%)	3 (5%)
Employers required to take one or more of the specific measures	0 (0%)	20 (19%)	18 (31%)

### CONCLUSION

Taking effective steps to enforce antidiscrimination and sexual harassment laws is fundamental to their reach and impacts. While existing evidence suggests that no single enforcement strategy may be enough on its own, adopting a range of strategies together can support better realization of rights. Employer obligations to prevent discrimination and harassment, alongside effective leadership, can shape work environments to reduce the incidence of discriminatory conduct; it is essential these requirements cover all employers. Legal aid can help ensure that access to the courts is available to women regardless of socioeconomic status, provided it is adequately funded. Collective legal actions can help workers realize structural change while improving judicial efficiency and lowering the burden on individual employees. Alternative dispute resolution can provide quicker and less expensive access to justice, so long as remedies are adequate and going to court remains an option.

At the same time, while this chapter has sought to highlight promising approaches, far more research is needed on a country level to rigorously evaluate what works to fully realize antidiscrimination and sexual harassment laws. Most existing studies focus on policies and practices within individual companies rather than on what approaches are most effective at the national level. To achieve change at scale, more extensive evidence about country-level changes will be important.

Nevertheless, some elements of effective national approaches are clear. For example, it almost goes without saying that workers would prefer not to experience sexual harassment or discrimination in the first place rather than seek remedies after the fact, and national policies should thus provide a framework for prevention. It's also clear that full realization of nondiscrimination will require strong leadership by employers and by labor. Moreover, the expectations that discrimination and harassment will not be tolerated, and that effective remedies will be available when discrimination occurs, should be embedded in the national laws of every country, even as ongoing research will enable us to understand the best approaches to implementation.

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## How Laws and Policies Reinforce Inequality in Caring for Children

Among women who gave birth in Iceland in 1997, just over half were back at work thirteen months later. For men who became fathers the same year, however, work hours steadily increased.<sup>1</sup>

At the time, Iceland provided three months of paid leave to new parents, which was paid at a low flat rate. The first month was reserved for the mother, but the latter two could theoretically be taken by either parent. However, no leave was specifically designated for fathers, and men could access the shared parental leave only with the mother's approval. Between 1993 and 1998, just 0.3 percent as many men as women received paid parental leave payments from the country's social security office. Each year, the total number of fathers accessing leave nationwide ranged from a mere eight to seventeen.<sup>2</sup>

The turn of the century brought a dramatic change. In 2000, parliament passed a new law extending paid parental leave to nine months per household. Most critically, the law reserved three months for each parent, which could not be transferred to the other. In other words, for the first time, fathers had a substantial period of leave earmarked exclusively for their use. Further, the legislation significantly increased the wage replacement rate, making it more affordable for both parents to take leave.

The effects were immediate. In 2001, for every 100 mothers who applied for parental leave, so did eighty-two fathers—a dramatic shift from mothers' near-exclusive use of leave a few years prior. Still, norms weren't fully overhauled overnight: on average, fathers took only thirty-nine days compared to mothers' 186; relatively few men were taking the full three reserved months at first. Within a few years, however, this gap markedly narrowed, with fathers taking over half as many days as mothers (ninety-six compared to 182) by 2004.

In the decades since, Iceland has built on the success of this model, making gender equality a cornerstone of its approach to supporting parents. As of 2021,

mothers and fathers each get six months of leave following the birth or adoption of a child, only one month of which can be transferred to the other parent if they wish. During leave, parents receive 80 percent of their usual wages. Despite some periods of economic instability in the years since Iceland first began reserving parental leave for men, fathers' take-up has remained high. As of 2017, 86 percent of new fathers in Iceland took leave, averaging ninety-one total days compared to mothers' 180.<sup>3</sup>

Higher take-up of leave by men has in turn helped narrow gender gaps at home and at work. A series of surveys of Icelandic parents whose first children were born in 1997, 2003, and 2009 revealed a steady increase in equitable caregiving alongside the new parental leave policy's rollout. Among parents who had their first child in 1997—before the new leave law was enacted—89 percent reported that the mother primarily cared for the child during the day for their first month of life, while just 10 percent said that care was shared equally. In contrast, for firstborns born in 2003, 34 percent of households reported that mothers and fathers shared care equally during the first month. And critically, greater equality in caregiving continued after the newborn stage: 59 percent of families whose first child was born in 2009 reported that care was shared equally by the time the child turned three, compared to just 49 percent of those born in 2003 and 36 percent of those born in 1997.<sup>4</sup> Ensuring babies and toddlers have adequate time with both their parents can influence lifelong bonds and relationships. Meanwhile, a 2010 study found that more women started working full-time and fewer were working part-time after the law was passed; at the same time, slightly more men began working part-time.<sup>5</sup> Further, between 1991 and 2005, the gender gap in labor force participation narrowed by 5 percentage points.

Iceland's example illustrates how countries' approaches to supporting infant caregiving can directly and substantially affect men's ability to engage fully at home as well as women's opportunities in the economy. Decisions about family caregiving are deeply shaped by norms, but they are also shaped by laws; moreover, laws themselves directly influence norms and cultural expectations.

As this chapter explores, however, Iceland is at the vanguard—and many countries have yet to take the first step of providing any leave to men. This gender inequality in paid leave pushes men and women toward unequal roles at home, with cascading consequences for equality at work and long-term engagement in caregiving. In the workforce, when public- and private-sector policies and practices provide support for caregiving by women only, women are penalized. Women face discrimination from employers who presume that they are more likely than their male colleagues to take time off to care for a child.

And while leave is one key element, early childhood care and education are equally critical: across many countries, when childcare is unavailable or unaffordable, women disproportionately leave the workforce. These departures not only undermine gender equality in the labor market but also widen inequalities based

on socioeconomic status, as those families with fewer economic resources are least likely to be able to pay for nonfamily care. Further, when inaccessible childcare pushes mothers to leave the workforce, their families' risk of falling into poverty increases; past research has shown that households with a single male breadwinner are more vulnerable to economic shocks than families in which both parents work for pay.<sup>6</sup>

In this chapter we survey the landscape of what countries are doing and examine how different policy choices shape gender equality in the economy and caregiving. For example, how many countries guarantee paid leave to both new mothers and new fathers? Are these policies equally available to all types of workers and all types of families? What are the consequences for gender equality in paid work when countries fail to provide leave? How can countries design paid leave policies to actively support greater gender equality at home and at work? And finally, what steps are countries taking to ensure childcare and early childhood education are available to everyone, and what are the impacts on families and workplaces?

PAID LEAVE FOR INFANT CAREGIVING  
BY ALL PARENTS: WHY IT MATTERS  
FOR GENDER EQUALITY AND BEYOND

Most countries around the world have adopted at least one approach to providing paid leave when families are welcoming a new baby. Leave that is available only to one parent is often described using the following terms: (1) *maternity leave*, or leave that is exclusively available to the mother; (2) *paternity leave*, which is leave that is designated for fathers; and (3) *partner leave*, which is leave available to the birth mother's spouse or partner. In addition, some countries also offer *parental leave* or *childcare leave*. *Parental leave* is used to describe many different types of approaches. In some countries, it refers to a shared leave entitlement that either parent can use. In others, it is used to describe longer gender-neutral entitlements to paid leave that are separately available to each parent. Some countries also use it holistically to describe all leave available after the birth or adoption of a child, encompassing leave separately reserved for mothers and fathers, as well as the shared entitlement. *Childcare leave* generally refers to leave available after the first year of life to care for children. It can be lengthy, enabling parents to stay home until their child is age two or three, or just a few days a year to meet care needs beyond infancy. In this chapter, we'll be focused on lengthier leaves. Many countries provide more than one type of leave—for example, by guaranteeing a period of maternity leave to support a birth mother's health before and after birth and the establishment of breastfeeding, alongside separate periods of parental and paternity leave to support infant care and bonding by all parents.

Over the past 100 years, advocates, international organizations, policy makers, and researchers have all played a role in shaping the development of leave policies across countries. At the same time, evolving norms, beliefs, and evidence about gender, work, and care have made approaches to infant caregiving a dynamic area of policy that has seen—and continues to see—significant changes across countries, as Iceland's example suggests.

What were the key victories and missed opportunities? In enacting paid leave for new parents, what goals were advocates and policy makers seeking to advance, and how well did those policies advance those goals? And what does the current body of evidence on leave tell us about the benefits for everyone of supporting all parents in accessing and providing the best care they can?

*Advancing Paid Leave: Benefits for Women's Employment Outcomes*

One of the primary benefits of paid leave for new parents is its impacts on women's ability to remain in the workforce. This rationale shaped some of the earliest efforts to advance maternity leave as well as more recent efforts to advance paternity or parental leave. For example, at the International Congress of Working Women (ICWW), which convened 200 women from nineteen countries to identify priorities for the newly formed International Labour Organization (ILO) in 1919,<sup>7</sup> paid maternity leave was one central topic of debate at a time when many women were fired or banned from jobs once married or pregnant. Drawing inspiration from the existing maternity leave policies in a minority of countries, ICWW delegates agreed that women should have a period of paid time off from work to recover from childbirth and care for their newborns, along with breastfeeding breaks and childcare close to their workplaces.<sup>8</sup> The set of recommendations ultimately influenced international law: later that year, the ILO adopted the Maternity Protection Convention, which established the right to six weeks of paid, job-protected maternity leave as well as paid breastfeeding breaks for working mothers. In 1952, the Convention was revised to increase the minimum standard for maternity leave to twelve weeks; in 2000, the standard was once again extended, to fourteen weeks. The 2000 Convention further established that maternity leave should be paid at a minimum of two-thirds of regular wages.

In what would come as no surprise to the ICWW delegates, research over the past several decades has confirmed that a key benefit of maternity leave is its support for women's labor force attachment. For example, one study of 117 countries found that women ages twenty-five to fifty-five are more likely to participate in the labor force when paid maternity leave of moderate length is available.<sup>9</sup> Further, job-protected paid leave makes it more likely that women will return to the same workplace. For example, a 1999 analysis found that women's access to paid maternity leave in Britain and paid maternity and/or parental leave in Japan made it more likely that women returned to the same employer;<sup>10</sup> in this way, women's

access to leave not only supports their individual employment outcomes but also reduces employers' turnover costs.<sup>11</sup> In contrast, in the United States, research demonstrated that having a baby significantly increased the odds of job loss in the absence of paid leave.<sup>12</sup>

Some evidence also suggests impacts on wages: a 1998 study found that women's access to maternity leave either through their employers (in the United States) or through a national policy (in the United Kingdom) was associated with higher wages for up to five years after childbirth for women who returned to work after their children were born.<sup>13</sup> However, the duration of leave taken by women may influence its effects on work outcomes. Some studies suggest that particularly long leaves—for example, a year or more—may be negatively associated with women's earnings.<sup>14</sup>

This finding underscores the need for leave policies that support and encourage men's take-up, thereby allowing both parents to take a moderate period of leave while maintaining their careers. Yet although protections for maternity leave date back over a century, only more recently have countries begun to make paid leave available to fathers through either paternity leave or parental leave. In Brazil, for example, the legislature enacted a single day of paid leave specifically for new fathers in 1943, which was expanded to five days in 1988.<sup>15</sup> Parental leave came later; worldwide, it was not enacted at the national level until 1974, when Sweden became the first country to provide leave that was longer than the available paternity leaves at the time and could be taken by either the mother or the father.<sup>16</sup>

In many countries, the introduction and expansion of both parental and paternity leave followed calls to facilitate men's greater involvement in caregiving in order to support women's equal economic opportunities. For example, Denmark advanced paternity and parental leave on the assumption that facilitating more equal parenting would make it more likely that women could return to work.<sup>17</sup>

These predictions have been borne out by the data: like research on maternity leave, studies of paternity and parental leave have found benefits for women's employment, particularly when a portion of the leave is reserved for fathers and is nontransferable. In Norway, the introduction of a ten-week fathers' quota, alongside affordable childcare, increased women's labor force attachment.<sup>18</sup> In California, two studies found that the introduction of an individual entitlement to paid parental leave for each parent was associated with increased wages and working hours for mothers with young children.<sup>19</sup> In Sweden, where sixty days of the parental leave were exclusively reserved for fathers beginning in 2002, a 2010 paper found that for each month of parental leave taken by her partner, a woman's subsequent earnings increased by nearly 7 percent.<sup>20</sup> In Spain, the introduction of thirteen days of paternity leave increased mothers' probability of reemployment

following childbirth by 11 percent.<sup>21</sup> Additionally, evidence suggests that policies specifically designed to increase men's take-up of leave—whether father-specific leave or incentives for fathers to take leave—lead to improvements in attitudes toward women in the workplace.<sup>22</sup>

Further rigorous research is needed to examine the effects of paid maternity, parental, and paternity leave on women's economic outcomes in low- and middle-income countries (LMICs); to date, most studies have focused on high-income contexts. What is already clear, however, is that when women are able to stay in the workforce, entire economies benefit. One estimate found that equalizing labor force participation rates among men and women would add \$12 trillion to the global economy over a decade.<sup>23</sup> Among countries that have provided paid maternity and/or parental leave for the past few decades, rates of female employment have boosted GDP per capita growth by 10–20 percent.<sup>24</sup>

While the demonstrated benefits of paid leave for women's economic outcomes are substantial, the absence of supportive policies can worsen inequalities. Indeed, one common economic consequence of failing to provide leave is that mothers depart the labor force—temporarily or permanently. For example, in the United States, recent estimates indicate that nearly a third of women quit their jobs after having a child,<sup>25</sup> and economists have identified the lack of “family-friendly” policies, such as paid leave, as one reason women's labor force participation in the United States has stagnated compared to its peers.<sup>26</sup> In the aggregate, these decisions to leave the workforce—which often aren't truly choices at all, but the only option available—have significant consequences for the gender pay gap, women's representation in leadership positions, and families' financial resilience. For example, across the Organisation for Economic Co-operation and Development (OECD), the average pay gap between men and women without children is 7 percent; for those with children, it's 22 percent.<sup>27</sup>

Further, when leave is inaccessible or available only to women, employers commonly discriminate against women of childbearing age, presuming that they and they alone will take leave for caregiving.<sup>28</sup> These same stereotypes can also result in discrimination against men who (unexpectedly) choose to take leave, especially if that leave is for a longer duration. As one example, in the United States, hundreds of fathers working at JPMorgan brought a class action lawsuit after being denied access to the company's sixteen-week parental leave policy, based on the presumption they were not the “primary caregivers” for their babies and therefore ineligible under the terms of the policy.<sup>29</sup> After months of litigation, the fathers won a record \$5 million settlement. For Derek Rotondo, one of the men who brought the case, the ruling was an important step toward “get[ting] rid of some of these stereotypes where it's the woman's job to have babies and cook and the man gets back to work and pays the bills. That doesn't work for everyone; it's not the century that we live in.”<sup>30</sup>



*Advancing Gender Equality at Home: Benefits of Men's  
Engaged Fatherhood*

As the JPMorgan example suggests, a second major benefit of paid leave is its support of greater gender equality at home. Providing paid leave to men can enable fathers to engage more deeply in caregiving and facilitate more equal roles between parents. And beyond the intrinsic benefits for men, supporting fathers' greater involvement with their children can have indirect benefits for women's economic outcomes, as more equitable distribution of household work can enable women to devote more time to their careers.

Advocates and lawmakers have explicitly noted the importance of paid leave in supporting men's engagement as fathers. In France, a 2002 extension of the duration of paid paternity leave from three days to fourteen days aimed to advance a new norm of "involved fatherhood."<sup>31</sup> In Iceland, advocates as far back as 1975 called attention to how even a brief period of father-specific leave could support bonding and make a powerful difference for families during the newborn stage:

It is essential that fathers get a 1–2 week leave from work when a child is born. Women cannot be expected to tend to a newborn child, and perhaps more children, a week after giving birth. They need longer rest. Additionally, it is very important to strengthen the relationship between father and child and that the relationship is established as early as possible.<sup>32</sup>

Surveys show that men want to take on a greater role at home. According to the 2019 *State of the World's Fathers* report, 85 percent of fathers across the seven countries surveyed—Argentina, Brazil, Canada, Japan, the Netherlands, the United States, and the United Kingdom—reported that they would "do anything" to be "very involved in the early weeks and months of caring for their newly born or adopted child."<sup>33</sup>

Further, as with studies confirming the anticipated benefits of maternity leave, recent research has empirically demonstrated that paid leave for fathers does indeed support their greater involvement in caregiving both initially and later in the child's life.<sup>34</sup> For example, in Quebec, the introduction of two months' parental leave reserved for fathers led to men spending 2.2 additional hours each week providing care for their children on their own.<sup>35</sup> Likewise, leave for fathers supports more equal distribution of other household work. For example, in Norway, after the introduction of a four-week quota of parental leave for new fathers, families were 50 percent more likely to report that they equally shared responsibilities for doing the laundry, and 11 percent less likely to report having conflicts about the division of household work.<sup>36</sup> In contrast, when women alone take long periods of leave, gender equality in household work declines.<sup>37</sup>

Moreover, studies have found that when fathers take leave alone—that is, not concurrently with the mother—they have an even greater opportunity to bond

with their child and develop a pattern of greater participation in caregiving. A qualitative study of Quebec fathers found that those who took at least one month of parental leave by themselves reported developing strong bonds with their babies and greater confidence as parents. Likewise, the fathers noted the economic benefits for their partners.<sup>38</sup>

However, all of these benefits occur only if men are able to take the leave available to them. Men's leave-taking may be limited in the context of gender-unequal norms, workplaces that pressure male employees to have their female partners use the available parental leave, and poorly paid leave. Simply making leave available to men is rarely enough. In Sweden, men used less than 10 percent of the total parental leave days available until the 1990s.<sup>39</sup> Worse yet, in Israel, where under the 1997 parental leave policy men are eligible for leave only if the mother forfeits it, just 246 men took any paid parental leave in 2007, compared to 88,147 women.<sup>40</sup>

In contrast, paternity leave, which is clearly designated for men, or "use it or lose it" leave has been more successful. In Spain, for instance, a 2007 law introducing two weeks' paid paternity leave substantially boosted fathers' take-up of leave.<sup>41</sup> Similarly, when South Korea introduced one year of nontransferable leave for each parent in 2007, the share of men taking leave increased threefold.<sup>42</sup> After Sweden supplemented its parental leave policy with a two-week quota for fathers in 1995, leave-taking by men soared: just 46 percent of fathers whose babies were born two weeks before the policy change took parental leave, compared to 82 percent of those whose babies were born in the two weeks after the quota was introduced.<sup>43</sup>

The wage replacement rate also matters. Due to global gender pay gaps, men remain more likely than women to have higher earnings across countries. As a result, a low wage replacement rate can deter men from taking leave since it would result in a greater drop in household income, which contributes to men's low take-up of "gender-neutral" parental leave. A study from Luxembourg, for example, found that the higher the father's income relative to the mother's, the less likely he was to take leave.<sup>44</sup> Meanwhile, in Germany, fathers who earned less than their partners were more than three times as likely to take paid leave as fathers whose income was similar to their partners.<sup>45</sup>

A higher wage replacement rate can lead to higher participation by men. For example, in Sweden, a study found that parents took 92 percent of available leave days that were paid at 80 percent or more of regular earnings, and just 69 percent of days paid at a low flat rate.<sup>46</sup> Altogether, studies suggest that replacing at least 67 percent of regular earnings is important to ensure modest take-up by men, while replacing 80–100 percent is necessary for widespread take-up.<sup>47</sup>

Similarly, some leave policies provide a household with additional leave or a financial incentive as a "bonus" if both parents share the available leave. This approach has also been found to support greater gender equality in leave-taking. This was what happened in Germany: within the first seven years that a two-month

bonus was offered if fathers took at least two months of the shared parental leave, the proportion of German fathers taking leave grew nearly tenfold.<sup>48</sup>

And importantly, emerging evidence suggests these policies can also influence norms about gender and work. In a recent study of nine European countries undertaken with colleagues, we measured whether attitudes toward women's work improved in countries that adopted new policies incentivizing fathers to take parental leave or providing at least two weeks of paid paternity leave, compared to countries without equivalent policy changes. Merging our data on leave policies globally with World Values Survey data on social attitudes, we found that in countries that adopted more supportive paternal leave policies, women and men were 27 percent more likely to disagree with the statement, "When jobs are scarce, men have more right to a job than women."<sup>49</sup>

These types of positive impacts have been recognized by policy makers. For example, in a 2010 directive that is binding on all EU members, the European parliament called on all countries to adopt a month of nontransferable parental leave for fathers. In 2019, the European Union revised, lengthened, and strengthened this directive and underscored men's low take-up of transferable parental leave:

As most fathers do not avail themselves of their right to parental leave, or transfer a considerable proportion of their leave entitlement to mothers, this Directive extends from one to two months the minimum period of parental leave which cannot be transferred from one parent to the other in order to encourage fathers to take parental leave, while maintaining the right of each parent to take at least four months of parental leave.<sup>50</sup>

At the international level, however, leadership on paternity and parental leave has been lacking. Though the ILO maternity convention is now over 100 years old, the organization has yet to adopt or seriously consider a paternity convention, despite its stated commitments to gender equality and equal rights at work for all. In 1981, the ILO adopted the Workers with Family Responsibilities Convention, which broadly alludes to policies to support working parents but makes no explicit mention of paid leave. Similarly, the Maternity Leave Recommendation—a non-binding guidance document adopted alongside the 2000 convention—vaguely supports the adoption of leave that can be shared between parents, but does not specifically encourage the adoption of father-specific leave except in cases where the mother dies during her own leave.<sup>51</sup>

This lack of a global standard and the absence of a clear statement from the ILO about why paid leave for both parents is essential represent a missed opportunity.<sup>52</sup> The global recognition of particular labor standards can be an important step toward creating norms that shape working conditions across countries. The relative silence on paternity and parental leave by the ILO, compared to the three conventions on maternity leave, serves to reinforce the idea that caring for

children is primarily the responsibility of individual women, rather than a fundamental need that every country should seek to integrate with the employment conditions of all its workers, regardless of gender.

*Improving the Well-Being of Families and Societies:  
Broader Benefits for Health*

Finally, beyond its positive impacts on gender equality at work and at home, paid leave for new parents has a range of benefits for infants' and parents' health and children's development and education.<sup>53</sup> For example, a study of sixteen high-income European countries, the United States, and Japan found that an increase in paid leave of ten weeks was associated with reduced infant mortality by 2 percent and postneonatal mortality by 4 percent.<sup>54</sup> One mechanism for improving health is that with paid time off, it's easier for parents to take their babies to get immunizations and other postnatal care.<sup>55</sup> In Japan, for instance, children of mothers who took parental leave are much more likely to be up to date on vaccinations at thirty-six months than children of other mothers who returned to work but did not take leave.<sup>56</sup>

A second mechanism is that women who can take time off from work are more likely to begin and continue breastfeeding, which studies have shown to be one of the most powerful infant health interventions. Specifically, breastfeeding is associated with lower rates of respiratory diseases, diarrhea, and malnutrition—all leading causes of death of young children. A study focused on the United States found that expanding breastfeeding could prevent as many as 720 postneonatal deaths annually.<sup>57</sup> Moreover, breastfeeding has marked benefits for women's health: women who breastfeed have lower rates of breast cancer later in life, with some research also suggesting reduced risks of ovarian cancer, heart disease, and osteoporosis.<sup>58</sup> Breastfeeding also makes it easier to space out births, reducing rates of maternal mortality and morbidity.<sup>59</sup>

While many women want to breastfeed longer, returning to work is one of the primary reasons for weaning, especially for mothers without pumping and milk storage options at their workplace. Because of this, extending paid leave can make a powerful difference. For example, in Canada, the expansion of paid maternity and parental leave in 2001, which doubled households' total allotment from twenty-five to fifty weeks, increased the share of women exclusively breastfeeding for six months by nearly 40 percent compared to prior to the reform. Additionally, the expansion decreased the proportion of women who reported that they stopped breastfeeding due to work by nearly half.<sup>60</sup>

Historically, however, rigorous evidence on whether paid leave laws have similar effects in lower-income countries has been lacking. This is true even though the potential impact has been known to be large. Because of working conditions and other barriers, just 44 percent of infants worldwide are exclusively breastfed

for the first six months, as recommended by the World Health Organization.<sup>61</sup> According to a 2016 study in *The Lancet*, achieving exclusive breastfeeding for all babies under six months could reduce deaths of children under five globally by around 823,000 per year.<sup>62</sup>

Over the past decade, together with colleagues, researchers at our center have undertaken a series of quasi-experimental studies to understand whether policies such as paid maternal leave make a difference for infant health across countries at all income levels. The type of globally comparative policy data included in this book has been essential to making these studies possible; by measuring how changes in laws drive changes in outcomes across countries over time, while controlling for other factors that can influence outcomes, we can rigorously evaluate policy impacts across diverse settings, finding common solutions for major challenges that affect low- and high-resource countries alike. Identifying “what works” to strengthen health and economic outcomes not just in high-income countries but globally is central to our collective commitments to realize the Sustainable Development Goals and improve conditions for all.

One of our first studies to take this approach focused on infant mortality. Though paid maternity leave had previously been found to reduce mortality rates across the OECD, there were valid reasons to question whether it would have the same effects in lower-income countries, where a greater share of women are in the informal economy and fewer resources may be available for policy implementation. Using a sample of twenty LMICs, we merged longitudinal policy data on changes in the duration of paid maternity leave in each country between 2000 and 2007 with data on 300,000 live births that took place within the same period, collected through the Demographic and Health Surveys. We found that for each one-month increase in paid maternity leave, infant deaths dropped by 13 percent, controlling for a wide range of other factors, including GDP per capita, female labor force participation, per capita total health expenditure, and per capita government health expenditure. Notably, the reductions in infant deaths were concentrated in the postneonatal period (twenty-eight days to one year of age), when the expanded leave policies would have had the greatest effects on mothers’ ability to provide care.<sup>63</sup> These findings made clear that maternity leave could have powerful positive impacts on infant health across widely varying economies.

We applied similar methods to understand the particular mechanisms by which paid leave improves infant health in LMICs, with separate studies focused on immunization rates, breastfeeding, and nutrition. For example, in a collaborative study of twenty LMICs, we found that extending paid maternity leave increased the likelihood that a child would receive all three doses of the diphtheria, tetanus, and pertussis vaccine, which are typically administered at

clinics every four weeks beginning at six weeks of age.<sup>64</sup> Interestingly, the study did not find that longer maternity leave influenced the polio vaccine, which is often available through clinics and at other settings beyond work hours since it has been the target of national campaigns. These findings suggest that the reason maternity leave is associated with higher vaccination rates is that parents are able to take their infants to the clinic to get their shots without missing work. Given that twenty-three million children under the age of one are missing basic, life-saving vaccinations, this study underscores the critical importance of paid leave for improving health outcomes and creating the foundation for equal opportunity worldwide.<sup>65</sup>

Similarly, a study of thirty-eight LMICs led by a doctoral student at our center demonstrated that each additional month of paid maternity leave was associated with a nearly 6 percentage-point increase in exclusive breastfeeding.<sup>66</sup> This may help explain the impacts on infant nutrition: a follow-up study led by the same researcher, focused on forty LMICs, found that each one-month extension of paid maternity leave reduced the incidence of bloody diarrhea in children under five by 36 percent, again controlling for factors like GDP, government health expenditures, and female labor force participation and unemployment rates.<sup>67</sup> As noted earlier, breastfeeding is associated with significantly lower rates of diarrheal disease throughout childhood.

Evidence from across countries shows that fathers' nurturing engagement with their children—which is facilitated by paid leave—can have significant benefits for their emotional and cognitive development.<sup>68</sup> Moreover, some research has demonstrated that leave for fathers can make a difference in breastfeeding, as having support from a partner can support new mothers in establishing and continuing breastfeeding. In Sweden, a study involving fathers of over 50,000 infants found that those infants whose fathers took parental leave during their first year of life were significantly more likely to be breastfeeding at both two and six months.<sup>69</sup> In LMICs, paid paternity and parental leave may have similar effects if they were extended, but the very short duration of current paternity leave policies makes it infeasible to use quasi-experimental approaches to study the impact of multi-month paternity leave in low-income settings.

Paid leave for both parents has been associated with improvements in mothers' mental health,<sup>70</sup> with cross-cutting benefits for children's care and women's ability to return to work. For example, in Sweden, a policy change that increased the number of parental leave days that fathers and mothers could take concurrently, from ten days to forty, reduced mothers' anxiety as well as risks of postpartum physical complications.<sup>71</sup> Impacts can also be long-lasting: a longitudinal study of eight European countries found that more generous maternity leave at the time of a woman's first birth reduced her likelihood of depression later in life.<sup>72</sup>

PAID PARENTAL LEAVE: EFFECTIVE AND INCLUSIVE  
POLICY DESIGN AND WHERE THE WORLD STANDS

Countries take a variety of different approaches to providing paid leave for new parents, as already noted. In order to make data comparable across countries, in our analysis, we use the following categories to describe paid leave: (1) *leave reserved for mothers* before or after the birth or adoption of a baby; (2) *leave reserved for fathers or partners*, which encompasses leave for fathers of infants and leave reserved for the birth mother's spouse or partner; and (3) *shared parental leave*, which is leave that is available jointly to either parent to provide extended periods of care up to the age of three.

As of January 2022, the vast majority of the world's countries provided some amount of paid leave reserved for mothers and/or shared parental leave. Only seven countries—the United States, Marshall Islands, Micronesia, Nauru, Palau, Papua New Guinea, and Tonga—have yet to adopt a nationwide paid leave policy. In contrast, more than a third of the world's countries (37 percent) fail to ensure men have any access to paid leave.

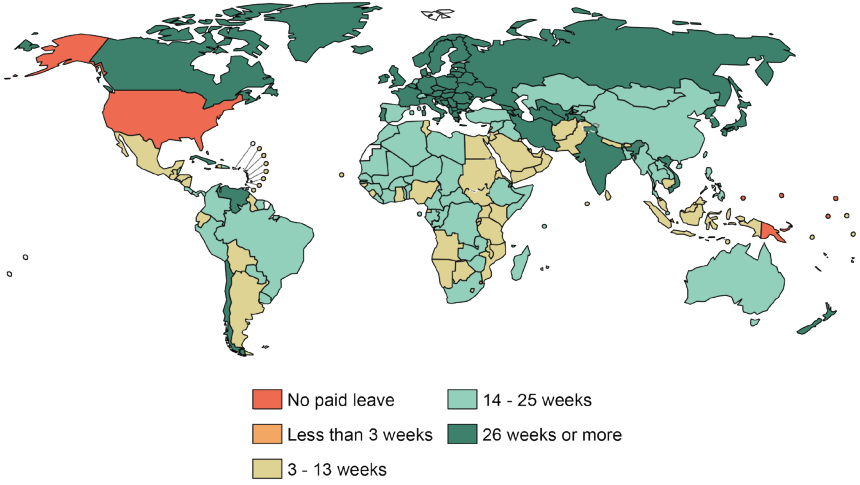
Countries also vary markedly when it comes to the duration of paid leave available to women. Sixty-two percent of countries provide at least fourteen weeks, the minimum standard established by the ILO. In contrast, just 23 percent of countries ensure men have access to at least fourteen weeks of paid leave.

Twenty-eight percent of countries provide at least six months to women, which facilitates the six months of exclusive breastfeeding recommended by the World Health Organization.<sup>73</sup> High-income countries are much more likely than low- or middle-income countries to ensure access to lengthier paid leave. Yet the total amount of leave is only part of the story. Women's economic opportunities are shaped by the details of these policies.

*Paid Leave Reserved for Mothers before and after Birth.* Globally, the most common form of paid leave is leave reserved for mothers who have given birth. This leave enables women to physically recover from childbirth. Nearly all countries (94 percent) also allow or even require women to take paid leave before birth, which can support maternal and infant health during complex pregnancies. Sixty-two percent of countries reserve at least fourteen weeks of paid leave for birth mothers. In 15 percent of countries, six months of paid leave is reserved for birth mothers. The extent to which these policies advance women's economic opportunities depends on whether a similar amount of leave is reserved for men.

*Paid Leave Reserved for Fathers or Partners and Paid Leave for Either Parent.* In contrast to leave for mothers, just 56 percent of countries reserve paid leave for fathers or partners. Further, the leave reserved for fathers or partners is commonly

Mothers of infants



Fathers of infants

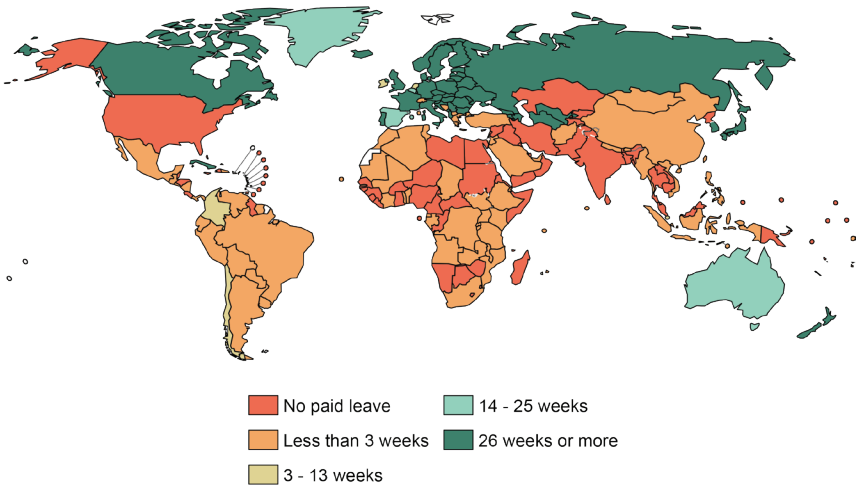


FIGURE 15. Is paid leave available to parents of infants?



of a far shorter duration. In 46 percent of countries, less than three weeks of paid leave is reserved. Only 7 percent of countries reserve at least fourteen weeks of paid leave for fathers or partners, and an additional 3 percent provide more leave or a higher wage replacement rate when both parents take shared parental leave.

In 16 percent of countries, shared parental leave is available for either parent to take. The vast majority of these leaves are lengthy: fifty-two weeks or more. Yet without incentives to shift behavior, women predominantly take these leaves. Nine percent of countries enable birth mothers to transfer a portion of their leave to the father. While this provides an approach for enabling men to take paid leave, the default assignment of leave to the mother may reinforce gendered norms about who should be taking paid leave. Likewise, three countries allow fathers to transfer some or all of their individual entitlement to the mother or have a shareable cap on using individual entitlements, which may undermine attempts to encourage fathers to take paid leave in the context of restrictive gender norms.

*Affordability of Paid Leave.* Countries also vary significantly when it comes to the wage replacement rate. Ensuring that parental leave is adequately paid is critical for helping families meet expenses at a time when household costs inevitably increase and can significantly affect whether workers can afford to take the full duration of leave available.<sup>74</sup> In the United States, for instance, which provides solely unpaid leave, one study found that the birth of a baby preceded a quarter of “poverty spells,” or periods of at least two months below the poverty line.<sup>75</sup> Meanwhile, even across the OECD, which overwhelmingly comprises high-income countries that do provide paid leave, we found that around 90 percent of minimum wage workers—a group in which women are overrepresented—would see their pay fall below the poverty line while taking paid leave due to wage replacement rates that are too low or not progressively structured.<sup>76</sup>

For paid leave reserved for mothers, 75 percent of countries with paid leave have a wage replacement rate of 80 percent of wages or more for workers with one year of tenure,<sup>a</sup> helping protect families against poverty and making it more likely that women across socioeconomic statuses can afford to take leave. An additional 9 percent of countries provide a wage replacement rate of at least two-thirds of women’s regular pay, meeting the ILO standard. Paid leave reserved for fathers is slightly more likely than paid leave for mothers to be compensated at a high rate. Eighty-three percent of countries with paid leave reserved for fathers guarantee a wage replacement rate of 80 percent of wages or more. In contrast, of the countries that have shared parental leave, only 24 percent guarantee at least 80 percent of wages. More than a third of these countries provide a flat rate or adjusted flat rate

a. Throughout this section, these wage replacement rates are the lowest amount of income replacement. In some countries, a higher level of wage replacement is available based on the parent’s employment history, income level, or duration of leave. One country does not provide maternity leave to workers with one year of tenure: Zambia requires two years.

payment that is not tied to previous earnings. An additional third of countries provide only 20 percent to 65 percent of wages as a minimum payment.

*Supporting Return to Work: Job Protection during Leave and Breastfeeding Breaks.* Of countries reserving paid leave for mothers, the majority (93 percent) guarantee a woman taking leave will have the same or a similar job back on her return to work, prohibit discriminatory dismissal while on leave, or prohibit the dismissal of mothers of young children. Similarly, 90 percent of countries that provide shared parental leave ensure job protection while on leave. Explicit job protection is less common (only 44 percent) for leave reserved for fathers or partners. While this leave is often substantially shorter than maternity or gender-neutral parental leave, given the pressures men report from employers to forgo leave, job protection and antiretaliation measures are important to ensure men can take full parental leaves.

Another aspect of enabling women to return to work after the birth of a child is supporting their ability to continue breastfeeding. Globally, 72 percent of countries guarantee that women who have returned to work can take paid breaks for nursing or pumping during the work day until their child is at least six months old. An additional 2 percent of countries provide unpaid breaks for this purpose.

#### *Parental Leave: Covering All Families*

While providing leave to both mothers and fathers after the birth of a child is a strong start, specific choices countries make about the structure of their leave policies can affect whether these policies are fully and equally accessible to all types of families. In particular, countries vary with respect to their coverage of same-sex couples, single parents, and adoptive parents. Designing policies to provide full benefits to all families is critical for gender equality and for providing a foundation for healthy development for all children.

*Single Parents.* Despite the multitude of different family structures globally, parental leave policies still typically rest on the assumption that a household includes a married couple consisting of one man and one woman. Across the OECD, around 7 percent of households are single-parent households, and households headed by a single mother account for the substantial majority of these in nearly every country.<sup>77</sup> Although women who are single mothers tend to have higher labor force participation rates than other mothers, they also face higher risks of poverty and financial stress. Notably, paid leave can help: across high-income countries, one study found that each additional week of paid leave reduced the risk of poverty for single mothers by 4 percent.<sup>78</sup>

Yet one country, Brunei, provides single mothers with less paid leave than married mothers. In contrast, the Democratic Republic of Congo and Swaziland have affirmative provisions that guarantee the same level of paid leave to women regardless of their marital status.

In other countries, while the duration of leave for mothers does not explicitly depend on a mother's marital status, the structure of paid parental leave may disadvantage single-parent households. One way countries can support single-parent families is to ensure that single parents can take the full leave that would otherwise be available to a couple. Using 2016 data, we found that in twenty-two of the thirty-three OECD countries with paid parental leave, single mothers were eligible for a shorter amount of total paid leave than two-parent households.<sup>79</sup> Even more countries disadvantaged single fathers compared to two-parent families.

Differences in leave availability for single parents compared to two-parent households arise when leave is reserved for each of two parents or there are incentives to encourage men's take-up, but there are no provisions in place to account for single parents. Countries take a range of approaches to proactively address these disparities. Some countries with individual entitlements to paid leave, such as Sweden, enable single parents to take the full allocation of leave for both parents. Germany has explicit measures enabling single parents to take the bonus months of paid leave that are normally available to families only if both parents take parental leave. Some countries also address payment level. In Belgium, the parental leave benefits are paid at a level around a third higher for single parents than for married parents.

Beyond leave, however, it's critical for all parents to have access to affordable childcare. As noted earlier in this chapter, particularly long leaves can have negative consequences for women's careers. Ensuring single-parent families have access to equivalent leave as two-parent households is important for equality and children's well-being, but ensuring childcare and other supports are in place to enable single mothers to return to work within six to nine months is likewise important for their long-term economic outcomes.

*Adoptive Parents.* Because of the presumption by some legislators historically that leave serves primarily to enable women to recover from childbirth, adoptive parents are ineligible for paid leave in some countries, or have access only to a reduced amount of leave. For example, in 2016, among the thirty-three OECD countries that provide paid leave, six provided birth parents with at least twelve more weeks of leave than adoptive parents. Globally, 53 percent of countries provide paid leave for families after the birth of the child but do not provide any paid leave after the adoption of a child. This disparity deprives adoptive families of the full benefits of parental leave, including its positive effects on children's healthy development and its potential to support both parents' opportunities at work and their engagement at home. However, among those countries that do provide paid leave for adoptive families, many provide adoptive families with similar amounts of leave as birth families when excluding the duration of leave that pregnant women are able to take before birth.

In some countries, adoption leave also reinforces gender stereotypes in caregiving. While paid leave before and after birth can help support women's health around the pregnancy, as well as enable time to establish breastfeeding that supports infant health, there are no such biological justifications for differences in leave availability for adoptive mothers compared to adoptive fathers. Yet in fifteen countries globally, only women can take paid adoption leave, and an additional seven countries provide less leave to adoptive fathers than to adoptive mothers.<sup>b</sup> For example, Peru's law granting leave for adoption states that "if the petitioner's adoption workers are spouses, the license will be taken by the woman."

*Same-Sex Couples.* For same-sex couples, the biggest barrier in parental leave is a lack of legal recognition and, in many countries, legalized persecution. According to data from the International Lesbian, Gay, Bisexual, Trans, and Intersex Association, only 14 percent of countries legally allow joint adoption by same-sex couples, and only 15 percent legally allow same-sex couples to be married. Moreover, in more than a third of countries, laws criminalizing same-sex sexual activity persist, making it difficult for same-sex couples to be openly engaged parents.<sup>80</sup>

Even among countries that have generally been leaders in expanding rights for same-sex couples, disparities persist in the amount of paid leave that same-sex couples can access compared to heterosexual couples. For example, in 2016, we found that in fourteen of the thirty-three OECD countries that provide paid parental leave, same-sex female couples received less total leave than heterosexual couples due to gender-restrictive language on who could access leave reserved for fathers or some shared parental leave.<sup>81</sup> Encouragingly, these disparities are declining. Among the twenty-eight countries that had made same-sex marriage legal as of 2020, only six provided less leave to same-sex female couples than to heterosexual couples.<sup>c</sup> But there is still far more that needs to be done to reach equality, including: (1) ensuring equal amounts of leave are available to each parent, and (2) using gender-neutral or gender-inclusive language in leave policies.<sup>82</sup> One goal of using gender-specific language has been to increase men's take-up of leave in different-sex couples. Gender-neutral or gender-inclusive language paired with individual, nontransferable entitlements to leave could achieve the same objective, without inadvertently reducing the leave available to same-sex couples. For example, Iceland amended its parental leave policy in 2006 to guarantee paid leave to each "parent," with no mention of sex, "in order not to discriminate on the basis of gender or sexual orientations."<sup>83</sup> Similarly, Sweden provides leave to a "parent" as well as a parent's "spouse" or "partner." Both countries have reported substantial take-up of leave by men.

b. Three countries (Azerbaijan, Czech Republic, and Hungary) allow adoptive mothers to have access to higher-paid leave, while adoptive fathers can access only lower-paid leave.

c. The United States has legalized same-sex marriage but does not provide paid parental leave.

*Grandparent and Extended Family Caregivers.* In some households, grandparents or other extended family members are the primary caregivers for children. A study based in West Bengal, India, for example, found that grandparents were the primary caregivers of the youngest child in 5 percent of families,<sup>84</sup> while grandparents comprise more than 3 percent of primary caregivers for infants in low-income families in South Korea.<sup>85</sup> Parents can be unavailable to provide care for a range of reasons. When leave is available only to parents, other family caregivers receive no support, disadvantaging the children in their care. Nine percent of countries have taken explicit steps to support alternative caregivers, such as grandparents, in taking shared parental leave. For example, Armenia allows the “mother (step-mother), father (the step-father), grandmother, grandfather of the family or any other relatives” to take parental leave before the child turns three and enables caregivers to take turns using this leave. However, in some countries, this right is limited to when parents have died or been deprived of their parental rights due to incapacity or incarceration.

#### *Parental Leave: Covering All Workers*

Finally, even if paid leave covers both parents and all family structures, its effects will be limited if it doesn’t cover parents in the informal economy, where a majority of people in many countries work. According to the ILO, 58 percent of the female workforce and 63 percent of the male workforce—or two billion people globally—work in informal jobs.<sup>86</sup> Too often, across low- and high-income countries alike, domestic workers, agricultural workers, and those in the gig economy, among others, have no access to paid parental leave even when a national policy is in place. Likewise, part-time workers, who are disproportionately women in many countries, often lack access to protections.

This gap in coverage is not inevitable. A range of countries have shown it’s feasible to provide leave to informal, part-time, and self-employed workers. Indeed, around the world, more than a third of countries explicitly guarantee paid maternal leave to domestic workers, as do a quarter for agricultural workers. For example, Fiji’s 2007 Employment Regulations define a worker as “a person who is employed under a contract of service, and includes an apprentice, learner, domestic worker, part-time worker or casual worker,” guaranteeing these workers the same labor rights, including paid maternity leave, as other workers. Likewise, more than half of countries cover the self-employed, generally by structuring their paid parental leave programs as social insurance—which could include Uber drivers and others in the gig economy. Finally, more than a third of countries explicitly cover part-time workers without a minimum number of hours or those working less than a quarter of full-time hours, and only 2 percent require workers to be working at least half-time to be eligible. No country explicitly excludes all part-time workers.

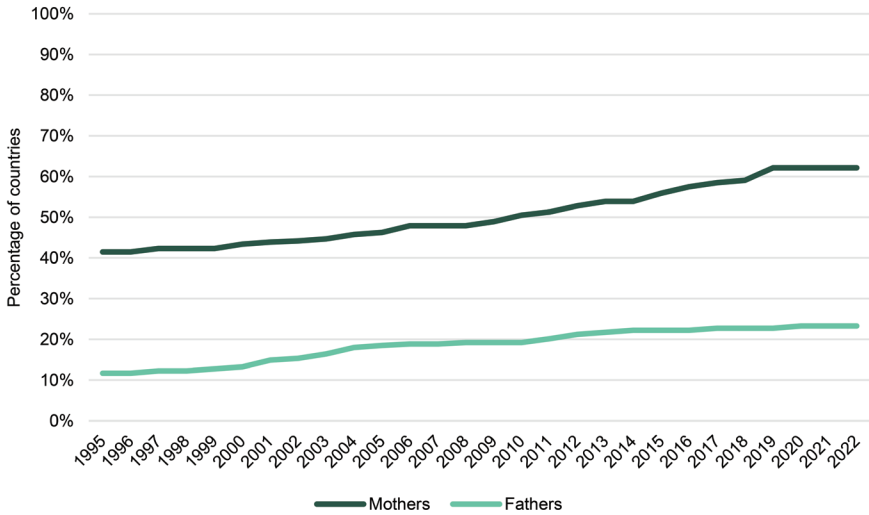


FIGURE 16. Are more countries guaranteeing at least 14 weeks of paid leave to mothers and fathers of infants?

### *Progress in Leave Policies Over Time: Unequal for Too Long*

The past several decades have witnessed a growing recognition of the importance of paid leave for fathers. Our analysis found that 63 percent of countries provided paid paternal leave in 2022, compared to only 24 percent in 1995. However, in far too many countries, the leave length remains grossly unequal: 74 percent of countries provide no paid leave or less than three weeks of paid leave to fathers, compared to only 4 percent for mothers.

Moreover, only a small minority of countries have adopted policies to incentivize men's take-up of leave. In the meantime, the gender gaps in leave-taking remain stark, undermining the potential of paid parental leave to increase women's opportunities in the economy and men's engagement at home. Further, ongoing work is needed to ensure parental leave policies are inclusive of all workers and family types.

Finally, across countries, more attention is needed for successful implementation among groups typically left out. For example, in California, nearly a decade after the initial introduction of paid family leave, fewer than half of respondents to a 2011 survey reported that they were aware of the policy, and a more recent survey suggests awareness has dropped even further, to just 36 percent.<sup>87</sup> Notably, awareness is lowest among low-wage workers, for whom the policy could be particularly impactful. Similarly, although Namibia includes domestic workers in its paid maternity leave policy and makes leave available to the self-employed, only 57 percent of eligible workers are registered for the program, meaning that

43 percent—primarily in the informal economy—“continue to be excluded from such protection due to a lack of awareness and enforcement.”<sup>88</sup> To ensure leave policies reach everyone who is eligible, effective outreach is essential.

BEYOND PARENTAL LEAVE: THE CRITICAL  
IMPORTANCE OF QUALITY AND AFFORDABLE  
CHILDCARE, EARLY CHILDHOOD EDUCATION,  
AND LEAVE FOR CHILDREN’S HEALTH NEEDS

Paid parental leave is only the first step. Universal availability of quality, affordable childcare and preschools is likewise essential for gender equality across low- and high-income countries alike. Indeed, evidence from a range of settings has shown that increasing the availability and affordability of childcare supports women’s earnings and labor force participation. For example, after subsidized childcare was introduced in Quebec, the share of mothers in paid employment in two-parent families jumped by 21 percent from the mid-1990s to the early 2000s.<sup>89</sup> Similarly, after free preschool was expanded throughout Argentina between 1994 and 2000, the chances of maternal employment went up by 11–14 percent.<sup>90</sup> Impacts have also been identified in lower-income settings: a study of rural Mozambique found that the construction of preschools increased the likelihood of employment by young children’s caregivers by 26 percent.<sup>91</sup>

Moreover, the provision of early childhood education can increase the likelihood that older girls attend school rather than stay home to care for their younger siblings while their parents work. Research has shown that having a young sibling correlates with missing school: according to an early study, in Brazil and Mexico, single-parent families with a preschool-aged child were three times as likely to have at least one child ages six to fourteen who was not enrolled in school, compared to families without a preschool-aged child.<sup>92</sup> Mozambique provides an example of a country where expanding pre-primary education had benefits for older girls: following the launch of the new preschool program, school attendance rates of preschoolers’ older siblings increased by 6 percent.<sup>93</sup> In this way, childcare and pre-primary education both have immediate effects for women’s work and lay the foundation for the next generation’s economic opportunities.

Currently, however, early childhood care and education is often unavailable or unaffordable. For example, in 2016 alone, nearly two million parents in the United States quit a job, were unable to take a job, or had to substantially change their job due to inaccessible childcare.<sup>94</sup> According to one UK survey, two-thirds of mothers report that the costs of childcare are a barrier to working generally or working more hours.<sup>95</sup> Across the OECD, a typical couple earning two-thirds of the average wage spends 10 percent of their net income on childcare; in New Zealand, the United Kingdom, and the Czech Republic, the costs are nearly 30 percent.<sup>96</sup> Moreover, in a survey of employed mothers with children under six years old in thirty-one LMICs, 39 percent said they cared for their children themselves while

they worked; just 4 percent used an organized day care or nursery.<sup>97</sup> And as with paid leave, women in the informal economy face among the greatest exclusion from available services, with consequences for entire families. A study based on interviews with 159 female informal workers in Brazil, Ghana, India, South Africa, and Thailand found that women without access to childcare experienced regular losses of jobs, earnings, and persisting concerns about their children's safety, development, and access to educational opportunities.<sup>98</sup>

In this way, the privatization of care and tendency to treat it as an individual responsibility rather than a collective need and social good widens both gender and socioeconomic inequalities. Those households with the lowest incomes are the least likely to be able to afford unsubsidized care, increasing the likelihood that the mothers in those families will either leave the workforce, heightening their households' poverty risks, or feel compelled to bring their children with them to work, despite risks to children's safety and to women's income and well-being.

In contrast, expanding access to early childhood education (ECE) is a win-win-win: it benefits young children during a crucial period of their development, increasing the probability they will succeed in school; allows older children—particularly girls—to stay in school longer; and enables parents—particularly mothers—to stay in the workforce. To ensure childcare and ECE are accessible to all, public provision and limiting costs to parents are crucial. In Spain, for example, the public provision of full-time childcare resulted in a nearly 10 percent increase in employment of mothers of three-year-olds, even during a period of low labor demand.<sup>99</sup> When the only decent quality options are private centers that charge a substantial tuition, or when insufficient spots are available, low-income families will be disproportionately affected.

At the same time, from the perspective of gender equality in the economy, ensuring that childcare and ECE workers receive an adequate wage is essential, since these workers are disproportionately female. Too often, this issue is framed as a false choice: either childcare and ECE can be affordable, or childcare workers and preschool teachers can be adequately compensated. However, through adequate public investment, both are easily achievable, and the long-term economic benefits—including higher labor force participation by women and improved health and education outcomes for children—far outweigh the costs. Germany provides one example: its 2013 adoption of universal, publicly subsidized childcare beginning at age one increased the labor supply of mothers by nearly 5 percentage points.<sup>100</sup> At the same time, early childhood teachers are covered by a collective bargaining agreement and as of 2019/2020, earned a starting salary of 51,695 Euros (~US\$56,288).<sup>101</sup> Moreover, the implementation of universal childcare has created hundreds of thousands of new quality jobs, with employment in nurseries growing by 54 percent between 2008 and 2018.<sup>102</sup> These impacts align with a range of recent global and country-level analyses, which consistently find that investing in care could result in massive job creation, with disproportionate impacts on women's employment but also substantial gains for men.<sup>103</sup>



*Where the World Stands: Childcare and Pre-Primary Education*

As of 2019, just 41 percent of 189 economies provide any direct support to families that could be used to meet childcare expenses, according to the World Bank's Women, Business, and the Law project.<sup>104</sup> These supports can include childcare and family allowances as well as tax credits and deductions for number of children and childcare expenses. Thirty-five percent of economies provide support to childcare centers, and just 24 percent subsidize childcare costs for employers. Moreover, the World Bank's numbers likely overestimate coverage for some of the most vulnerable women, as they are based on which policies are in place in each country's major business center. More specifically, the analysis covers what a married woman working as a cashier at a store with more than sixty employees would receive. Even when a woman working in a formal economy job at a midsize or large employer in the top business center may have access to these supports, those in rural areas or smaller cities or towns, in the informal economy, or working for a smaller employer may receive far less.

In twenty-six economies, private-sector employers have a legal obligation to provide or support access to childcare. However, in eighteen of these economies, the requirement to provide childcare is based on a minimum number of female employees, which may discourage employers from hiring women. In Panama, for instance, a workplace needs to offer childcare only if it employs twenty or more women; in Turkey, employers are exempt from the requirement unless they have at least 150 female employees. In contrast, five economies base employers' obligations to provide childcare on the total number of employees, regardless of gender, while Afghanistan, Japan, and the Netherlands require that employers subsidize childcare regardless of their size.

According to a report by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) Institute for Statistics, over a third of the world's countries guarantee at least one year of free pre-primary education, while some countries provide several years.<sup>105</sup> These policies can make a difference years into the future. In a study with colleagues, we merged policy data on the availability of free and compulsory pre-primary education in 104 countries with UNESCO's data on primary school completion rates, with the goal of measuring whether policies that improved access to pre-primary school helped more children finish primary school. Further, to understand whether these policies were effective in the countries with the most room for improvement, we looked separately at the impacts in countries with low primary school completion rates and in those with average completion rates. Controlling for national income and level of urbanization, we found that making pre-primary education both free and compulsory was associated with a nearly 10 percentage-point increase in primary school completion rates for countries with average completion rates. For countries with lower completion rates, the effects were even larger, reflecting a 12-point increase.<sup>106</sup> Notably, having both provisions in place mattered; no statistically significant association was found if pre-primary was free, but not compulsory.

*Leave for Child Health Needs*

Even after the transition to school, children's health needs continue. Due to the persistence of gendered norms around care, women are also often the primary caregivers for children experiencing short-term or routine illnesses. Aside from providing care while a child recovers at home, women are also often responsible for taking the child to the doctor for treatment or preventive care. In Denmark, for instance, a study found that mothers rather than fathers handled over 90 percent of all children's medical appointments.<sup>107</sup> As a result, increasing the availability of leave to meet these needs and encouraging more gender-equal uptake are both critical.

Young children in particular experience frequent illnesses as their immune systems are developing. Pediatricians estimate that the average child under age two may get between eight to ten colds per year,<sup>108</sup> while children starting preschool or kindergarten often experience an increase in infections as they're exposed to other students. School-age children likewise regularly miss school due to the flu, gastroenteritis, or other common illnesses, which may vary by context.<sup>109</sup> In over eighty countries, for instance, malaria remains endemic, with 229 million cases reported in 2019; one study from Mali found that malaria was the leading cause of absenteeism from primary school.<sup>110</sup>

Beyond its benefits for gender equality, ensuring that parents can take leave to meet the health needs of their children has demonstrated benefits for health. Children whose parents have access to leave that they can use to meet their child's health needs are more likely to access preventive care, such as immunizations, while children who have been ill or injured recover more quickly when they are cared for by a parent.<sup>111</sup>

Around the world, only 37 percent of countries take some approach to providing paid leave for men and women to meet children's everyday health needs. An additional 11 percent of countries guarantee unpaid leave that can be used to meet children's everyday health needs.

In many countries, even when paid leave is available, it may not be sufficient to meet the health needs of all children. Evidence about recovery time from common conditions provides some insights into the duration of leave that might be required for health needs. For example, illness caused by influenza typically lasts around nine to twelve days, with some more serious cases requiring hospitalization.<sup>112</sup> However, only a quarter of countries guarantee at least two weeks of paid leave to meet a five-year-old child's everyday health needs, such as by attending preventive doctor's appointments and caring for children during routine illnesses.

Moreover, in some countries, paid leave is available only to care for younger children. Whereas 37 percent of countries guarantee paid leave that can be used to meet a two-year-old's everyday health needs, only 28 percent do so for fifteen-year-olds. While a fifteen-year-old may be able to be left home unsupervised, parental presence is still often needed for medical appointments and to provide care. While the majority of countries provide parents with individual entitlements to paid leave, five countries have measures to ensure single parents have additional leave to compensate for only having one caregiver available.

In the majority of countries that provide leave for children's health needs, it's equally available regardless of gender. Still, hardly any countries incentivize gender equality in leave-taking. Moreover, three countries—Dominican Republic, Guinea-Bissau, and Mozambique—reinforce gendered norms around caregiving by making paid or unpaid leave for children's everyday health needs available only for mothers. Finally, four countries make paid leave a family entitlement instead of an individual entitlement, which may decrease the likelihood that both parents take leave.

In the vast majority of countries providing paid leave that can be used to meet children's health needs, payments are at full or nearly full (80-percent) replacement of wages. However, 10 percent of countries globally set minimum payments below this level. As with parental leave, these choices make a difference for gender equality in leave-taking, given how they interact with gender pay gaps. In Sweden, for example, parents are more likely to share leave to care for a sick child equitably when the female partner earns more than the male partner.<sup>113</sup>

TABLE 5 Legal approaches to paid leave during early childhood, by country income level

	Low-income countries	Middle-income countries	High-income countries
<i>How much paid leave is available to mothers of infants?</i>			
No paid leave	0 (0%)	4 (4%)	3 (5%)
Less than 14 weeks	12 (44%)	43 (40%)	11 (19%)
14–25.9 weeks	13 (48%)	38 (35%)	14 (24%)
26–51.9 weeks	2 (7%)	7 (6%)	13 (22%)
52 weeks or more	0 (0%)	16 (15%)	17 (29%)
<i>How much paid leave is available to fathers of infants?</i>			
No paid leave	13 (48%)	45 (42%)	13 (22%)
Less than 3 weeks	14 (52%)	47 (44%)	10 (17%)
3–13.9 weeks	0 (0%)	1 (1%)	5 (9%)
14–25.9 weeks	0 (0%)	0 (0%)	4 (7%)
26 weeks or more	0 (0%)	15 (14%)	26 (45%)
<i>How much paid leave is reserved for mothers of infants?</i>			
No paid leave	0 (0%)	4 (4%)	3 (5%)
Less than 14 weeks	12 (44%)	43 (40%)	11 (19%)
14–25.9 weeks	13 (48%)	50 (46%)	28 (48%)
26–51.9 weeks	2 (7%)	6 (6%)	14 (24%)
52 weeks or more	0 (0%)	5 (5%)	2 (3%)
<i>How much paid leave is reserved for fathers of infants?</i>			
No paid leave	13 (48%)	53 (50%)	18 (31%)
Less than 3 weeks	14 (52%)	54 (50%)	20 (34%)

TABLE 5 (continued)

	Low-income countries	Middle-income countries	High-income countries
3–13.9 weeks	0 (0%)	0 (0%)	7 (12%)
14–25.9 weeks	0 (0%)	0 (0%)	6 (10%)
26 weeks or more	0 (0%)	0 (0%)	7 (12%)
<i>How much shared parental leave is available?</i>			
No paid leave	27 (100%)	95 (88%)	41 (71%)
Less than 14 weeks	0 (0%)	1 (1%)	1 (2%)
14–25.9 weeks	0 (0%)	0 (0%)	2 (3%)
26–51.9 weeks	0 (0%)	3 (3%)	5 (9%)
52 weeks or more	0 (0%)	9 (8%)	9 (16%)
<i>What is the lowest wage replacement rate of paid leave reserved for mothers with one year of tenure?</i>			
No paid leave	0 (0%)	5 (5%)	3 (5%)
Flat rate or adjusted flat rate	0 (0%)	1 (1%)	8 (14%)
20%–65%	3 (11%)	11 (10%)	5 (9%)
66%–79%	0 (0%)	11 (10%)	6 (10%)
80%–100%	24 (89%)	80 (74%)	36 (62%)
<i>What is the lowest wage replacement rate of paid leave reserved for fathers with one year of tenure?</i>			
No paid leave	13 (48%)	53 (49%)	18 (31%)
Flat rate or adjusted flat rate	0 (0%)	0 (0%)	7 (12%)
20%–65%	0 (0%)	1 (1%)	2 (3%)
66%–79%	0 (0%)	2 (2%)	6 (10%)
80%–100%	14 (52%)	52 (48%)	25 (43%)
<i>What is the lowest wage replacement rate of shared paid parental leave for parents with one year of tenure?</i>			
No paid leave	27 (100%)	95 (88%)	41 (72%)
Flat rate or adjusted flat rate	0 (0%)	6 (6%)	5 (9%)
20%–65%	0 (0%)	3 (3%)	7 (12%)
66%–79%	0 (0%)	0 (0%)	1 (2%)
80%–100%	0 (0%)	4 (4%)	3 (5%)
<i>Is job protection guaranteed throughout paid leave reserved for mothers?</i>			
No paid maternity leave	0 (0%)	4 (4%)	3 (5%)
No explicit job protection	4 (15%)	7 (6%)	2 (3%)
Job protection only guaranteed for a portion of leave	0 (0%)	0 (0%)	0 (0%)
Job protection guaranteed throughout	23 (85%)	97 (90%)	53 (91%)
<i>Is job protection guaranteed throughout paid leave reserved for fathers?</i>			
No paid paternity leave	13 (48%)	53 (50%)	18 (31%)

(contd.)

TABLE 5 (continued)

	Low-income countries	Middle-income countries	High-income countries
No explicit job protection	9 (33%)	36 (34%)	16 (28%)
Job protection only guaranteed for a portion of leave	0 (0%)	0 (0%)	0 (0%)
Job protection guaranteed throughout	5 (19%)	18 (17%)	24 (41%)
<i>Is job protection guaranteed throughout shared paid parental leave?</i>			
No paid parental leave	27 (100%)	95 (88%)	41 (71%)
No explicit job protection	0 (0%)	2 (2%)	0 (0%)
Job protection only guaranteed for a portion of leave	0 (0%)	0 (0%)	1 (2%)
Job protection guaranteed throughout	0 (0%)	11 (10%)	16 (28%)
<i>Are mothers of infants guaranteed breastfeeding breaks at work?</i>			
Not guaranteed	7 (27%)	23 (21%)	18 (31%)
Yes, until child is 1–5.9 months old	0 (0%)	2 (2%)	0 (0%)
Yes, at least 6 months unpaid	0 (0%)	0 (0%)	3 (5%)
Yes, at least 6 months paid	19 (73%)	83 (77%)	37 (64%)
<i>Do adoptive families have access to as much paid parental leave as birth families?</i>			
No paid parental leave	0 (0%)	4 (4%)	3 (5%)
No paid leave for adoptive families	27 (100%)	61 (56%)	15 (26%)
Adoptive families have less leave than birth families	0 (0%)	22 (20%)	15 (26%)
Equal duration of leave for adoptive families	0 (0%)	21 (19%)	25 (43%)
<i>Is there gender equality in the duration of paid leave for adoption?</i>			
No paid leave for adoption	27 (100%)	65 (60%)	18 (31%)
Only women can take paid leave for adoption in two parent families	0 (0%)	13 (12%)	2 (3%)
Men can take paid adoption leave, but for a shorter period than women	0 (0%)	4 (4%)	3 (5%)
Gender equality in duration of paid adoption leave	0 (0%)	26 (24%)	35 (60%)
<i>Are working parents guaranteed leave that can be used for their children's everyday health needs?</i>			
No, no leave	17 (63%)	63 (58%)	17 (29%)
Leave only available to mothers	2 (7%)	1 (1%)	0 (0%)
Unpaid leave only for parents	0 (0%)	8 (7%)	14 (24%)
Yes, paid leave for parents	8 (30%)	36 (33%)	27 (47%)
<i>What is the lowest wage replacement rate of paid leave available for children's everyday health needs?</i>			
No paid leave	19 (70%)	72 (67%)	31 (53%)
25%–59%	0 (0%)	1 (1%)	3 (5%)
60%–79%	0 (0%)	8 (7%)	7 (12%)
80%–100%	8 (30%)	27 (25%)	17 (29%)

## CONCLUSION

Children's health and well-being are essential to every society's survival. Children's ability to reach their greatest potential dramatically shapes a country's future and directly affects the health and economic outcomes of the generations to come. Ensuring that all children have access to the care, nutrition, and early educational opportunities they need to grow and thrive is consequently a shared and collective responsibility of societies, which yields shared and collective benefits.

Yet contemporary discourse often frames child-rearing as solely the responsibility of individual parents—and in many cases, individual mothers. This framing often results in structural discrimination against women in the workplace, as caring for children is treated as a special need of women who choose to have children rather than the societal necessity it undeniably is.

Across countries and industries, the challenge of ensuring all families can balance paid work and parenthood remains one of the greatest barriers to gender equality in the economy as well as a threat to our collective capacity to thrive. Over the past several decades, paid leave for new mothers has become almost universal, which has been pivotal in enabling women to return to their jobs after having a child. Yet paid maternity leave alone is not enough. To advance gender equality at home and at work, it's critical for countries to also provide paid leave for men, designed in a way to encourage equal take-up. And beyond parental leave, all families need access to affordable, quality childcare and early childhood education as well as the ability to take paid time off work to take their child to the doctor or provide care at home when they're sick. Moreover, it's critical to ensure that all of these supports are available to all families and all workers—if not, they cannot succeed at advancing gender equality for all at scale.

While much work remains, the successes across countries spanning regions and income levels give reason to be optimistic. In chapter 9, we illustrate how committed individuals and groups brought transformative change to countries across regions. Realizing the ability of all workers to balance work and caregiving remains essential—and achievable.

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## How the Law's Neglect of Caregiving across the Life Course Fuels Inequality

When Marcos began to decline, it was unexpected and unpredictable. The diagnosis of amyotrophic lateral sclerosis (ALS) came out of nowhere. The time course of ALS varies widely from one individual to the next. Marcos's wife, Valentina, was the primary caretaker, but she needed to keep working as she rapidly became the sole earner for the family. Marcos also knew that time for work and time for friendships would help Valentina get through what would be an excruciating period for her as well as for Marcos. The fact that Marcos's sister, Graciela, had a job that gave leave to care for sick siblings made a world of difference. As Marcos became increasingly dependent on others for every kind of care, from showering to dressing, his wife Valentina had few breaks. His sister's visits brought respite. For Graciela, it brought a chance to know she was there for her brother when he needed her and to relive and reshare parts of their lives that only the two siblings knew well. There was joy in being able to get Marcos outside in a wheelchair to the mountains and ocean that meant so much to him. And the days recounting childhood experiences and hearing the other's perspective were filled with both tears and laughter.

François knew he was lucky to live in a country that provided him paid leave to care for his parents when they grew sick. His father had just been diagnosed with pancreatic cancer. The prognosis was poor, and he was given only a few months to live. But nothing would replace the time that François had with his father. At first, it was long walks, and then it was long talks by a fireplace. They shared everything: stories from François's youth that he hadn't known, stories from his father's childhood and adulthood that he had never heard, and what it was like to live through the changes he was going through. The time they spent together not only was an expression of the depth of their love but led to a deepening of François's understanding of his whole family's history and his own story. This time with his father simultaneously made François intensely live the moment in which he found himself and changed his understanding of the future.

What distinguished the experiences of Graciela and François from those of many workers caring for ill or aging family members was neither the importance of the care they provided nor their desire to provide care and to continue to work, but rather their access to conditions that made doing both possible. Graciela's supportive workplace policies and François's paid leave coverage under national laws allowed each of them to both provide care that would change the life of their family member and continue to contribute successfully at work.

Governments are in the position to ensure that working conditions making it possible to economically succeed while giving family care are available to all—but too often, government leaders neglect care and rely on women to provide care without pay or for low wages. The consequences are deep for economic inequality. Moreover, when employers are allowed to discriminate against people for providing care (including by not hiring them or firing them), when laws and social policies do not support taking needed time to provide care while continuing to work, and when the absence of social supports places all the care burden on family members, women's economic outcomes suffer disproportionately, and women from marginalized groups are disadvantaged the most.

This chapter begins with the recognition that nearly every person needs care at some point if not multiple points in their life—and that most countries currently rely on the unpaid and largely invisible work of women to meet the bulk of those needs, with profound consequences for women's economic opportunities. This chapter goes on to examine how laws and social supports can shape our ability to care for each other and, in so doing, improve gender equality across the life course. Finally, this chapter looks at how supporting aging adults to continue to engage fully in their communities can not only improve economic outcomes but also improve their health, benefiting us all.

#### WHO CARES? WOMEN'S DISPROPORTIONATE ROLE IN UNPAID CARE WORK ACROSS THE LIFE COURSE

On average, women spend around four hours and twenty-five minutes on unpaid care work each day, three hours more daily than men.<sup>1</sup> While often invisible, care work is the backbone of economies. Global definitions of care work typically include directly caring for a person and providing help for them to meet basic needs.<sup>2</sup> Unlike other forms of work, however, a substantial share of care work is unpaid. In the aggregate, this work has tremendous economic value: if all unpaid care work were suddenly compensated at the hourly minimum wage, it would account for around 9 percent of global GDP, or over \$7 trillion in 2021.<sup>3</sup>

Critically, care needs extend across the life course, and women continue to provide the majority of nurturing care at each stage, whether for elderly parents, spouses with disabilities, children with serious illnesses, family members recovering from an operation, or other ailing relatives. As prior chapters have explored,

women's disproportionate role in caregiving is not inevitable—people of all genders can and do play critical caregiving roles in their families and societies, and providing care is a profound source of meaning for many men as well as women. However, societal expectations, unequal or absent policies, and broader inequalities in the economy have made it more likely that women take on the majority of caregiving responsibilities worldwide, making gaps in support for care across the life course especially consequential for women.

The data bear this out: around the world, women comprise the majority of unpaid caregivers and support for family members with disabilities or serious illnesses and for aging relatives. An analysis of the World Health Organization Study on Global Ageing and Adult Health, a longitudinal survey of adults providing and receiving care across six countries, found that among households with a long-term sick adult, women were more likely to report being the primary caregiver in nearly all countries with data available, including 63 percent of female respondents in India, 66 percent in South Africa, 69 percent in Russia, and 75 percent in Mexico.<sup>4</sup> Across Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, women comprised 71 percent of people who reported having caregiving responsibilities for someone with an illness or disability.<sup>5</sup> Numerous other studies focused on caregivers for adult family members with particular conditions in specific countries—including Argentina, Brazil, Canada, China, Colombia, Iran, Mexico, Pakistan, South Korea, and the United States—find that those providing care are overwhelmingly women.<sup>6</sup>

Women are not only more likely to provide care generally but also more likely to devote greater hours to care. Research spanning different regions provides a glimpse of these dynamics. Across Austria, Belgium, Denmark, France, Germany, Greece, Italy, the Netherlands, Spain, Sweden, and Switzerland, women make up approximately 60 percent of caregivers for aging parents overall and 73 percent of caregivers for those with “intensive needs,” that is, those that require at least weekly care.<sup>7</sup> In South Korea, daughters, daughters-in-law, and other female family members (excluding spouses) provide twenty-four hours of the unpaid care received per month by adults ages sixty-five and older who have limitations in daily activities; male relatives provide just seven hours. As a person ages, spousal care decreases and care by other family members increases, but the gender gap remains: female relatives provide fifty hours of unpaid care per month to those eighty or more years of age, while male relatives contribute fourteen hours.<sup>8</sup> In Mexico, female caregivers of relatives with multiple sclerosis devote approximately seventy-nine hours per week to care, compared to men's forty-eight.<sup>9</sup> Women also play a larger role in caring for aging spouses. In the same study from South Korea, for instance, spousal caregivers devoted around seventy hours per month to care if the recipient was male, but just sixteen hours if the recipient was female.<sup>10</sup>

Women also play an outsized role in caregiving for children with serious illnesses or disabilities, which, like caregiving for adults with serious health conditions, can require many hours of care and/or care for a significant duration

of time. A study examining the experiences of caregivers for children undergoing chemotherapy at two large hospitals in Brazil, for instance, found that 89 percent were women, and that they spent on average 142 hours each week caring for their child including overnight care.<sup>11</sup> In Sweden, among a sample of 200 parents of children with Down syndrome, 70 percent of women spent three hours or more each day on direct care for the child, compared to 30 percent of men.<sup>12</sup> In Canada, an analysis of the well-being of caregivers for children with cerebral palsy, which asked the 468 participant families to designate who was the “primary caregiver,” found that women fulfilled this role in 94 percent of households;<sup>13</sup> similarly, in Japan, a nationwide survey of caregivers found that women comprised 87 percent of the “main caregivers” for children with disabilities.<sup>14</sup> And in Malawi, a random sample of primary caregivers of children with HIV/AIDS who had registered for home-based care found that thirty-four of the thirty-six caregivers in the sample (94 percent) were women, and that women in the extended family played an important role: alongside biological mothers (58 percent), grandmothers (25 percent) and aunts (8 percent) were also taking responsibility for children’s care.<sup>15</sup>

### *Public Responses Lag Far Behind*

Even as major gaps persist across countries in support for caregivers of healthy young children, support to care for family members with serious illnesses and injuries, family members with disabilities, and aging adults is even harder to come by. For example, a survey of thirty-three European countries found that just 12 percent of households reported an unmet need for formal childcare services, whereas over 32 percent reported an unmet need for professional home care.<sup>16</sup> Across these countries, the share reporting an unmet need for home care reached a high of 85 percent in Portugal. In contrast, the highest share reporting an unmet need for childcare was 22 percent (United Kingdom). And for countries with fewer resources, publicly subsidized care services during old age are often practically nonexistent: a study of forty-six countries found that most devoted less than 1 percent of GDP to long-term care, while the majority of lower-income countries invested nothing at all.<sup>17</sup> This gap in support is particularly challenging given that the intensity of caregiving for a person with a progressive illness or who is nearing the end of life increases rather than diminishes over time as the individual declines.<sup>18</sup>

## IMPACTS ON WORK AND ECONOMIC EQUALITY OF GENDER DISPARITIES IN CARE ACROSS THE LIFE COURSE

Like gender inequality in caregiving for infants, inequality in other stages of care has documented consequences for women’s economic outcomes. Globally, according to the International Labour Organization (ILO), 606 million working-age women are out of the labor force due to unpaid care work, while just forty-one million men—less than a tenth as many—report being unavailable for employment



for the same reasons.<sup>19</sup> None of these consequences are preordained and instead are shaped by policy environments; however, understanding the effects of current policy choices is an important step toward recognizing the urgency of taking action.

### *Earnings and Employment*

Studies from a range of countries have found that the provision of unpaid care for aging adults and adult family members with disabilities is associated with lower levels of employment. For example, in a survey of unpaid caregivers for someone who was ill, aging, or had a disability across Australia, France, Germany, Italy, Spain, the United Kingdom, and the United States, 12 percent said they had had to leave their jobs due to their caregiving responsibilities, while 21 percent reduced their hours;<sup>20</sup> women were the majority of caregivers across the countries studied. In Australia, data from a national survey showed that women ages forty-five to sixty-nine who were providing at least seven hours per week of informal care were 22 percentage points less likely to be employed than women without care responsibilities,<sup>21</sup> while in China, researchers found that among married women over age thirty-five, caring for parents-in-law was significantly associated with lower employment and fewer paid work hours.<sup>22</sup> In Nigeria and Ghana, loss of employment and material hardship were common consequences of caring for family members with mental disabilities; women were a majority of those affected in both countries.<sup>23</sup> The role of gender is also evident in whether women have other female family members to share the load. A US study, for instance, found that women caring for their parents on average reduced their paid work hours by 367 per year, but that women with sisters spent fewer hours on care; for women with only brothers, however, there was no effect.<sup>24</sup>

Significant impact is also observed in care for children with disabilities. For example, one study spanning Austria, Belgium, Bulgaria, France, Georgia, Hungary, Italy, Lithuania, Poland, Romania, and Russia found that in families with a child with a disability, women were less likely to report being employed (57 percent of mothers in families with a child with disabilities, compared to 70 percent of those in families without a child with disabilities). Among fathers, no significant impact was observed.<sup>25</sup> And in Colombia, a study of parents of children with trisomy 21, also known as Down syndrome, found that 36 percent of mothers, compared to just 5 percent of fathers, spent at least 85 hours per week with their child; at the same time, just 30 percent of mothers, compared to 89 percent of fathers, had full-time jobs.<sup>26</sup>

Women's overrepresentation in more high-intensity caregiving roles (e.g., roles that demand more weekly hours of caregiving) also has impact. For example, a systematic review of studies covering the United States, United Kingdom, Europe, and Canada found that caregivers of adults with an illness or disability

were more likely to work fewer hours and that those performing intensive care were likely to withdraw from the labor force.<sup>27</sup> In Australia, a longitudinal survey of employed women ages forty-five to fifty found that those who began providing 7–14 hours of care per week were more likely to leave the workforce in the next three years than women the same age who did not take on new care responsibilities, but less likely to leave than women who newly took on 14+ hours of weekly care.<sup>28</sup> A systematic review of studies examining the economic impacts on families of childhood cancer, which spanned fourteen countries, found that women were more likely than men to decrease their work hours to manage their child's care.<sup>29</sup>

These impacts on women's employment have broader consequences for gender equality in the economy. Caregiving responsibilities at all stages contribute to women's overrepresentation in part-time work. In Australia, for example, 37 percent of women with children under the age of thirteen work part-time while their male partner works full-time, while in just 3 percent of families do fathers work part-time while mothers work full-time.<sup>30</sup> Similarly, across Europe—where women are approximately four times as likely as men to be employed part-time<sup>31</sup>—27 percent of women who work part-time do so because of the need to care for children or elderly family members, compared to just 4 percent of men who work part-time.<sup>32</sup> These gender imbalances in work hours make it more difficult for women to hold leadership positions, with long-term impacts on earnings and career advancement. Similarly, women providing care to older relatives are often at the peak of their careers; gender disparities in withdrawal from the workforce at this stage consequently diminish women's representation in decision-making roles in both the public and private sectors.

Further, in the absence of adequate public services, caregiving's impacts on work are often disproportionately experienced by marginalized women. For example, for lower-income women, securing professional care support is more likely to be unaffordable. In Australia, for instance, women aged forty-five to sixty-nine with professional or managerial jobs were more likely to remain employed after taking on informal care responsibilities than women working in lower occupational status jobs.<sup>33</sup> Likewise, migrant women, who are often concentrated in low-wage, inflexible jobs with limited access to the social safety net due to their migration status, may have few options but to fulfill care needs on their own. In the United States, for example, immigrant caregivers are more likely than their US-born counterparts to report that they had to quit work, reduce hours, or retire early to meet caregiving needs.<sup>34</sup> In this way, insufficient public support for caregiving across the life course—just like insufficient support for early childcare—exacerbates not only gender gaps in the economy but also inequalities across social class, race and ethnicity, and migration status.

*Discipline, Poor Evaluations, and Terminations*

Even for women who stay in the workforce, care responsibilities without adequate supports can have consequences at work. A family member's sudden illness or hospitalization can require time off from work on little notice, while longer-term care needs of both children and adult family members can require intermittent leave. These types of absences can easily lead to poor performance reviews, disciplinary action, or even termination.

Examples abound across countries and increasingly show up in the courts. For example, mothers of children with disabilities report being singled out at work across contexts. In Brazil, a study based on interviews of mothers of children with Congenital Zika Syndrome found that employer pressure to quit their jobs due to their child's care needs—or even outright termination—was a “constant.” As one woman described: “She said she was just firing me because the baby needed more care. I talked to her, ‘Why does my daughter have anything to do with it?’”<sup>35</sup> Meanwhile, in a landmark case from the United Kingdom, a woman who worked at a London law firm brought a discrimination claim after her employer treated her requests for flexible work arrangements and time off to care for her infant son—who suffered from serious congenital respiratory conditions that required specialized care—less favorably than similar requests from parents whose children did not have disabilities. The woman was also threatened with dismissal for her occasional late arrivals, even as other parents who were sometimes late faced no such warnings. After a few years of this treatment, she left the firm through a voluntary redundancy and alleged in her claim that she had resigned because of the hostile work environment. The case eventually reached the European Court of Justice, which held that the employer's actions had constituted discrimination on the basis of association with someone with disabilities—an interpretation that ultimately influenced UK legislation.<sup>36</sup>

Sometimes discrimination against caregivers is even embedded in official company policies. In 2016, a class action suit against Walmart—the largest private employer in the world<sup>37</sup>—challenged its “points” policy, whereby employees were punished for their absences from work without three weeks' notice, even for emergency situations. Once the employee reached nine points, they would be fired. In a report documenting the policy's impacts, dozens of employees, mostly women, described how attending to their own health needs and those of their family members—from a spouse experiencing a life-threatening complication from diabetes to an elderly mother rushed to the hospital due to heart complications—resulted in point accumulation.<sup>38</sup> Others tried to adhere to the policy in order to keep their jobs, but at great personal cost. One woman described being denied access to leave while her mother, who was in hospice care, died alone.

Longer-term care needs can result in retaliation by employers just as short-term ones do. For example, in a 2015 case from Washington State, Rebecca Snow, a software developer who had always received positive reviews, was suddenly

demoted after she began taking intermittent leave to care for her elderly parents. According to court filings, Snow's supervisor was instructed to give her a negative evaluation because she was no longer "100% committed" to the company. Several years later, when she applied for a promotion, during the interview process she faced questions about her use of leave and was asked whether she had siblings who could share the responsibility for caring for her parents. The promotion ultimately went to a younger candidate.<sup>39</sup>

Moreover, as with other areas of discrimination and retaliation, the cases that make it to court represent but a fraction of the consequences faced by workers—predominantly women—whose care responsibilities become evident to their employer. In the aggregate, these types of employer actions targeting workers with caregiving responsibilities for the health needs of children and adults increase women's risks of unemployment, income loss, and missed opportunities for advancement.

#### *Involuntary Early Retirement and Its Consequences*

Finally, caregiving responsibilities contribute to gender gaps in the age of retirement. For example, in China, a study based on a questionnaire and interviews with over 200 manufacturing workers found that women were nearly twice as likely as men to be considering early retirement due to their eldercare responsibilities.<sup>40</sup> Similarly, a Canadian study found that 21 percent of women, compared to just 8 percent of men, retired in order to meet caregiving needs.<sup>41</sup> Women who have no choice but to retire sooner than planned may be compelled to step back from leadership positions, reducing their ability to have voice in decision-making and to have an impact in a wide range of fields.

Early retirement age can leave women less financially prepared to sustain themselves in older age, particularly since women's average life expectancy exceeds men's, further extending the years they need to rely on retirement income. Moreover, involuntary early retirement can have consequences for health, as reduced social engagement, physical activity, and intellectual engagement can contribute to depression and physical and mental decline.<sup>42</sup> This can compound the health impacts of caregiving, which are marked. For example, high-intensity caregiving has also been found to increase caregivers' risks of depression and poor health. In Japan, women who provided 20 to 69 hours per week on unpaid care were at higher risk of heart disease.<sup>43</sup>

For women and families, the financial vulnerabilities created by early retirement are compounded by gender inequalities earlier in life. Due to career gaps linked to caregiving, reduced income trajectories due to part-time work, and broader patterns of discrimination in pay and promotions, women often have lower levels of personal savings and qualify for lower pension benefits when payments are based on prior earnings. In the United States, for instance, the average monthly social security payment for a retired woman in 2019 was \$1,125, compared to \$1,447 for a retired

man.<sup>44</sup> Likewise, a recent report from the European Commission found that men on average are eligible for pension benefits that are 40 percent higher than women's.<sup>45</sup> Together, these disparities put women at greater risk of poverty in old age.

#### WHAT CAN BE DONE? TAKING STEPS TO ADDRESS CARE GAPS, GENDER EQUALITY, AND JOB QUALITY

Policies around care—or the lack thereof—play a direct role in perpetuating gender disparities in caregiving for both children and older adults and in compelling many workers to choose between their jobs and meeting the health needs of their loved ones. While caring for aging adults and other family members can be rewarding and fulfilling, inadequate policy support means that many workers have no choice but to meet care needs on their own, and broader gender inequalities in the economy and in families leave women taking on the substantial majority of unpaid care work. Making different choices at the policy level can encourage more men to take on the rewards and challenges of care, ensure that the need to provide care doesn't have disproportionate impacts on women's employment, and guarantee that professional caregiving is high-quality and adequately remunerated.

Broadly speaking, caregiving needs across the life course fall into three categories: more routine short-term needs, such as the need to take a family member to the doctor or help a child recover from a minor illness that requires missing school; time-limited needs that nonetheless can be serious, such as supporting a family member during a major illness or operation or providing care and comfort as they are approaching the end of life; and long-term needs, such as the need to provide ongoing care and support to a family member with a long-term illness or serious disability. While there is not always a bright-line distinction between short-term and routine, serious but time-limited, and long-term needs—as health can be unpredictable and needs vary significantly depending on a person's specific circumstances—identifying approaches to support each of these three common types is key to meeting family needs.

The sections that follow explore some approaches currently in practice as well as others that could be transformative if adopted on a broader scale. For episodic care—such as that needed to recover from a major illness or complete a course of treatment for a serious condition—paid leave can play a powerful role. For long-term care for chronic or progressive illnesses or disabilities, supports are needed to ensure that all workers who would like to continue working full-time while helping a family member meet care needs are able to do so; this requires both flexible workplace policies and public investments to make care services available and affordable as well as effective use of new technologies to broaden access to low-cost care supports. To support gender equality, policies addressing care needs must not reinforce the idea that women should be the primary caregiver, and care jobs must be fairly and adequately paid.

*Supporting Workers with Time-Limited Caregiving Needs:  
Impacts of Paid Leave and Current Approaches Worldwide*

As soon as Liwen heard that her younger brother had had a bleed in his brain, she was on an airplane to go see him. She was fortunate to have paid leave that covered caring for siblings. Single, living alone, her brother had no one else to care for him. Liwen moved into his small apartment and helped ensure he could sleep, eat, and be safe when he came home from the brain surgery that left him alive but with a long recovery ahead. At first, he was able to talk but only in short sentences, and was unable to listen to any stories or news. Liwen played music in the background when he could tolerate it. After two weeks passed, he was gradually feeling well enough to listen to stories. As she read them, her brother began to remake connections in his brain.

Paid time off can make a critical difference for ensuring workers can keep their jobs while providing care to a loved one with serious health needs, again with particular benefits for women given their overrepresentation in caregiving. For example, in Japan, where 99,000 workers—76 percent of them women—left their jobs due to care responsibilities in 2017, the availability of ninety-three days of paid leave under the Child Care and Family Care Leave Act was associated with a 7 percentage-point reduction in the likelihood that a worker would need to leave their job within a year after their parent first needed care.<sup>46</sup>

Paid leave has clear benefits for care recipients. Children whose parents have access to leave they can use to meet their child's health needs benefit from more hands-on parental care, which evidence shows leads to quicker recovery following an illness or injury.<sup>47</sup> Likewise, leave for adult health needs can improve recovery after an illness or operation and provide a powerful source of instrumental and emotional support.

Around the world, 55 percent of countries take some approach to providing paid leave that could be used to meet the health needs of a child with a serious illness, injury, or chronic condition. These approaches include broader types of leave, such as leave for emergencies, discretionary needs, or family needs (twenty-four countries) or leave generally available for children's health (twenty-four countries), as well as paid leave that is available only when a child has a serious illness, injury, or disability or is hospitalized (twenty-nine countries). In twenty-nine countries, there are paid leave entitlements for both general and serious health needs. High-income countries are more likely to guarantee some form of leave that can be used to meet children's serious health needs than low- or middle-income countries.

In many countries, even when paid leave is available, it may not be sufficient to meet the health needs of all children. For example, children with cancer often require three to six hospitalizations per year of around twelve days each.<sup>48</sup> A child who needs an uncomplicated surgery for congenital heart disease may be in the hospital eight to eleven days, while more complex procedures could require up to five times as long for recovery.<sup>49</sup> However, only 23 percent of countries globally make at least six weeks of paid leave available to a working parent to meet

their five-year-old child's serious health needs. For children with disabilities, only 18 percent of countries guarantee at least four weeks of paid leave that could be used to meet their ongoing disability-specific needs.<sup>a</sup>

Moreover, in some countries, paid leave is available only to care for younger children. Whereas 55 percent of countries guarantee paid leave that can be used to meet a two-year-old's serious health needs, only 49 percent do so for fifteen-year-olds. While a fifteen-year-old may be able to be left home unsupervised with a minor illness, parental presence is needed for children during hospitalizations and management of serious illnesses.

In the vast majority of countries providing paid leave that can be used to meet children's serious health needs, payments are at full or nearly full (80 percent) of wages. However, while leave that is provided by employers is more likely to be fully paid, it is often too short to address more serious health needs that are more likely to affect parents' ability to remain employed. In fourteen of the 106 countries with paid leave available for children's serious health needs, payments can be less than 60 percent of wages or paid at a flat rate not tied to working wages.<sup>b</sup>

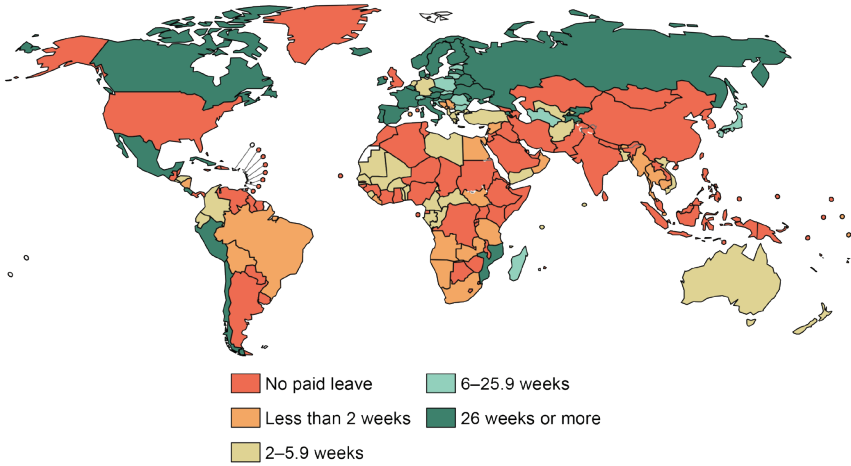
Although adults are more likely to face serious illness, around the world, paid leave for adult health needs is less common than paid leave for children's health: just 42 percent of countries guarantee paid leave that can be used to meet adult health needs. Of the eighty-two countries that make some form of paid leave available to meet adult family members' needs, fifty-seven countries guarantee leave specifically for adult family members' health needs. Twenty-five provide only general types of leave that are not specific to family health, such as discretionary, family needs, and emergency leave. In two countries, paid leave is limited to end-of-life care. In an additional eight countries, legislation provides leave generally for adult family member needs with additional leave available for specific cases, such as serious illness or end of life care.

As with leave for serious child health needs, identifying a precise minimum duration for leave for adult health needs is difficult given the wide variation in health circumstances and care options across countries; nevertheless, some research and background on common courses of treatment offer insights into likely use. For example, older adults face far higher rates of cancer diagnoses, and chemotherapy treatment can last as long as six months.<sup>50</sup> While adults may not need daily help for the duration, severe side effects commonly mean they need care repeatedly over time. A review of the evidence from low- and middle-income countries found that a stroke can result in an average hospital stay of five to twenty days,<sup>51</sup> and recovery

a. This includes both disability-specific health leave and more general paid leave that can be used to meet children's everyday health needs. It does not include any leave specifically for hospitalization or other serious health needs that would also be available to parents of children with disabilities.

b. These are the lowest payment rates for paid leave. In some countries, higher wage replacement rates are available based on the number of children, family structure, type of illness, parental income level, parental employment history, duration of leave, or other factors.

### Availability and duration for a five-year-old child



### Availability of at least 6 weeks of paid leave, by child age

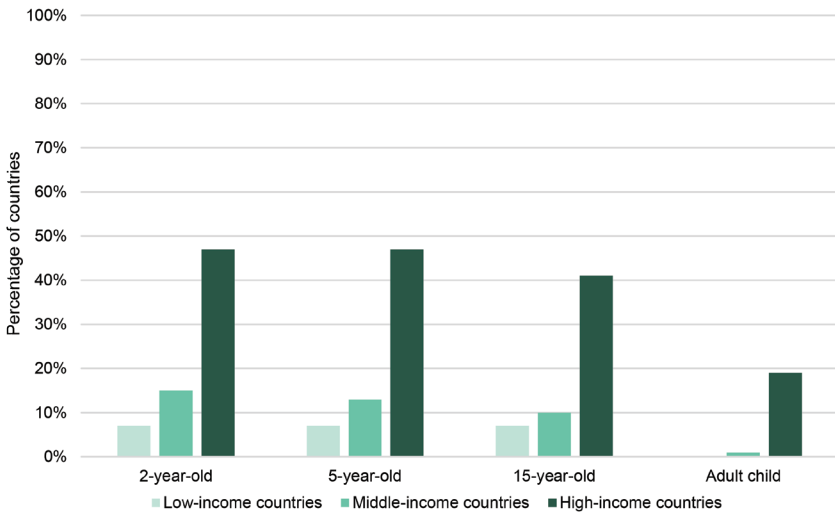


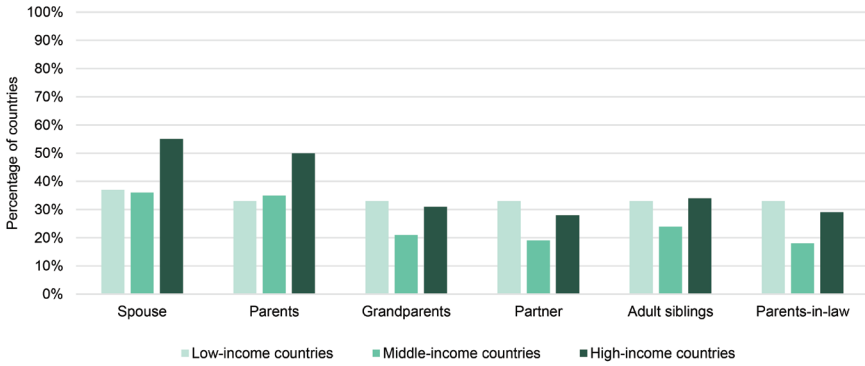
FIGURE 17. Is paid leave available to meet children’s serious health needs?

NOTE: Duration of leave for adult child is based on leave available for adult children still living in the same household as their parent.





Living in the same household as the working caregiver



Living outside the household of the working caregiver

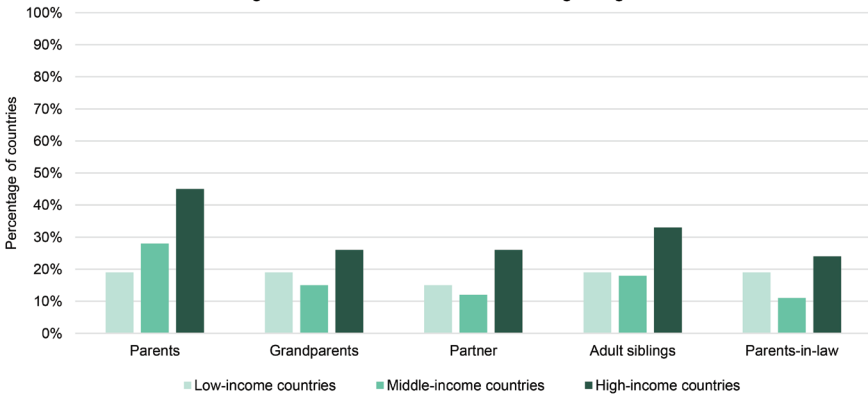


FIGURE 19. Is paid leave available to meet the health needs of all adult family members?

arrangements. Fifteen countries that have paid leave available for parents' health needs require that they be living in the worker's household. Three countries do not have provisions that allow workers to broadly take paid leave for parents but do allow for paid leave to care for dependent family members, which may create barriers to taking leave for parents who are still able to live independently.

A few countries have taken a more expansive approach to enabling workers to care for loved ones. For example, the Netherlands guarantees workers the right to paid leave for "the person with whom the employee otherwise has a social relationship," though the leave is limited to care that "results directly from that relationship and must reasonably be provided by the employee."

Although most countries with paid leave available for adult family members' health needs have a high wage replacement rate of full or nearly full (80 percent) wages, ten countries have wage replacement rates as low as 40–59 percent or pay workers a flat rate that is not directly tied to their existing earnings.<sup>d</sup> Similar to paid leave to meet children's health needs, lengthier leaves are generally paid at much lower rates. While no country explicitly limits paid leave for adult family members' health needs to women, the unaffordability of taking paid leave may contribute to women's higher uptake of leave than men's.

*Addressing Long-Term Care: Improving Care Access,  
Care Experiences, and Care Jobs*

When Rebekah's mother Joanne called her while driving to the salon, panicked because she had forgotten where she was going, Rebekah knew that something was wrong. After a painstaking series of doctor's visits, Joanne was diagnosed with Alzheimer's disease at age sixty-five. To assist with her care, Rebekah and her family relocated, where they would have a larger family network to support caregiving needs. Nevertheless, after Joanne started having regular seizures, in the absence of adequate long-term care Rebekah felt she had no choice but to quit both her jobs to provide care full-time, while her husband continued to financially support the family. Only after she was able to access some in-home care support was Rebekah able to return to work part-time.<sup>55</sup>

Rebekah's story is illustrative of many women's experiences, which collectively offer a key lesson; in addition to leave to support workers to meet time-limited care needs, solving long-term care—just like solving childcare—is essential to eliminating gender inequalities in the economy. Indeed, research suggests that adequate support for acute and ongoing care needs is essential for women's work outcomes. In the United States, the enactment of a state-level paid family leave program in California, which provides eight weeks of paid leave to care for a fam-

d. These are the lowest payments guaranteed. In some countries, wage replacement rates vary based on family structure, type of illness, worker's income, worker's employment history, duration of leave, or other factors.

ily member with a serious health condition, increased the private-sector employment of forty-five- to sixty-four-year-old women with a spouse with disabilities by 3 percent, compared to women in the same age group in states that did not enact such a policy.<sup>56</sup> At the same time, a recent study examining Belgium and Denmark found that the enactment of paid family medical leave did not increase employment rates, leading the authors to conclude that affordable long-term care was also critical to significantly improve labor market outcomes for caregivers.<sup>57</sup>

In the absence of adequate supports for long-term care, individual caregivers and entire economies suffer. The time in many women's lives when eldercare needs arise is a critical period in their careers when they are at the peak of their earning potential, often have the greatest autonomy and opportunities for impact at work, and are most likely to be occupying leadership positions. Insufficient support to meet long-term care needs disproportionately affects the longevity of women's careers, their earnings and preparation for retirement, and their capacity to have influence across sectors.

Yet the gaps in access to long-term care are significant across countries. Both workplace accommodations and national investments in caregiving infrastructure are critical to meet long-term care needs and to ensure that these needs don't leave workers—and overwhelmingly women, due to broader inequalities—with no options but to leave the workforce. What would it take to meet long-term care needs for everyone—and how can we do so in a way that increases gender equality in paid and unpaid caregiving alike?

*The Potential and Limitations of Workplace Flexibility to Meet Long-Term Care Needs.* Sebastian was successful in his job in tech and an amazing father and caregiver to a daughter with disabilities. A wheelchair user for decades, he had long since learned how to succeed in a world that too often did not adapt to the range of physical abilities and constraints that individuals have. As he reached midlife, he began to have more health problems himself, as is not uncommon for wheelchair users with mobility constraints. His mother, Maria, was still working but able to arrange a flexible schedule, so that when Sebastian needed surgery she could come and help provide her grandchild with the care she needed. Their experience was not unusual. People can be caregivers one month and care recipients the next, and then return to being caregivers.

Workplaces have a role in supporting workers to meet time-limited and long-term care needs through greater flexibility with respect to work schedule, location, and total hours:

- **Flexible Schedules:** Surveys of employees with eldercare responsibilities show a high desire for flexible work, and it's easy to understand how greater flexibility in one's work schedule could greatly improve workers' abilities to respond to care needs.<sup>58</sup> In Austria, researchers found that flextime increased the labor force attachment of women with eldercare responsibilities.<sup>59</sup> Studies

from individual countries have also found that flex work can support mothers' labor force attachment and job satisfaction.<sup>60</sup>

- **Remote Work:** In certain circumstances, remote work can also make a critical difference for workers with caregiving responsibilities. As the COVID-19 pandemic underscored, working from home while simultaneously providing full-time care for a baby or young child is next to impossible; the same is true for adults who need constant care, such as those with advanced dementia. Yet for a family member who needs only light assistance, such as with meals or going to the bathroom, the ability to work remotely at least a few days each week can allow a worker to help meet care needs, particularly when shared with another family member or professional caregiver, while maintaining full-time hours.
- **Part-Time Work:** The ability to work part-time can enable more caregivers of aging adults and family members with serious illnesses or disabilities to stay in the workforce while meeting care needs, when their other option would be to drop out entirely. A study of nineteen European countries, for example, found that an increase in available part-time work between 1992 and 2011 significantly increased women's labor market participation. The caveat, though, was that it mattered most in countries that hadn't already adopted other policies supporting equal work and care by women and men.<sup>61</sup> Evidence from some countries also suggests that the availability of part-time work can reduce work-family conflict.<sup>62</sup>

However, despite the potential benefits of flexible, remote, and part-time options, if it is women who primarily take these up due to gender-unequal norms—as evidence indicates is the case—workplace accommodations will likely further entrench rather than diminish gender inequality in the economy overall. Data from a range of countries suggest that women are more likely than men to take advantage of flexible work arrangements when they are available,<sup>63</sup> while women have long been overrepresented in part-time work.<sup>64</sup> Given these disparities in uptake, flexible work arrangements may support women's labor force attachment but, without broader norm change, could also reinforce broader patterns of gender inequality and stereotypes about women's commitment to their jobs.<sup>65</sup>

Past efforts to implement these strategies as stand-alone mechanisms for increasing gender equality in the economy have borne this out. This is particularly evident when it comes to part-time work. In Spain, for example, the introduction of a right to work part-time for parents with children under seven in 1999 led to reductions in hiring and promotions of women of child-bearing age, since only women were taking advantage of the option.<sup>66</sup> Moreover, while some women genuinely prefer to work part-time, many are seeking but unable to secure full-time jobs; across the Organisation for Economic Co-operation and Development, women comprise nearly two-thirds of those who are in “involuntary” part-time work.<sup>67</sup>

Meanwhile, working part-time is generally incompatible with holding the highest-level or best-compensated positions in either government or the private

sector; the same is true for permanent remote work. For example, studies spanning countries at all income levels have found that most professional, senior, or managerial positions are full-time.<sup>68</sup> Research has also documented that workers often face significant challenges in returning to full-time work after transitioning to part-time, and that remote workers face higher barriers to promotion despite comparable or greater productivity.<sup>69</sup> In the aggregate, the impacts on women's leadership at work are substantial.

Moreover, flexible work options are likely to be inaccessible to the majority of workers in lower-wage jobs whose tasks require in-person presence. A 2020 analysis of 800 occupations across nine countries—China, France, Germany, India, Japan, Mexico, Spain, the United Kingdom, and the United States—found that just 20 percent of jobs could effectively transition to remote work long-term, and that these jobs were concentrated in higher-income countries and higher-wage occupations.<sup>70</sup> Over-relying on flexible work options to meet long-term care needs is thus likely to reinforce not only gender but also socioeconomic and racial disparities.

None of this is to say that these options are not valuable, or that they cannot be designed in a way to promote more gender-equal uptake and to reduce long-term career consequences. For example, increasing the availability of part-time work at higher hours—such as three-quarters time jobs—could be worth exploring as a strategy for freeing up time for caregiving without as significant economic or potential professional disadvantages as dropping to half-time work. Similarly important are effective on-ramps for workers who do work part-time or take time out of the workforce for caregiving; some studies suggest that temporary subsidies can make a difference.<sup>71</sup> Yet when layered on top of restrictive gender norms and broader inequalities in the labor market, flexible work approaches have the potential to reinforce rather than dismantle gender inequalities and occupational segregation.

*Gender Equality and Long-Term Care: Public Investment Is Essential.* Ensuring that workplace and national policy approaches advance gender equality requires that they create true choices for families and work to counteract some of the deeply embedded inequalities that position women as society's default caregivers. Ultimately, in seeking to fill care gaps across the life course, countries should seek to realize three goals: (1) meeting care needs for all; (2) ensuring that no one needs to leave the workforce to provide care, since the evidence is clear that women's employment will be disproportionately affected when the full responsibility for care falls to each individual family; and (3) ensuring that it is equally affordable and viable for men and women to take time away from work for periods of caregiving and then to return to quality jobs. Both workplaces and national governments have important roles to play in ensuring all workers can balance work and caring for family members of all ages. Doing so brings economic and family benefits. For employers, ensuring workplaces are inclusive allows for the recruitment and retention

of the most talented employees, thereby improving performance and reducing turnover costs. For countries, ensuring all people can participate in the labor force equally has extensively documented benefits for economic growth.

Yet none of these goals will be achieved without public investment. All too often, what long-term supports and care exist in countries are unaffordable or of disastrously poor quality. Countless horror stories from across countries during the COVID-19 pandemic underscored how limited long-term care options have left millions of aging adults vulnerable to neglect, maltreatment, and even abuse, while many others simply lack access to a caregiver with adequate training. Amid the pandemic, the human toll was catastrophic, but also simply an extension and predictable consequence of the systematic and long-standing underinvestment by governments in eldercare across countries.

Eldercare supports within the home, as well as residential care for those for whom living at home is no longer feasible, needs public investment just as health care does. Alongside public investments designed to make supports affordable and accessible to all who need it, ensuring adequate training for care workers is essential. Investments in education and support for care workers can improve quality of care on a broad scale, with tangible benefits for care recipients. Formalizing care jobs, including by establishing minimum qualifications and competencies, can support these efforts, provided that trainings and pathways to care careers are accessible to all, and existing care workers' experience is not disregarded due to a lack of formal credentials.

New assistive technologies also have a role to play. When thoughtfully designed, new technologies can support aging in place and increase dignity and autonomy in aging. For example, apps and sensors that allow for remote monitoring by family members can give caregivers peace of mind while enabling their family members to live independently.<sup>72</sup> These types of technologies can also help meet long-term needs at scale, given their cost effectiveness. Nevertheless, there will always be a fundamental need for person-to-person care, and many aspects of care cannot be automated; using technology where it is appropriate—for example, to replace more passive observation—can free up resources for more of the direct and skilled care activities that require a human touch.

*Improving Care Jobs.* Beyond their overrepresentation in family caregiving, women are overrepresented in the care workforce. Around the world, 249 million women and 132 million men are in care professions, accounting for 19 percent of female employment and 7 percent of male employment. This gender segregation in turn shapes job quality; care-focused jobs in general are low paid, reflecting how jobs that are performed primarily by women and involve care are often undervalued, and how sectors become more poorly remunerated as they become female-dominated.<sup>73</sup> Moreover, even within the care sector, women are concentrated in lower-wage jobs; for example, women comprise 88 percent of personal care workers and 76 percent of associate health workers globally,<sup>74</sup> but a minority of doctors, dentists, and pharmacists. And even within higher-paid occupations,

roles involving more interpersonal care are often paid less; pediatricians and geriatricians, for example, earn far less than radiologists and surgeons. Addressing the pervasive undervaluing of work that involves nurturing care is a critical undertaking for advancing gender equality in the economy.

Further, these roles are often disproportionately held by migrant women and women from marginalized racial and ethnic groups, widening other types of inequalities. For example, a survey of eighty-six countries by the World Health Organization found that over one in eight nurses was working in a country other than where they were born or trained,<sup>75</sup> while studies of individual countries suggest migrants comprise an even greater share of the eldercare workforce. In the United Kingdom, for instance, around 35 percent of nurses providing long-term care are migrants,<sup>76</sup> while in the United States, migrants account for 28 percent of nursing, home health, and personal care aides.<sup>77</sup> And within countries, it's common for women to migrate from rural areas to urban areas for work in care sectors. In India, lower-caste women and teenage girls are particularly likely to migrate internally for financial reasons, and many end up performing long hours of household and care work within private homes—highlighting another way that social class and related statuses continue to influence the demographics of the care workforce as well as conditions of the work itself.<sup>78</sup>

Investing more in health and social supports across the life course has the potential not only to improve the quality of care jobs but also to grow economies and reduce occupational segregation. Indeed, while the creation of new jobs through greater investments in care will disproportionately increase women's employment, the benefits will extend to all. For example, a study covering forty-five countries estimated that by investing an additional 3.5 percent of GDP in education and health, governments could create 117 million jobs, with women likely to occupy around 55 percent of these new positions; this is slightly lower than women's current representation in those fields in the countries studied, indicating a step toward greater gender equality at the same time that investment has outsized impacts on women.<sup>79</sup> Meanwhile, if history is any indication, reducing occupational segregation and creating more gender balance in care jobs will likely make a difference for job quality. Further, with care a growing sector of economies and an area where there is a shortage of workers, integrating more men into professional care will be important to meet increasing demand. It also provides important job openings as automation is reducing the jobs in several large male-dominated sectors, while care continues to grow.

Indeed, globally, the ILO estimates that total employment in the care economy will increase by nearly a quarter by 2030, adding 248 million jobs. Further, if countries invest adequately to meet the commitments to health and social supports they made by universally adopting the Sustainable Development Goals, even greater growth in the care sector is expected, with job gains concentrated in early childhood care and education (thirty-nine million new jobs) and long-term care (thirty million new jobs).<sup>80</sup> Against this backdrop, caregiving as a skill is becoming increasingly important in employment opportunities.



Improving the quality of care jobs now—whether the sector becomes more gender-equal in composition rapidly or slowly—is urgent for equality. Moreover, getting care jobs right lays vital groundwork to ensure that the coming shift in the economy creates millions of high-quality jobs rather than low-wage jobs with minimal protections. Public investment has a pivotal role to play in creating care jobs that provide adequate wages and benefits, which will in turn improve standards across the sector. As noted by the ILO, “public provision of care services tends to improve the working conditions and pay of care workers, whereas unregulated private provision tends to worsen them, irrespective of the income level of the country.”<sup>781</sup>

At the same time as improving the quality of formal economy care jobs, it is critical to strengthen labor protections for informal care workers. Ensuring that all care workers are covered by minimum wage, paid leave, antidiscrimination and harassment protections, and occupational safety laws, among others, is fundamental to gender equality as well as ensuring that care jobs are not characterized by exploitation. The clear need to extend labor protections to informal care and household workers has been increasingly recognized by the courts. Building on the examples of many countries that have taken steps to explicitly include care and household workers and the informal economy in their labor and social security legislation is an essential step toward valuing paid caregivers appropriately and dismantling legacies of structural inequality.

#### VALUING ALL

Core to the solutions is valuing everyone’s ability to contribute and recognizing the likelihood of every individual’s need for care at different points across the life course. As people age, the probability of having a health problem and needing care increases, but so too does the ability to contribute to the workforce. Older people across countries play critical roles as caregivers and workers.

Shelo was in her late sixties when her daughter Dikeledi grew sick and died from AIDS. She took over raising five newly orphaned grandchildren. Shelo’s son-in-law had been sick first and died before her daughter. As soon as her daughter grew sick, the grandchildren along with Dikeledi had moved in with her. Shelo needed to continue to work because she had rapidly become the only source of financial support. For Shelo, the flexibility of her work meant that she could be home when Dikeledi needed her most. Her relationship with her grandchildren was what kept her going after the deep loss of her daughter. Just as there would never be anything to replace the loss, there was no mistaking either the complete joy in having her grandchildren in her life or her need to work to support them.

Opportunities to continue working for pay later in life can be transformative for families, including intergenerational households like Shelo’s. Yet the benefits of enabling older people who wish to keep working to stay engaged in the workforce also extend to employers and society as a whole. The benefits for workplaces

are significant; employers report that older employees bring important skills, the desire to lead, and extensive professional networks.<sup>82</sup> A systematic review found that older workers are also more likely to engage in positive “organizational citizenship behaviors,” such as helping coworkers and refraining from complaining about trivial matters; at the same time, older workers are less likely to be tardy, to violate safety rules, or to exhibit aggression at work.<sup>83</sup>

Research also finds that older workers demonstrate just as much productivity and innovation as younger workers, despite stereotypes suggesting otherwise.<sup>84</sup> Indeed, an analysis of ninety-eight empirical studies found no evidence that older workers engage in less innovation than their more junior colleagues.<sup>85</sup> Meanwhile, a study examining error rates among workers on the assembly line at a large car manufacturing plant found that productivity actually steadily rose from ages twenty-five to sixty-five when both speed and accuracy are taken into account.<sup>86</sup> In another study, researchers found that a three-year increase in the average age of labor court judges in Germany corresponded to a slight decline (5 percent) in the number of cases processed, but a higher likelihood (11 percent) that judgments would be affirmed on appeal—indicating an improvement in the accuracy and quality of work with age.<sup>87</sup> Moreover, retaining older workers can benefit the bottom line by lowering annual turnover costs.<sup>88</sup>

Further, ensuring individuals have the opportunity to stay engaged in paid work as well as in caregiving and community service improves their physical and mental health.<sup>89</sup> For example, in the United States, a study of nearly 3,000 workers found that a one-year increase in the age of retirement was associated with an 11 percent decline in all-cause mortality among “healthy” workers, as well as a 9 percent decline among “unhealthy” retirees.<sup>90</sup> One study spanning eleven European countries found that working for pay was associated with higher cognitive performance among people ages sixty to sixty-four, whereas retirement lowered scores on a 20-point memory test by 4.9 points, on average.<sup>91</sup>

To be sure, the effects vary depending on the nature of the job; remaining in a job that entails poor working conditions, requires long hours, or imposes infeasible physical demands is unlikely to benefit health.<sup>92</sup> Yet broadly speaking, opportunities for ongoing social and intellectual engagement improve health outcomes.<sup>93</sup> Increasing the availability of part-time work is one strategy that can facilitate continued employment. In New Zealand, for instance, growth in part-time work between 1986 and 2006 accounted for over half the increase in employment among people sixty-five and older.<sup>94</sup>

Yet as people age, they are also significantly more likely to face discrimination in the workplace. When this discrimination leads to job loss and the inability to get rehired, it not only lands individuals and their families in poverty but also contributes to deteriorating health for the individuals and worse economic outcomes at a company and country level. Indeed, in contrast to the potential health benefits of working later in life, experiences of ageism—including encounters with age

TABLE 6 Legal approaches to paid leave to meet family health needs across the life course, by country income level

	Low-income countries	Middle-income countries	High-income countries
<i>How much paid leave is available to meet the everyday and disability-specific health needs of a two-year-old child?</i>			
No paid leave	19 (70%)	66 (61%)	26 (45%)
Less than a week	1 (4%)	5 (5%)	3 (5%)
1–1.9 weeks	1 (4%)	7 (6%)	1 (2%)
2–3.9 weeks	5 (19%)	15 (14%)	7 (12%)
4 weeks or leave available as needed	1 (4%)	15 (14%)	21 (36%)
<i>How much paid leave is available to meet the everyday and disability-specific health needs of a five-year-old child?</i>			
No paid leave	19 (70%)	68 (63%)	26 (45%)
Less than a week	1 (4%)	6 (6%)	3 (5%)
1–1.9 weeks	1 (4%)	7 (6%)	1 (2%)
2–3.9 weeks	5 (19%)	15 (14%)	7 (12%)
4 weeks or leave available as needed	1 (4%)	12 (11%)	21 (36%)
<i>How much paid leave is available to meet the everyday and disability-specific health needs of an eight-year-old child?</i>			
No paid leave	19 (70%)	70 (65%)	27 (47%)
Less than a week	1 (4%)	5 (5%)	2 (3%)
1–1.9 weeks	1 (4%)	7 (6%)	1 (2%)
2–3.9 weeks	5 (19%)	14 (13%)	7 (12%)
4 weeks or leave available as needed	1 (4%)	12 (11%)	21 (36%)
<i>How much paid leave is available to meet the everyday and disability-specific health needs of a fifteen-year-old child?</i>			
No paid leave	19 (70%)	71 (66%)	31 (53%)
Less than a week	1 (4%)	6 (6%)	2 (3%)
1–1.9 weeks	1 (4%)	8 (7%)	3 (5%)
2–3.9 weeks	5 (19%)	12 (11%)	6 (10%)
4 weeks or leave available as needed	1 (4%)	11 (10%)	16 (28%)
<i>What is the lowest wage replacement rate of paid leave available for children's serious health needs?</i>			
No paid leave	15 (56%)	54 (50%)	18 (31%)
Flat rate, adjusted flat rate, or percent of unemployment benefits	0 (0%)	1 (1%)	5 (9%)
25%–59%	0 (0%)	3 (3%)	5 (9%)
60%–79%	1 (4%)	10 (9%)	9 (16%)
80%–100%	11 (41%)	40 (37%)	21 (36%)

TABLE 6 (continued)

	Low-income countries	Middle-income countries	High-income countries
<i>How much paid leave could be used for spouses' health needs?</i>			
No paid leave	17 (63%)	69 (65%)	26 (45%)
Less than a week	1 (4%)	5 (5%)	4 (7%)
1–1.9 weeks	2 (7%)	15 (14%)	5 (9%)
2–5.9 weeks	7 (26%)	16 (15%)	11 (19%)
6 weeks or more	0 (0%)	1 (1%)	12 (21%)
<i>How much paid leave could be used for elderly parents' health needs?</i>			
No paid leave	18 (67%)	70 (66%)	29 (50%)
Less than a week	0 (0%)	4 (4%)	4 (7%)
1–1.9 weeks	2 (7%)	15 (14%)	7 (12%)
2–5.9 weeks	7 (26%)	16 (15%)	7 (12%)
6 weeks or more	0 (0%)	1 (1%)	11 (19%)
<i>How much paid leave could be used for grandparents' health needs?</i>			
No paid leave	18 (67%)	86 (81%)	40 (69%)
Less than a week	0 (0%)	2 (2%)	2 (3%)
1–1.9 weeks	2 (7%)	5 (5%)	4 (7%)
2–5.9 weeks	7 (26%)	12 (11%)	5 (9%)
6 weeks or more	0 (0%)	1 (1%)	7 (12%)
<i>How much paid leave could be used for adult children's health needs?</i>			
No paid leave	17 (63%)	70 (66%)	29 (50%)
Less than a week	1 (4%)	5 (5%)	4 (7%)
1–1.9 weeks	2 (7%)	14 (13%)	5 (9%)
2–5.9 weeks	7 (26%)	16 (15%)	9 (16%)
6 weeks or more	0 (0%)	1 (1%)	11 (19%)
<i>How much paid leave could be used for partners' health needs?</i>			
No paid leave	18 (67%)	88 (83%)	42 (72%)
Less than a week	0 (0%)	2 (2%)	0 (0%)
1–1.9 weeks	2 (7%)	4 (4%)	3 (5%)
2–5.9 weeks	7 (26%)	11 (10%)	6 (10%)
6 weeks or more	0 (0%)	1 (1%)	7 (12%)
<i>How much paid leave could be used for siblings' health needs?</i>			
No paid leave	18 (67%)	83 (78%)	38 (66%)
Less than a week	0 (0%)	4 (4%)	3 (5%)
1–1.9 weeks	2 (7%)	8 (8%)	4 (7%)

(contd.)

TABLE 6 (continued)

	Low-income countries	Middle-income countries	High-income countries
2–5.9 weeks	7 (26%)	10 (9%)	5 (9%)
6 weeks or more	0 (0%)	1 (1%)	8 (14%)
<i>How much paid leave could be used for health needs of parents-in-law?</i>			
No paid leave	19 (70%)	90 (85%)	41 (71%)
Less than a week	0 (0%)	1 (1%)	0 (0%)
1–1.9 weeks	1 (4%)	4 (4%)	4 (7%)
2–5.9 weeks	7 (26%)	10 (9%)	5 (9%)
6 weeks or more	0 (0%)	1 (1%)	8 (14%)
<i>What is the lowest wage replacement rate during paid leave for adult family members?</i>			
No paid leave	17 (63%)	69 (64%)	25 (43%)
Flat rate or adjusted flat rate	0 (0%)	1 (1%)	3 (5%)
40%–59%	0 (0%)	2 (2%)	4 (7%)
60%–79%	0 (0%)	5 (5%)	5 (9%)
80%–100%	10 (37%)	31 (29%)	21 (36%)

discrimination in everyday life and the internalization of stereotypes and negative feelings about growing older—exacerbate health conditions, at the cost of \$63 billion annually in the United States alone.<sup>95</sup>

Women are particularly likely to face intersectional discrimination on the basis of gender and age. For example, in Australia, a study based on interviews with over 2,100 workers ages fifty and older found that women (51 percent) were more likely than men (38 percent) to report that they faced discrimination due to the perception that their skills were outdated, they were too slow to learn new things, or their performance would be unsatisfactory.<sup>96</sup> Similarly, in Poland, a poll of 1,000 workers ages forty-five to sixty-five found that more women (36 percent) than men (29 percent) had experienced some kind of age discrimination at work.<sup>97</sup> And in Israel, an analysis of older workers' likelihood of reemployment after job loss found that age begins to reduce women's likelihood of reemployment at a much earlier age than it does for men, with the impacts beginning around age forty and a sharp decline becoming evident after age fifty.<sup>98</sup>

Addressing discrimination is a first step. Yet only a subset of countries guarantee protections against discrimination for aging women: just 65 percent explicitly prohibit discrimination on the basis of both sex and age. Closing these gaps in the law matters to ensuring women can remain in the workforce as they get older.

## CONCLUSION

While policy makers have begun bringing critical attention to how to ensure workers can balance work and infant caregiving in recent decades, other caregiving needs—and in particular health across the life course, adult care, and eldercare—have received far less attention and are often grossly underaddressed. This lack of support for caregiving needs across the life course undermines gender equality at home and at work, as evidence from across countries shows that caregiving for the health needs of all ages disproportionately falls to women, with significant consequences for employment and wages.

Further, unlike emerging trends in policy support for infant and early childhood caregiving, current policies addressing care for other populations reflect little recognition of the gendered economic impacts of care at these later life stages. Virtually no countries provide incentives for men's take-up of leave for other caregiving needs, while some aspects of countries' policies directly discourage gender-equal leave-taking. And as with care in the first years of life, the need for care across the life course is twofold: workers of all genders need support and time to care, in the form of paid leave and workplace accommodations and public services to support meeting longer-term care needs.

Filling these voids will be critical to advancing gender equality at work and in care. Only through policies that fully support paid and unpaid caregiving can countries demonstrate they value all workers and all families at each stage of life.

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## Education

### *Investing in Girls to Advance Equality Long-Term*

For most girls growing up in Ethiopia in the early 1990s, going to school was not the norm, with lifelong impacts on the job opportunities available to them. At the beginning of the 1994 school year, just 20 percent of primary-school-age girls nationwide had enrolled. Boys also faced long odds, but were over 50 percent more likely than their sisters to be signed up for school. In rural areas, children's chances of school attendance were even lower. In the largely pastoral state of Afar, for example, primary enrollment rates were just 10 percent for boys and 7 percent for girls.<sup>1</sup>

A decade later, things had changed drastically. Overall primary enrollment had tripled from a mere 26 percent to 80 percent. Girls were making steady gains, with gender parity rising from sixty-one girls enrolled in school for every 100 boys to seventy-nine girls per 100 boys.<sup>2</sup> While enrollment rates in rural states remained low, they were increasing faster than in other areas. Between the 2000/2001 and 2004/2005 school years, enrollment in Afar grew on average by 17 percent per year, compared to 13 percent annual growth nationwide. Moreover, even among students in rural areas, girls' access increased more quickly than boys'. And in the years since, the gender gap has continued to narrow: as of 2020, 91 percent of boys and 83 percent of girls were enrolled in primary education.<sup>3</sup>

What accounts for this dramatic shift? By many accounts, the single greatest contributor was the government's decision to eliminate tuition for all government-administered primary schools beginning in 1995. The Education and Training Policy of 1994, implemented in the following school year, ended tuition for grades 1–10, with the goal of “providing basic education for all.”<sup>4</sup> While the imposition of tuition and fees does not directly discriminate against girls, when layered on top of discriminatory norms and broader gender inequalities, tuition and fees disproportionately harm girls. In Ethiopia as elsewhere, when it costs money to go to school, girls are more likely to miss out; in many households, girls' education continues to be viewed as less important than boys', since boys are expected to

become the family breadwinner and have greater earning potential in adulthood, in part due to broader discrimination in the economy. In this way, restrictive gender norms within the family and gender discrimination in employment reinforce each other. Yet when the tuition barrier is removed, both gender and socioeconomic disparities in access to education narrow.<sup>5</sup>

Despite these steps forward, gender gaps in education remain. In Ethiopia, for example, advances at the primary level have not been matched by equivalent progress at higher levels: at the secondary level, over two-thirds of girls are out of school.<sup>6</sup> Moreover, the rapid gains in enrollment have also threatened the quality of education in government schools, as average class sizes doubled during the first decade of fee-free schooling, highlighting one of the common challenges when countries remove tuition without taking broader steps to assure quality and affordability.

Further, as of this writing, the gains achieved on girls' education in Ethiopia are facing new threats. Like many countries that ordered school closures to contain the COVID-19 pandemic, Ethiopia has struggled to meet the needs of students learning remotely; a 2020 report found that less than half of students nationwide, including even fewer students in rural areas, were able to access any support for distance learning, while girls were 50 percent less likely than boys to have access to private tutors during the lockdown.<sup>7</sup> Meanwhile, girls who are out of school are facing higher risks of child marriage as well as increased work obligations due to the economic consequences of the crisis—developments that threaten their likelihood of returning to the classroom. These impacts compound the broader ramifications of COVID-19 on gender equality in the economy, as women worldwide have suffered disproportionate job loss due to the fields in which they're concentrated and the increased care burdens the pandemic has created.

Globally, how can countries maintain their momentum on gender equality in education and close these remaining gaps? Aside from eliminating fees, how have countries approached barriers that disproportionately affect girls, such as child marriage, discrimination, and sexual harassment? And how can they address the disproportionate burden on girls of extensive household labor in many settings that impedes their education?

#### GENDER GAPS IN EDUCATION GLOBALLY

Gender gaps in education have narrowed in many countries. Overall, the number of girls enrolled in primary and secondary school has grown by a remarkable 180 million since 1995, while young women's enrollment at universities has tripled.<sup>8</sup> Over half the world's countries have now achieved gender parity in enrollment at the primary and lower secondary levels.

This progress merits recognition. Nevertheless, gender disparities in access, completion, and attainment persist worldwide. At the primary level, five million more girls are out of school than boys.<sup>9</sup> Girls also account for three-quarters of all

children who never attend primary school.<sup>10</sup> Further, in many countries, gaps tend to widen at the secondary level. In twenty-two countries, fewer than eighty girls complete upper secondary school for every 100 boys.<sup>11</sup>

Girls from marginalized groups are even worse off. Among students from lower-income families, overall enrollment rates are generally lower, and gender gaps in enrollment are wider. In Pakistan, for instance, among households at the bottom of the income distribution, just seventy girls were attending primary school for every 100 boys in 2018.<sup>12</sup> Girls in rural settings also face higher barriers; in twenty countries, less than 1 percent of poor, rural girls complete secondary school.<sup>13</sup> Likewise, girls with disabilities have especially low rates of educational access, which contributes to lifelong gender inequalities. In Mozambique, for instance, the literacy rate of men with disabilities is 49 percent, compared to just 17 percent for women with disabilities.<sup>14</sup>

Gender bias—and the policies that reinforce it—continues to drive these gaps, and surveys reveal the persistence of discriminatory beliefs about education worldwide. While there is some evidence that norms are shifting to value girls' basic education more highly, this is not universal. In Brazil, for instance, the share of adults strongly agreeing that boys' higher education is more important than girls' dropped from 13 percent to 2 percent between 1997 and 2018.<sup>15</sup> In contrast, in Bangladesh, 38 percent agreed or strongly agreed that boys' education was more important in 1996, compared to 43 percent in 2018. Altogether, in the latest wave of the World Values Survey, which asked people in fifty-seven countries and territories around the world about their views on social issues, nearly a quarter—23 percent—agreed or strongly agreed with the statement that “a university education is more important for a boy than for a girl.”<sup>16</sup> In some countries, the proportion was much higher. In Indonesia, 48 percent believed that boys' education was a higher priority; in Kyrgyzstan, Myanmar, Pakistan, and Tajikistan, over half of respondents shared this view.

In addition to threatening girls' access to education overall, these views affect girls' opportunities within education, and thus their future careers. Both implicit bias and overt discrimination, alongside “stereotype threats” and inhibiting norms, can diminish girls' access to specific fields of study and thereby contribute to gender segregation in the labor market, with women relegated to more poorly remunerated occupational fields (as well as fields that become more poorly paid when they become more female). For example, across the Organisation for Economic Co-operation and Development, women account for just one in five computer science graduates; likewise, just a quarter of those holding bachelor's degrees in engineering, manufacturing, or construction are women.<sup>17</sup>

#### ADDRESSING GENDERED BARRIERS TO EDUCATION: CRITICAL FIRST STEPS

Advancing gender equality in the economy on a long-term basis requires changing the underlying beliefs that lead to the devaluing of girls' schooling—and changing

the laws and policies that reinforce these beliefs and create needless barriers to girls' educational access and attainment. Educating girls is key to shifting norms and ensuring equal opportunities not just for girls in school today but for their equal opportunities in the economy as adults, and for the opportunities of their children and grandchildren.

While the challenge of ensuring all girls can access and complete their education remains substantial, many effective policy solutions and critical first steps toward realizing greater gender equality in education are known. Among these are eliminating tuition and other fees, prohibiting discrimination and harassment, banning child marriage, and ensuring governments commit to making education available to all, including by making education compulsory. How common are these approaches worldwide, what barriers are they designed to address, and what difference have they made?

### *Eliminating Tuition and Providing Financial Support to Families*

Tuition fees and other costs—including uniforms, books, transportation, and meals—reduce access to education across the board. For example, a study of education policies over forty years in seven sub-Saharan African countries found that the introduction of school fees was associated with a 17 percentage-point reduction in primary school enrollment overall.<sup>18</sup> While affecting all students, the costs of education can have an outsized effect on girls' prospects for attending school; due to the persisting societal norms that place a greater priority on boys' education, when families cannot afford to send all children to school, daughters are more likely to miss out. One study based in the Mtwara region of Tanzania, for instance, found that nearly two-thirds of parents agreed that in difficult economic circumstances, they would educate boys over girls; half also indicated that providing a school uniform for their sons was a greater priority than for their daughters.<sup>19</sup>

Evidence from a wide range of countries has shown that eliminating tuition has direct and indirect benefits for children's educational outcomes. Countries including Uganda, Mauritius, Ethiopia, and Malawi have witnessed marked increases in enrollment and a substantial narrowing of the gender gap after removing the tuition barrier.<sup>20</sup> Eliminating tuition has had particularly significant impacts on the enrollment of girls as well as all children from lower-income families.

Moreover, the benefits of free tuition are long-term for girls and women and transcend health, family, and work. For example, eliminating tuition and fees has been found to reduce rates of child marriage, likely because girls can stay in school longer.<sup>21</sup> Further, reforming laws to eliminate tuition has benefits for reproductive health and family planning. In a study led by our center, we merged our longitudinal policy data on tuition-free education with survey data from the Demographic and Health Surveys about married women's need for and use of contraception as well as their ability to make their own health decisions, using a sample that included over 300,000 women across seventeen low- and middle-income coun-



tries (LMICs).<sup>22</sup> By comparing the experiences of women who had been covered by a tuition-free primary education policy as children with those who had not, while controlling for other factors, we were able to rigorously examine whether eliminating tuition made a difference for women's future reproductive autonomy. What we found was that married women who had access to tuition-free education the entire time they were in primary school were 152 percent more likely to report using modern methods of contraception compared to women who had not had access to tuition-free education. What's more, the impacts go beyond early marriage and reproductive health to broader issues of autonomy: married women who had access to tuition-free education were also 43 percent more likely to report that they had a say in decisions about their own health.<sup>23</sup>

How far has the world come in making tuition-free education universally accessible? Our most recent research shows 97 percent of countries have eliminated tuition at the primary level. However, only 84 percent have ended tuition for the beginning of secondary school, and only 68 percent have eliminated tuition through the completion of secondary. Low- and middle-income countries are less likely than high-income countries to have eliminated tuition fees in secondary school.

At the same time, countries at all income levels have demonstrated that it's feasible to make secondary school tuition-free, though doing so does require investment and political will. While international funds also have a role to play in financing education in countries with limited resources, adequate national investment is critical to the development of an accessible, equitable, and sustainable education system. International and regional bodies have made recommendations about minimum government spending on education. For example, the United Nations Educational, Scientific, and Cultural Organization's Education 2030 Framework recommends that governments invest 4 to 6 percent of GDP in education, and that 15 to 20 percent of government spending be directed to education. Likewise, the Africa Network Campaign for Education for All has urged countries to spend 20 percent of their total budgets on schooling. Globally, however, seventeen of forty-one countries that haven't yet made secondary education tuition-free have yet to invest even 4 percent of their GDP in education, and data on spending are unavailable for an additional twenty-one.<sup>24</sup>

### *Making School Compulsory*

A second policy that can support girls' enrollment is making school compulsory for a certain number of years or until a certain grade level (though if school is required by law, it is essential that it is free). A range of studies have found that compulsory schooling increases enrollment rates and attainment, and that in some cases, the impacts are specifically gendered. For example, an examination of policy reforms lengthening compulsory schooling in twelve European countries between 1949 and 1983 found that the changes boosted educational attainment and wages, with especially notable impacts for women.<sup>25</sup> In Turkey, a study found

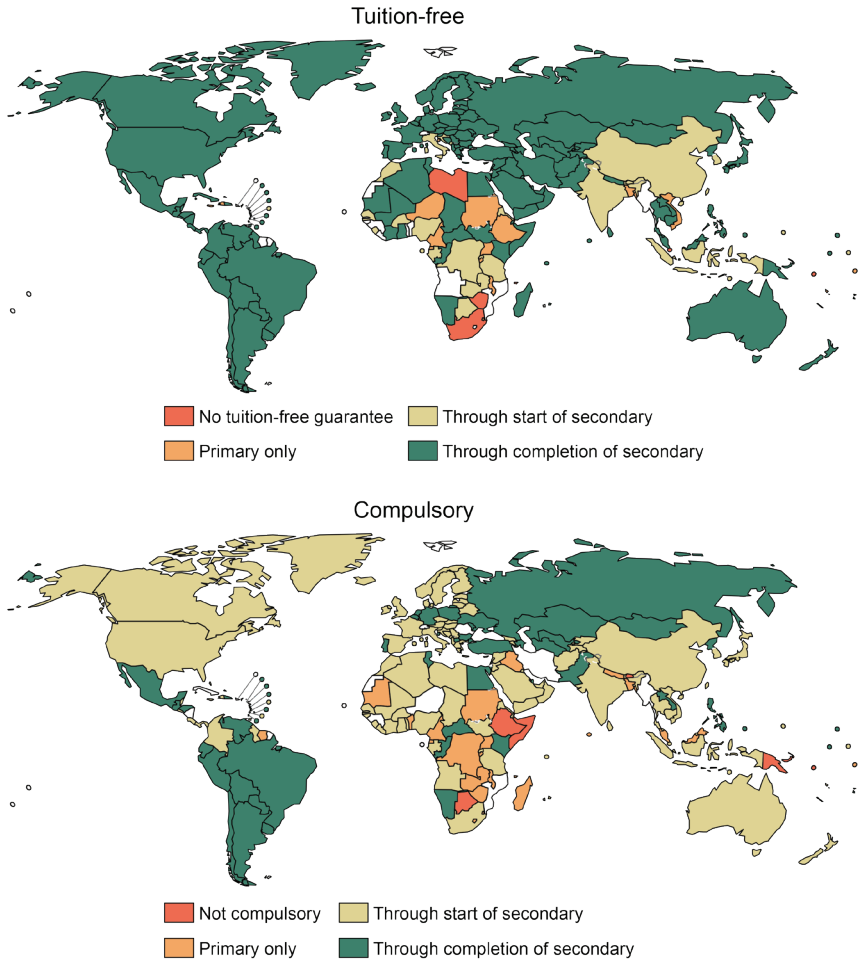


FIGURE 20. Do national policies, laws, or constitutions make education tuition-free and compulsory?

that the extension of compulsory education from five to eight years increased girls' attendance and reduced child marriage.<sup>26</sup> Likewise, a subsequent analysis reported that the Turkish reform increased women's average educational attainment by 1–1.5 years and made it more likely that they would work outside the home in jobs that provided benefits; further, the reform particularly improved outcomes for rural women.<sup>27</sup>

Compulsory schooling signals a government's clear commitment to make sure public schools are accessible to all. Making school compulsory can thus have the indirect effect of supporting increased school construction, which can support greater access by girls by reducing transportation barriers.

Overall, 97 percent of countries make primary school compulsory. Eighty-four percent explicitly establish that at least some secondary education is compulsory, whereas only 28 percent provide for compulsory secondary education through completion. High-income countries are more likely than low- or middle-income countries to have made at least some of secondary education compulsory, but having compulsory education through the completion of secondary school is slightly more common in middle-income than in high-income countries.

#### *Prohibiting Gender Discrimination and Sexual Harassment*

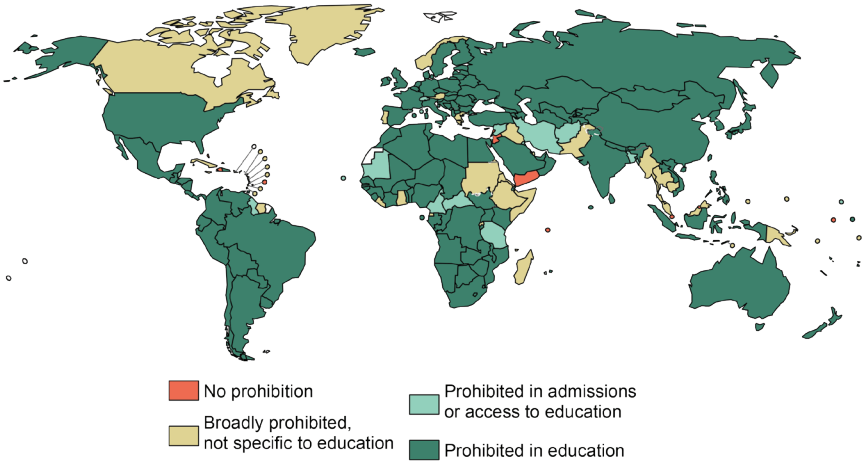
Prohibiting discrimination and sexual harassment within schools, and by teachers in particular, is essential to achieving greater equality in education. Altogether, 65 percent of countries prohibit discrimination in education on the basis of sex and/or gender, and another 8 percent take an approach to ensuring girls' right to access education. There is little difference between these protections across country income level, demonstrating their immediate feasibility across countries.

The United Nations Girls' Education Initiative estimates that 246 million children experience violence in and around schools each year.<sup>28</sup> Marginalized girls face even greater risks. One survey of 11- to 14-year-olds in Uganda found that 24 percent of girls with disabilities, compared to 12 percent of girls without disabilities, reported experiencing sexual harassment at school.<sup>29</sup>

While every country has at least some protection from sexual violence, fewer than half (47 percent) of all countries explicitly prohibit sexual harassment in schools against both girls and boys. Only 36 percent of countries explicitly define sexual harassment to cover both sexual advances and conduct that creates a hostile environment for learning or undermines students' dignity. In 25 percent of countries, the definition of sexual harassment is more narrow and covers only sexual advances or quid pro quo. Only 20 percent of countries prohibit sex-based harassment, as well as sexual harassment, in education.

Provisions to protect students from harassment by any employee in a school environment are also rare. Just 12 percent of countries use explicit or broad language that ensures protection from harassment by all school staff. For example, Belize's Protection against Sexual Harassment Act states: "No person who is a

### Gender discrimination



### Sexual harassment

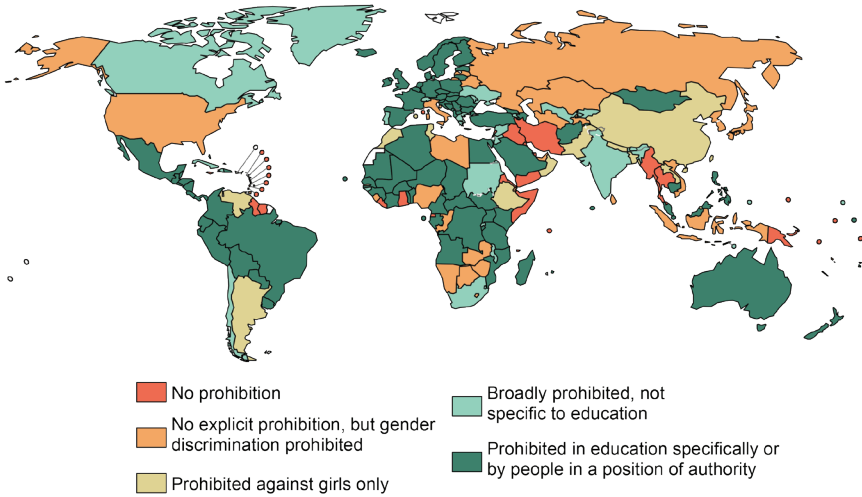


FIGURE 21. Are gender discrimination and sexual harassment prohibited in education?

member of staff or in a position of authority at an institution shall harass sexually a person who is a student . . . or is seeking admission to that institution.”

These provisions have had an impact in the courts. For example, in a 2018 case from El Salvador, laws prohibiting sexual harassment by someone in a position of authority and specifically designating sexual harassment by teachers a “serious offence” provided the foundation for justice for an underage girl who received harassing messages from her fifty-year-old teacher on WhatsApp.<sup>30</sup> In Hong Kong, the High Court invoked a law prohibiting sex discrimination in education, alongside the Convention on the Elimination of All Forms of Discrimination against Women, to prohibit the director of education’s practice of systematically evaluating boys’ performance on standardized tests according to a lower standard than girls’, which had resulted in a higher share of boys being placed in top secondary schools.<sup>31</sup>

Finally, expelling pregnant students discriminates against girls, since their male partners rarely face equivalent consequences, while undermining girls’ long-term opportunities. When girls are pregnant, their education should not be impeded. Yet only a minority of countries explicitly guarantee that pregnant youth will be able to continue their education. Only 18 percent of countries take explicit affirmative measures to legally prohibit the expulsion of pregnant students, and an additional 2 percent aspire to do so or provide accommodations to support pregnant students’ continued learning. In 14 percent of countries, there are also explicit legal provisions to ensure new mothers are allowed to return to school after they’ve given birth.

However, some countries continue to have laws or regulations on the books that limit educational opportunities for pregnant girls. For example, Equatorial Guinea’s Law on Education makes pregnancy a serious offense punishable by expulsion. Jamaica’s education regulations stipulate that pregnant students must be excluded or suspended from school. A 2007 decree in Senegal suspends pregnant girls from school until their delivery due to “security reasons.” Notably, data show that removing these bans does not increase teenage pregnancies—but keeping them in place has long-term consequences.<sup>32</sup> Sex education, settings that ensure girls are not pressured or coerced into sexual activity, protections from harassment and violence, and access to contraception for consensual relations are essential to reduce unwanted pregnancies.

### *Child Marriage*

Fourth, policies are needed to address and prevent child marriage, which continues to disrupt millions of girls’ schooling. Around the world, nearly twelve million girls are married every year.<sup>33</sup> While boys are also affected by child marriage, the effects are disproportionately felt by girls, who are five times more likely than boys to be married by the age of eighteen. While child marriage affects girls in lower-income countries in larger numbers, underage marriage is a global phenomenon;

our center's recent analysis of the United States found that nearly 80,000 children ages fifteen to seventeen were or had been married over a four-year period.<sup>34</sup>

Surveys of parents confirm that early marriage is a key driver of school dropout for girls. Recent estimates from the World Bank and the International Center for Research on Women suggest that child marriage is responsible for up to a third of girls' dropout rate, depending on the country,<sup>35</sup> and that each year of marriage before the age of eighteen is associated with a 4 to 6 percentage-point reduction in girls' chances of completing secondary school.<sup>36</sup> In Nepal, for example, 32 percent of parents of adolescent girls who had left school reported that child marriage was a reason. Likewise, 23 percent of parents in Niger with daughters who had dropped out of secondary school pointed to child marriage as a cause.<sup>37</sup> With 33,000 girls married as children daily, the collective impacts on girls' schooling can hardly be overstated.

The increased risk of early childbearing is one way that child marriage affects girls' ability to stay in school. Recent estimates suggest that around 75 percent of births to mothers under age eighteen in LMICs can be attributed to child marriage.<sup>38</sup> As already discussed, there are countries and school systems—across low- and high-income countries alike—in which pregnant girls and young women are expelled or explicitly prohibited from enrolling, creating an even higher barrier to their persistence.

The relationship between schooling and marriage cuts both ways: girls who marry young are at greater risk of dropping out of school, while girls who leave school early are more likely to be married before age eighteen. Conversely, extending girls' time in school can reduce their early marriage risks. In Burkina Faso, for instance, each additional year a girl stays in secondary school reduces the likelihood that she'll marry before age eighteen by 7 percent and cuts the risks of early childbearing by 11 percent.<sup>39</sup>

Beyond the effects on education, child marriage has extensive consequences for girls' health and autonomy. In general, giving birth as an adolescent poses higher risks to both the mother and the child. For example, one study of twenty-nine low-income countries found that girls who gave birth before the age of eighteen have significantly higher rates of eclampsia and infections;<sup>40</sup> globally, pregnancy complications are the leading cause of death among girls ages fifteen to nineteen.<sup>41</sup> Meanwhile, babies born to adolescent mothers are more likely to be premature and underweight, which can increase the likelihood of chronic health issues.<sup>42</sup> One study of forty-five LMICs found that in some regions, risks of neonatal mortality were over twice as high for babies born to girls ages sixteen or younger compared to women in their twenties.<sup>43</sup> Even in higher-income settings, adolescent mothers' babies face much higher mortality risks.

And in addition to the health risks linked to childbirth, girls who marry as children are more likely to experience violence in their relationships. For example, a study of thirty-four countries found that 29 percent of young women who

had been married as children had experienced sexual or physical violence in their relationships in the preceding year.<sup>44</sup> Experiences of violence can in turn inhibit girls' participation in public life, including their access to education and eventual employment. Further, the violation, isolation, deprivation of autonomy, and higher prevalence of birth injuries linked to early marriage can increase rates of depression and suicidal thoughts.<sup>45</sup>

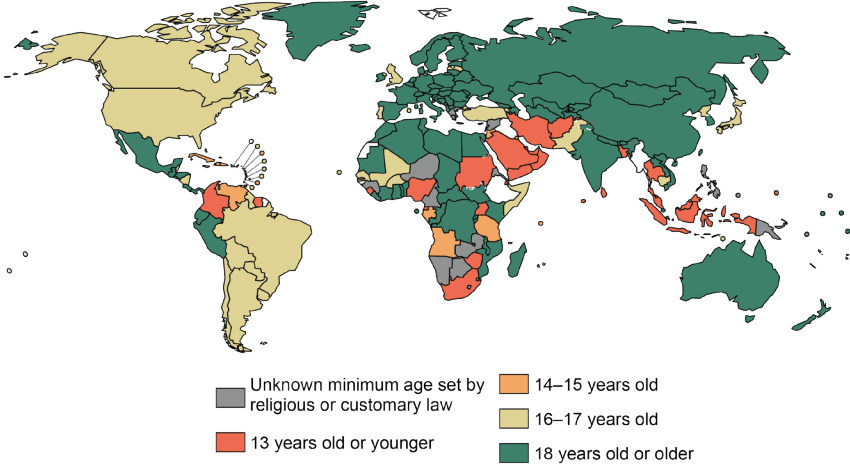
Laws comprehensively prohibiting child marriage are a first step toward ending the practice and represent an important public commitment by governments to doing so. Moreover, laws prohibiting child marriage can shift norms about its legitimacy and reduce violence. In a recent study led by our center, we merged longitudinal data on the minimum age of marriage in nineteen LMICs with survey data about women's experiences of intimate partner violence as well as both men's and women's perceptions of its acceptability. We found that among countries that strengthened their child marriage laws, women's risks of experiencing violence in their relationships dropped by a larger margin than in countries that did not. In addition, the enactment of a law prohibiting child marriage was associated with a greater likelihood that both men and women would view intimate partner violence as "unacceptable."<sup>46</sup>

We analyzed laws in all countries to determine how many establish eighteen years as the minimum legal age of marriage. As of 2019, nearly one in ten countries had yet to take this fundamental step, including 4 percent that failed to provide any legal protection for 13-year-old girls.

Further, in many countries, minimum age laws carve out exceptions for parental consent or marriages performed under customary or religious law. These exceptions can greatly undermine the potential impact of child marriage laws. The vast majority of child marriages take place with parental involvement or permission, while girls from many religious communities are at higher risk.<sup>47</sup> Globally, 40 percent of countries have legal loopholes allowing early marriage to occur with parental consent. Twenty-two percent of countries allow for exceptions under religious or customary law. Accounting for these loopholes, half of countries do not prohibit child marriage for girls. While protections from early marriage are weaker in low- and middle-income countries, substantial gaps in laws prohibiting child marriage can be found across all country income levels and regions. Forty-three percent of high-income countries allow girls to be married before age eighteen with parental consent or under religious or customary law. Encouragingly, these loopholes have been closing over time. In 1995, just 19 percent of 113 studied LMICs prohibited girls from being married with parental consent; by 2019, 58 percent of those countries did. Some regions have shown particularly significant progress. In Central America, for example, five out of seven countries reformed their child marriage laws between 2013 and 2019 to eliminate any legal loopholes allowing marriage before eighteen.

In addition, despite overwhelming evidence that child marriage primarily affects girls, some countries still legally allow girls to be married at younger ages

### Minimum age of marriage for girls



### Gender parity in minimum age of marriage

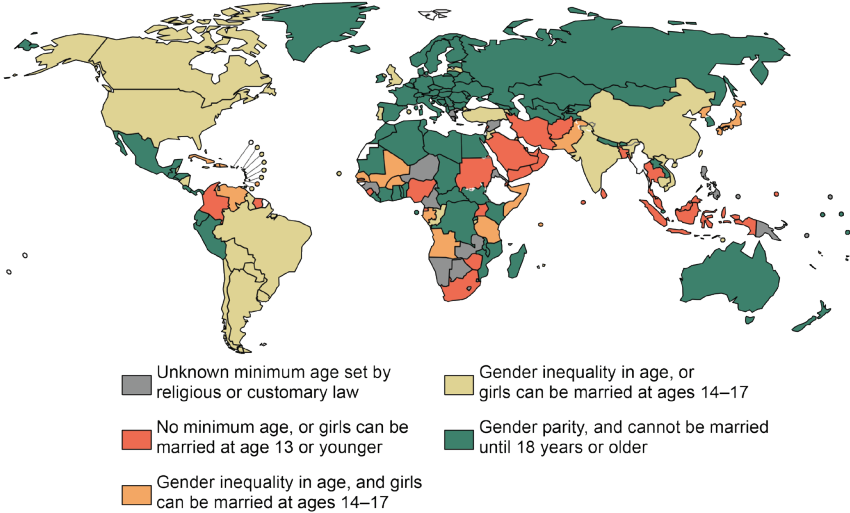


FIGURE 22. Do laws prohibit early marriage and ensure girls have as much legal protection as boys when loopholes are taken into account?



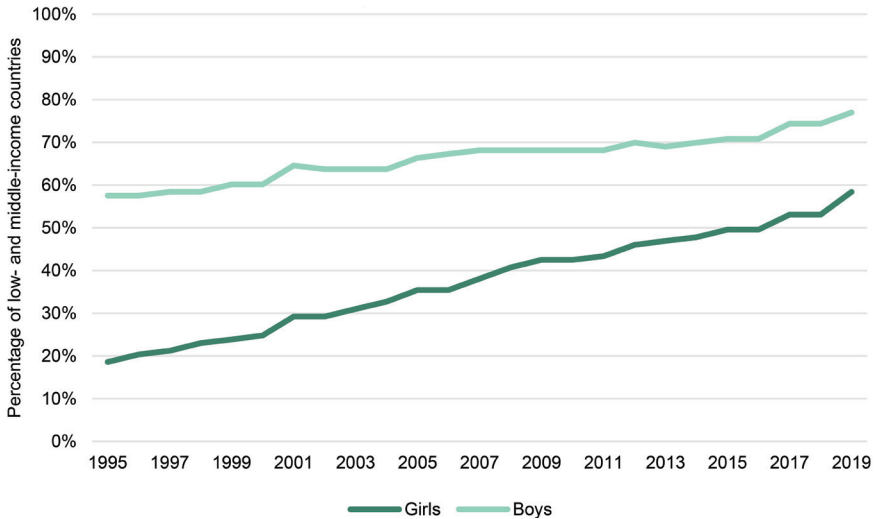


FIGURE 23. Have low- and middle-income countries increased the minimum age of marriage to 18 years old with parental consent?

than boys, directly exacerbating their vulnerability to the practice. This gender inequality embedded in the law gives a stamp of approval to the early marriage of girls and lays the foundation for lifelong gender disparities. In 21 percent of countries, girls can be married at a younger age than boys with parental consent; in 8 percent of countries, the gender gap in the minimum age is three years. While fewer high-income countries have a gender gap in the legal minimum age of marriage with parental consent (11 percent), a quarter of LMICs legally allow girls to be married at younger ages than boys with parental consent. Still, trends over time are promising, and legal gender disparities have diminished. Whereas only 25 percent of 113 studied LMICs provided girls with as much legal protection as boys from early marriage with parental consent in 1995, by 2019, 70 percent had established gender equality in the minimum age of marriage.

## MUCH MORE TO ACCOMPLISH

### *Affordable Quality Education*

For families with limited resources, the cost of sending all children to school is one consideration, but the likely economic return of the education available is another. Consequently, when decent quality schools are inaccessible or have unaffordable associated costs, girls' chances of staying in school further decline.

To that end, sufficient government investment is critical not just for making education tuition-free, but for ensuring its quality remains adequate as

enrollment rates increase and ensuring nontuition costs are low. Some countries that have eliminated tuition have seen tremendous gains in access followed by drops in quality as classrooms swell to unmanageable capacity. With sufficient funding, countries can ensure they are able to build enough schools, hire enough trained teachers, and invest in adequate infrastructure to make schools accessible to everyone.

These investments matter to girls. In Kenya, for example, a study analyzing the impacts of primary school quality on girls' and boys' outcomes in three districts found that having teachers with higher average credentials significantly increased girls' odds of staying in school, as did modest increases in schools' budgets for materials. Further, each 10 percent increase in the share of teachers who agreed that studying math was "important" for girls decreased girls' likelihood of dropping out by 47 percent.<sup>48</sup> Prioritizing education financing also matters to entire economies. According to projections from the African Development Bank, permanently increasing funding for basic education, upper-level education, and physical infrastructure by a collective 1 percent of GDP would boost GDP by 28 percent, formal workers' wages by 16 percent, and informal workers' wages by 29 percent in the long term.<sup>49</sup>

Low quality of education at public schools can also undermine the impact of eliminating tuition and other fees, as education is increasingly privatized and a high share of families pay fees even when there is a free option available. The share of secondary students globally who are enrolled in private schools increased from 19 percent in 1998 to 27 percent in 2019; in a wide range of countries—such as Bangladesh (94 percent), Belgium (58 percent), Guatemala (63 percent), and Liberia (58 percent)—over half of secondary students are in private institutions.<sup>50</sup> The global shift toward privatization is likely to further widen both socioeconomic and gender inequalities in access to quality schooling.<sup>51</sup>

With respect to households' total education costs, removing tuition is a critical first step, but countries can also support greater access to schooling by girls and other marginalized students by subsidizing costs for uniforms, meals, books, transportation, and other necessities. Research has shown that addressing these specific costs makes a difference. For example, a study in Kenya found that the provision of free uniforms to primary school students reduced girls' dropout rate from 19 percent to 16 percent over three years; a program eliminating fees for textbooks reported similar results.<sup>52</sup> Likewise, in India, the 2001 expansion of the mid-day meal program, which provided a free lunch to school students nationwide, boosted girls' first-grade enrollment by 10 percent annually—meaning that nearly 2.5 million girls newly enrolled in school because of the program over a six-year period.<sup>53</sup> Beyond these targeted interventions, direct cash transfers to families with school-age children show promise for improving educational outcomes and families' overall economic circumstances, depending on the details of their design.<sup>54</sup>

*School Sanitation, Transportation, and Infrastructure*

An important piece of school quality is the physical condition of schools and whether they provide safe and adequate learning environments. Countries' investments in school infrastructure—including sanitation and transportation—can make a significant impact on accessibility for all children, with outsized impacts on girls.

Indeed, the quality of sanitation available in schools can have a significant influence on girls' attendance, especially once they reach adolescence. Globally, 335 million girls worldwide are enrolled in primary and secondary schools that lack adequate facilities for menstrual hygiene.<sup>55</sup> In the absence of adequate sanitation at school, girls lack privacy and commonly face higher risks of violence when they seek out private spaces outside of school grounds. Investments in sanitation infrastructure can improve perceptions and experiences of safety at school, increasing girls' attendance and reducing the likelihood that they will stay home from school during their periods. In India, a large-scale latrine construction program launched in 1999 improved school enrollment rates, test scores, and persistence for all children, but girls in particular; a study of nearly 140,000 schools across the country found that sex-specific latrines were especially important for older girls' attendance.<sup>56</sup> A related strategy is to supply girls with free sanitary products; in Ghana, for example, provision of sanitary pads and puberty education increased girls' attendance by 9 percent.<sup>57</sup>

Similarly, inadequate access to safe and affordable transportation to school is another infrastructural barrier that often has disproportionate consequences for girls, particularly since girls who must travel a long distance to school face higher risks of violence and harassment along their commute. Meanwhile, when schools are closer to girls' homes, access is often easier. For example, in the early 2000s, the government of Sierra Leone initiated a nationwide effort to rebuild schools that had been destroyed during the civil war and ensure education was free and widely accessible, which resulted in the construction of approximately 1,400 new schools over five years. According to one analysis, the program increased girls' average educational attainment by 0.5 years.<sup>58</sup> Specific provision of subsidies for transportation can make a difference as well. As just one example, in Bihar, India, the provision of bicycles to secondary-school-age girls boosted their enrollment by 32 percent, narrowing the gender gap by 40 percent.<sup>59</sup>

*Community Infrastructure and Changing Expectations  
about Girls' Household Work*

Beyond school infrastructure, investing in physical infrastructure in rural communities—including water and sanitation systems, rural electrification, and low-cost energy sources—can play a critical role in supporting girls' access to school by reducing hours spent on household labor—from fetching water to firewood. Too often, governments deprioritize investment in the types of

infrastructure that would make the biggest difference for women and girls—illustrating yet another way that unpaid female labor is taken for granted.<sup>60</sup> A 2019 World Health Organization analysis, for example, found that only 15 percent of countries had devoted sufficient financial resources to implement their national sanitation and/or drinking water plans; many more lacked plans altogether.<sup>61</sup> When these basic services that are essential to all communities are privatized or unavailable, the consequences for gender equality in the economy can begin at very young ages.

For example, one 2016 study of twenty-four sub-Saharan African countries found that a total of 3.4 million children had primary responsibility for collecting water in contexts where doing so would require more than thirty minutes per day.<sup>62</sup> Across countries, girls represented 62 percent of all children responsible for fetching water for at least thirty minutes per day, while in some countries the gender gap was much larger. In Guinea, for instance, girls were thirteen times as likely as boys to be their households' primary water collectors. Collectively, according to the United Nations Children's Fund, women and girls spend 200 million hours each day obtaining water for their families.<sup>63</sup>

Compounding the impacts of these tasks, girls across countries are often expected to care for younger children within the household so that their parents can work. Studies from individual countries have long confirmed that these and other responsibilities affect girls' education. In Bangladesh, a study documented that 13 percent of children ages five to seventeen who had left school did so because of the need for their labor at home, and that girls were more likely than boys to combine work and schooling when work was defined to include paid and unpaid household labor.<sup>64</sup> Likewise, in Egypt, research found that girls' domestic tasks accounted for a substantial share of their weekly work hours, and that a 10 percent increase in the likelihood of working at least fourteen hours per week resulted in a 6 percent decrease in the likelihood of school attendance.<sup>65</sup>

Changing the gendered expectations that lead to these disparities—while strengthening families' economic circumstances so they don't feel compelled to rely on child labor in the first place—remains one of the most critical areas for ongoing action. Adequate public service provision and prioritization of rural infrastructure development represent one critical piece of the solution. In Peru, for instance, a study found that having running water at home increased girls' time in school by about eighty minutes per week.<sup>66</sup> Similarly, in India, a study of informal settlements found that the provision of basic services—including water and sanitation systems, road surfacing, storm drainage, and electricity—was associated with a 66 percent increase in girls' school attendance, along with a 62 percent increase in literacy and 36 percent increase in income.<sup>67</sup>

### *Addressing Family Poverty*

Finally, poverty exacerbates the barriers to girls' education identified throughout this chapter. Indeed, according to an analysis of five African countries, household wealth remains the top predictor of whether a child is attending school.<sup>68</sup> Poverty makes it more likely that families will be unable to afford school fees for all children, increases the burden of household work, and reduces the likelihood that children will have access to high-quality schools in their neighborhood.

The role of socioeconomic status in driving child marriage is also evident from the data on how girls' likelihood of early marriage varies by their level of household wealth. For example, among women ages eighteen to twenty-two in Peru, 38 percent of those in the lowest wealth quintile report having been married before their eighteenth birthday, compared to just 5 percent in the top quintile. Similarly, in Zambia, 48 percent of girls in the lowest quintile marry by eighteen, compared to 9 percent in the highest. In India, the gap is a full 50 percentage points: 63 percent of girls at the bottom of the wealth distribution marry by eighteen, compared to just 13 percent at the top.<sup>69</sup>

While a wide range of steps need to be taken to address poverty and reduce economic inequality, critical to addressing family poverty is accelerating the equal educational attainment, autonomy, and options of women and girls. Investing in gender equality will reduce family poverty—and reducing family poverty will accelerate achieving gender equality.

#### WHAT STANDS TO BE GAINED

##### *Labor Force Participation and Employment*

A range of studies have shown that when girls have greater access to education, they enter the labor force in greater numbers.<sup>70</sup> In Zimbabwe, for example, a study found that each additional year of education led to a 3 percent increase in the likelihood that a woman worked for pay.<sup>71</sup> Similarly, a report from the United Nations Educational, Scientific, and Cultural Organization found that women with higher levels of educational attainment in middle-income countries were significantly more likely to have paid employment; in Mexico, for instance, women with a secondary education were 9 percentage points more likely to be employed than women with only a primary education.<sup>72</sup> While economic circumstances in some settings and households demand that women participate in the labor market regardless of educational attainment, in contexts in which women are less likely to work in the labor force, greater education can tip the scales. Higher educational attainment is typically associated with lower rates of unemployment, though the specific relationship between education and employment depends on the jobs available in a given national economy. Meanwhile, reduced access to education makes women's labor force participation less likely.

*Wages, Poverty Rates, and Job Availability*

Educational attainment also directly influences women's earnings and the types of jobs they are able to access. According to estimates from World Bank economists analyzing trends in education from 1950 to 2018, each additional year a girl remains in school translates into around a 10 percent increase in her wages as an adult, 2 percentage points higher than the returns for boys.<sup>73</sup> In the aggregate, these increases can narrow the gender wage gap. In Ghana, for example, women without formal education earn 57 percent less than men, while those with a secondary education earn just 16 percent less.<sup>74</sup> In contrast, gender disparities in access to education reinforce gender segregation in the labor market, gender gaps in pay, and women's higher risks of poverty globally.

*Health, Well-Being, and Educational Attainment*

Women's access to education, or lack thereof, has profound effects on health across genders and generations. A study of eighty LMICs found that gains in women's educational attainment explained 30 percent of the decrease in adult female mortality, 31 percent of the decrease in adult male mortality, and 14 percent of the decrease in under-five mortality between 1970 and 2010.<sup>75</sup> Specific policies increasing education access can directly advance these health improvements. For example, in a study of twenty-three LMICs undertaken with colleagues, we merged data on tuition-free education policies with survey data from the Demographic and Health Surveys about women's access to health services and children's health outcomes. Controlling for a wide range of other variables that could affect outcomes—including rural/urban residence, marital status, per-capita GDP, unemployment rate, and the gender and birth order of children—we compared the experiences of women who had benefited from tuition-free primary education as children with those who had not. We found that making primary school tuition-free increased the likelihood of having a skilled attendant at birth by 22 percent, of modern contraceptive use by 62 percent, and of up-to-date immunization of children by 16 percent.<sup>76</sup>

Other research has documented the intergenerational impacts on education. A study of fifty-six countries found that the children of mothers with six years of education stayed in school 2.8 years longer than those whose mothers had no formal education, whereas the children of mothers with twelve years of schooling stayed in school 4.1 years longer.<sup>77</sup> In short, ensuring girls can go to school and succeed there has not only immediate benefits but long-term effects and shapes the outcomes of their entire households and the next generation.

*Consequences—and Opportunities—for Countries and Economies*

Finally, beyond the impacts on individuals and families, barriers to girls' education have consequences for entire countries. According to a 2018 World Bank report, the costs of failing to ensure all girls can complete their secondary

education amount to \$15–30 trillion in lost earnings and productivity.<sup>78</sup> Meanwhile, closing the gender gap in education can have profound economic benefits. In the Organisation for Economic Co-operation and Development, for example, increases in educational attainment—primarily driven by greater access to education by girls—accounted for nearly half the economic growth across thirty countries from 1960 to 2008.<sup>79</sup>

Now more than ever, finishing secondary school and higher education is often essential for securing a job that pays an adequate wage. Over the past several decades, countries have made substantial progress toward reducing the gender gap in primary education, but that is barely a beginning.

While some barriers to secondary are similar to those for primary—such as tuition and fees—girls often face higher hurdles as they get older with respect to restrictive gender norms, demands to carry out unpaid household and care work, safety, and direct discrimination. Yet compelling evidence clearly demonstrates that governments can rapidly accelerate gender equality in education—if they have the political will. The tools are within the reach of all nations.

TABLE 7 Legal approaches to supporting girls' education, by country income level

	Low-income countries	Middle-income countries	High-income countries
<i>Is primary education tuition-free?</i>			
No tuition-free guarantee	0 (0%)	4 (4%)	1 (2%)
Subject to progressive realization	0 (0%)	1 (1%)	0 (0%)
Policy guarantee	4 (15%)	10 (9%)	3 (5%)
Legislative or constitutional guarantee	22 (85%)	93 (86%)	54 (93%)
<i>Is beginning secondary education tuition-free?</i>			
No tuition-free guarantee	6 (23%)	15 (14%)	2 (4%)
Subject to progressive realization	3 (12%)	4 (4%)	0 (0%)
Policy guarantee	2 (8%)	7 (6%)	7 (12%)
Legislative or constitutional guarantee	15 (58%)	82 (76%)	48 (84%)
<i>Is completing secondary education tuition-free?</i>			
No tuition-free guarantee	12 (46%)	34 (31%)	7 (12%)
Subject to progressive realization	4 (15%)	5 (5%)	0 (0%)
Policy guarantee	1 (4%)	6 (6%)	10 (18%)
Legislative or constitutional guarantee	9 (35%)	63 (58%)	40 (70%)
<i>Is primary education compulsory?</i>			
Not compulsory	2 (7%)	4 (4%)	0 (0%)
Subject to progressive realization	0 (0%)	0 (0%)	0 (0%)

TABLE 7 (continued)

	Low-income countries	Middle-income countries	High-income countries
Policy guarantee	2 (7%)	2 (2%)	0 (0%)
Legislative or constitutional guarantee	23 (85%)	101 (94%)	58 (100%)
<i>Is beginning secondary education compulsory?</i>			
Not compulsory	8 (32%)	20 (19%)	0 (0%)
Subject to progressive realization	0 (0%)	2 (2%)	0 (0%)
Policy guarantee	2 (8%)	3 (3%)	0 (0%)
Legislative or constitutional guarantee	15 (60%)	81 (76%)	57 (100%)
<i>Is completing secondary education compulsory?</i>			
Not compulsory	23 (88%)	67 (63%)	41 (72%)
Subject to progressive realization	1 (4%)	5 (5%)	0 (0%)
Policy guarantee	0 (0%)	3 (3%)	0 (0%)
Legislative or constitutional guarantee	2 (8%)	32 (30%)	16 (28%)
<i>Is gender-based discrimination prohibited in primary education?</i>			
No prohibition of gender-based discrimination	1 (4%)	3 (3%)	6 (10%)
Gender-based discrimination broadly prohibited, not specific to education	7 (26%)	22 (20%)	12 (21%)
Gender-based discrimination prohibited in admissions or access to education	3 (11%)	10 (9%)	3 (5%)
Gender-based discrimination broadly prohibited in education	16 (59%)	73 (68%)	37 (64%)
<i>Is sexual harassment explicitly prohibited in education?</i>			
No prohibition	4 (15%)	21 (19%)	10 (17%)
Not explicit, but gender discrimination prohibited	2 (7%)	18 (17%)	8 (14%)
Prohibited against girls only broadly or specifically in education	2 (7%)	9 (8%)	3 (5%)
Broadly prohibited, not specific to education	5 (19%)	14 (13%)	7 (12%)
Prohibited	14 (52%)	46 (43%)	30 (52%)
<i>Are both sexual-based behaviors and sex-based harassment prohibited in education?</i>			
Sexual violence prohibited, but not explicitly harassment	4 (15%)	20 (19%)	10 (17%)
Gender discrimination in education and sexual violence prohibited, but not explicitly harassment	2 (7%)	18 (17%)	8 (14%)
Sexual-based behaviors only	20 (74%)	55 (51%)	16 (28%)
Sexual-based behaviors and sex-based harassment	1 (4%)	14 (13%)	24 (41%)
<i>What sexual-based behaviors are legally defined as sexual harassment in education?</i>			
Sexual violence prohibited, but not explicitly harassment	4 (15%)	20 (19%)	10 (17%)

(contd.)



TABLE 7 (continued)

	Low-income countries	Middle-income countries	High-income countries
Gender discrimination in education and sexual violence prohibited, but not explicitly harassment	2 (7%)	18 (17%)	8 (14%)
Sexual advances or quid pro quo	11 (41%)	27 (26%)	9 (16%)
Quid pro quo and conduct that creates a hostile environment	7 (26%)	32 (30%)	30 (52%)
Sexual harassment not defined	3 (11%)	8 (8%)	1 (2%)
<i>What is the minimum age of marriage for girls?</i>			
13 years old or younger	2 (7%)	4 (4%)	1 (2%)
14–15 years old	0 (0%)	0 (0%)	1 (2%)
16–17 years old	3 (11%)	2 (2%)	4 (7%)
18 years old or older	22 (81%)	102 (94%)	52 (90%)
<i>When loophole exceptions are taken into account, what is the minimum age of marriage for girls?</i>			
Unknown minimum age set by religious or customary law	4 (16%)	10 (10%)	3 (5%)
13 years old or younger	6 (24%)	16 (15%)	5 (9%)
14–15 years old	0 (0%)	10 (10%)	4 (7%)
16–17 years old	4 (16%)	21 (20%)	13 (22%)
18 years old or older	11 (44%)	48 (46%)	33 (57%)
<i>Is there a gender disparity in the minimum age of marriage with parental consent?</i>			
No specific minimum age for girls	2 (7%)	3 (3%)	1 (2%)
Girls can be married 3 years younger than boys	4 (15%)	10 (9%)	1 (2%)
Girls can be married 1 to 2 years younger than boys	3 (11%)	17 (16%)	5 (9%)
No difference in minimum age	18 (67%)	78 (72%)	51 (88%)

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## Civil Society as a Powerful Source for Change

Transformative change to advance equality doesn't just happen—it takes deeply committed advocates and visionary leaders. Social movements have led to changes in laws that are foundational to gender equality across regions and history. In the 1890s, nearly 32,000 women across New Zealand—a quarter of the country's female population at a time—signed a petition led by the country's first national women's organization urging the parliament to pass the Electoral Act; its adoption in 1893 made New Zealand the first contemporary country to grant women the right to vote.<sup>1</sup> In Switzerland, half a million women across the country, brought together by a broad coalition of trade unions, went on strike in 1991—the largest strike in national history—to pressure the government to implement the constitution's guarantee of equal pay, which led to the enactment of the Gender Equality Act five years later.<sup>2</sup> And in Brazil, after over seven decades of advocacy by domestic workers' organizations, the government enacted a constitutional amendment prohibiting discrimination against domestic workers and, two years later, a comprehensive law articulating labor protections in detail.<sup>3</sup>

Evidence about what's feasible, and data about impacts, can play a critical role in realizing effective policy change, which is why this book has sought to document the breadth of policy solutions across countries and the effects they have had. Yet data and evidence alone are rarely enough; this information requires champions—advocates, policy makers, and other individuals who care. Moreover, passing laws is often only the first step—ensuring governments realize their commitments is essential to long-term impact. In order to succeed at preventing discrimination and building other foundations of equality, enacting laws with built-in implementation mechanisms is crucial. So, too, are ongoing monitoring and accountability efforts to prevent implementation from stalling and enforcement from waning over time.

This chapter offers four examples of how civil society organizations (CSOs) have achieved transformative change on issues critical to gender equality in the economy in different settings, and examines some of the lessons and considerations that informed their strategies. In particular, the case studies featured in this chapter—spanning South Africa, Uganda, Jordan, and the globe—illustrate how civil society can play an effective role in passing new laws, in monitoring and strengthening the impact of the laws, in creating new programs to fulfill the laws’ purpose, and in supporting movements to advance gender equality across countries.

#### GLOBAL COMMITMENTS TO GENDER EQUALITY: WORKING TO REALIZE THEIR PROMISE

Yasmeen Hassan, global executive director from 2011 to 2022, described the beginning of Equality Now’s focus on gender equality in the law:

In 1995, we were super happy because the Beijing Conference, the Fourth World Conference on Women, happened. One of the things that they put out of that conference . . . [was] the Beijing Platform for Action. It is the first time that 189 countries had agreed on a way forward on women’s equality, and one small part of this Platform for Action is that within a certain period of time, states agree that they will amend or revoke all sex-discriminatory laws. So we were like, our work is done.<sup>4</sup>

However, as Hassan continued: “Four years after Beijing, [cofounder] Jessica [Neuwirth] turned to me . . . and said, ‘Guess what? We were so excited at Beijing, and not a single law has changed.’”<sup>5</sup> Equality Now has been working to amend or repeal laws that discriminate against women and girls ever since.

#### *Morocco: Closing Marriage Rape Loopholes and Advancing Regional Change*

In 2012, after the suicide of a sixteen-year-old girl who had been forced to marry her rapist, local civil society organizations including Union de L’Action Feminine intensified their long-standing campaign to abolish Article 475 of the Moroccan Penal Code, which allowed rapists to avoid punishment if they married the victim.<sup>6</sup> According to Hassan, “this really led to a whole movement in Morocco, where they took to the streets.” The protests were ultimately successful, resulting in the reform of the penal code in 2014.<sup>7</sup>

In the wake of the reform, Equality Now acted quickly to share comparative information on similar laws and to convene activists from across the region. As Hassan described:

That law got changed, but because there was all this momentum—and again, this is the grassroots activism—we were able to bring together very quickly a report of all the laws in the world that have the same kind of provisions and bring activists [together]. Then one after the other, the laws change in Lebanon and Jordan.<sup>8</sup>

Rather than conduct its own trainings or workshops, Equality Now “got Moroccan activists there to talk about the change in law and brought all these people together so that people can see the similarities and what the Moroccans did . . . the activists got to know each other, which in itself can open a lot of eyes. . . . They connected with each other and shared strategies and shared also sometimes resources.”<sup>9</sup> The convenings had impact: as Equality Now attorney Antonia Kirkland recalled, “we had two convenings, one at the end of 2016 before the laws in Tunisia, Lebanon, and Jordan changed in the summer of 2017. Then another one at the end of the year to inspire further reform [including] in Palestine, which it did in March 2018.”<sup>10</sup> Kirkland was quick to point out that Equality Now’s role in these efforts was primarily supportive: “We played a little part . . . I couldn’t quantify that, but I think we contributed in the sense that we brought people together.”<sup>11</sup>

Equality Now also used its credibility with international treaty bodies to amplify local activists’ demands for reform of the rape law loopholes. Given Equality Now’s stature, name recognition, knowledge of the system, and connections within the treaty body committees, its “shadow reports”—submissions from CSOs to the United Nations (UN) regarding governments’ compliance with fundamental human rights treaties—can carry more weight than most.<sup>12</sup> Building on this reputational access, Equality Now

worked with [local] partners to put in submissions to the various UN treaty monitoring bodies, like the CEDAW Committee [Committee on the Elimination of Discrimination against Women] or Human Rights Committee, the Committee against Torture, the ones that are going to be having dialogues with the governments that have those laws. So we asked them to ask particular questions on those provisions and make specific recommendations, which they did in most cases. I think that helped put pressure on the governments from the highest level, the international level, to undertake those reforms.<sup>13</sup>

*Central Asia and the Former Soviet Republics: Strengthening  
Laws on Sexual Violence by Amplifying the Advocacy  
and Profiles of Local CSOs*

Replicating best practices across a region is a strategy that Equality Now has employed repeatedly. Prior to joining Equality Now, Tamar Dekanosidze successfully held the government of Georgia accountable for its failure to protect victims of sexual violence.

I was working for the Georgian Young Lawyers’ Association, which is a local human rights NGO [nongovernmental organization] in Georgia. I was doing strategic litigation at the local courts and specifically at the European Court of Human Rights in that period. I took three cases of femicides to local courts and the European Court in which we were arguing that the government was responsible for the killings of these women . . . because the women had applied to the police and prosecution for a



number of times asking for support, asking for protection. The [police and prosecution] did not provide any protection and, as a result, their husband[s] killed them. And therefore we were arguing that this government was responsible.

Dekanosidze went on to explain that in one case, a nineteen-year-old was killed by her husband after the police and prosecution ignored her complaints. In another case, a “twenty-five-year-old young woman who was subjected to continuous domestic violence by her husband had applied to the police seventeen times, a lot of times, asking for help. They didn’t provide her with any help and support and, ultimately, she was so desperate that she committed suicide.”

Dekanosidze described how “the cases my colleague and I took to the local courts were the first-ever cases [in Georgia and the region] when the government was sued for their failure to protect the rights of life or women who failed victims of domestic violence, and we . . . won all these three cases.” Dekanosidze and her colleagues also brought the cases to the European Court and advocated for change with UN bodies. The combination of the local legal cases, Georgia’s national women’s movement, the case before the European Court and support of UN organizations brought about significant changes in the law, in access to services, and in implementation of restraining orders.

Dekanosidze brought her experiences with national change and an appreciation of inter-country similarities and differences to Equality Now. Together with colleagues, she began with a comparative analysis of laws around sexual violence in the fifteen countries of the former Soviet Union, including in Central Asia, which Equality Now released as a report titled *Roadblocks to Justice* in January 2019. According to Dekanosidze, “this report has been the basis for all the work that we are now doing in the region, and this is really the first report of its kind that was developed concerning all the countries of the former Soviet Union.”<sup>14</sup> She continued:

Based on the findings of this report, we made country-specific recommendations . . . in collaboration with the local groups in these countries. . . . For example, in Kazakhstan, for many years until last year the . . . criminal code allowed reconciliation as the basis for terminating a rape case, for dropping the case if the woman was raped and then the perpetrator and the victim had reconciled. . . . We supported the local groups in Kazakhstan who were advocating for this specific legal change, and the law was eventually changed last year. So today in Kazakhstan, reconciliation is no more the basis for discontinuing court proceedings and ensuring impunity for perpetrators of rape. Just to give one example.

When we spoke, Dekanosidze was working on how to improve implementation of laws, even as many laws require improvements: “One of the important things we are doing now, and we are going to replicate in other countries, is that we have just finished the development of a set of manuals on investigation, prosecution, and education on sexual violence in Georgia.”<sup>15</sup> Given Dekanosidze’s prior experience finding that external pressure could importantly support the voice of local civil society

movements, she worked with other international partners to bolster the training's legitimacy in the eyes of governments. Dekanosidze explained: "In the beginning, we were thinking of doing the manual on our own, without having partners from international organizations [aside from Equality Now], but then we thought that having the UN Women and Council of Europe would create more pressure on the government to actually take this manual seriously and implement it."<sup>16</sup>

### *Local and Global*

When working on national-level legal advocacy and reform, Equality Now's position on the appropriate role for an international organization is very clear: local actors and civil society organizations must lead. Equality Now supports those efforts.

One way that the organization does so, as director of communications Emma Thompson explained, is by sharing with local organizations actionable information and data to which Equality Now has access due to their work around the world, and which local groups may not otherwise be aware of:

It's about demonstrable evidence that gender equality is good for everyone. In bringing an example of what's changed in one country, maybe a single law has been repealed and that has meant more women stay in education or enter the workforce. The knock-on macro effect could be huge strides in terms of the prosperity and stability of that country. Our role as Equality Now is to present that solid information to policy makers in other places to generate more political will to reform discriminatory laws.<sup>17</sup>

This same wealth of evidence forms the foundation of Equality Now's global work. Equality Now issues global reports of progress in achieving gender equality in the law as well as numerous country-specific examples of where inequality remains.

This evidence has made a difference. These reports about discriminatory laws, their public dissemination, and the local and global advocacy around them have accelerated change and bolstered accountability by creating an effective monitoring mechanism. Indeed, between Equality Now's first reporting on discriminatory laws in 1999 and its Beijing+25 report published in 2020 (measuring how far countries have come since the Beijing Declaration), over half the laws featured in its reports—over fifty total—had been repealed, reformed, or voided.<sup>18</sup>

Some changes are swifter and more straightforward. As just one example, in 2015, after Equality Now included our data showing Ireland's status as a regional outlier on paternity leave in a report on discriminatory laws, advocates used this comparison with other European policies as a key talking point, contributing to their successful campaign to urge lawmakers to adopt the country's first father-specific leave in 2016. Ireland has since substantially increased leave.

Other changes take place over time and repeated efforts. Equality Now had highlighted the need for Syria to change its "honor killings" law since 1999.

Kirkland described how “over the years, they made it a little bit better, like they lengthened the sentence for a man that murders his wife or his sister for adultery, but it still wasn’t on par with other murders, so it was still discriminatory, so we kept putting it in and putting it in and we were not that hopeful. And then Syria’s mission to the UN wrote us back and said, actually we just changed it.” Across areas, the global and local partnerships bringing unequal laws to light have mattered.

### *Changing Legal Rights and Unequal Expectations*

Equality Now’s work inevitably engages with the complex relationship between legal change and cultural change, as well as opposition to gender-equal laws. As Hassan related,

I believe that culture has always been used as a hammer on women’s heads and every time, from when we started Equality Now and started talking to government, they would give us this argument: “We’re just not ready for this. This is well enough and it works, so we’re just not ready for it and our culture has to change.” And I was just like, “You never say this to any other issue, to economic issues, to trade issues, that oh, the culture has to change. It’s in your benefit and you change it very quickly.” So I don’t believe that argument that you cannot have legal change and that culture change has to come before legal change. Legal change sometimes drives cultural change. But in a best-case scenario, you have political will, legal change, and cultural change.<sup>19</sup>

Likewise, Thompson noted, “In changing the law, you inherently have to change hearts and minds as well. . . . In changing the law, it starts a conversation.”<sup>20</sup> Kirkland further explained: “Legal equality is just the foundation for everything. It doesn’t guarantee that the norms will change, but if you don’t have legal equality, it’s much harder for them to change. And especially if those rights are violated, then there’s no recourse.”<sup>21</sup>

## CHANGING THE LAW: EXPANDING PAID LEAVE FOR FATHERS AND PARTNERS IN SOUTH AFRICA

In November 2018, South Africa enacted ten days of paid leave for fathers and partners,<sup>a</sup> the culmination of years of work by individual advocates, CSOs with a long-term commitment to gender equality, labor unions, and policy makers.

Sonke Gender Justice, a CSO that had been working to advance gender equality in South Africa for over a decade—including through a focus on men’s roles as allies—laid the groundwork by engaging in advocacy, organizing, and sharing

a. This summary refers to South Africa’s leave as “paid leave for fathers and partners” because it was designed to meet the needs of fathers and partners, including female co-parents. Of note, the leave also covers adoptive parents of all genders. The legislation itself, the Basic Conditions of Employment Act, uses the term “parental leave.”

research to build awareness of the importance of leave for fathers and the feasibility of passage. Sonke collaborated with women's rights organizations in this work and in particular collaborated on parliamentary advocacy with the women's rights organization Mosaic. An individual father, Hendri Terblanche, brought new energy to the effort after witnessing how difficult it was for men to be fully involved with their babies during his own newborn sons' hospitalizations. The Congress of South African Trade Unions (COSATU), South Africa's largest labor organization, leveraged its past experience advancing maternity leave, its access to policy makers, and its expertise with the legislative process to build broad support for the effort. And Cheryllyn Dudley, a member of Parliament, responded to Terblanche's call for expanded leave for fathers, helping to move the bill forward.

The group consisting of Terblanche, Sonke, Mosaic, and COSATU built an irrefutable case for paid leave for fathers and partners that demonstrated its powerful benefits for a wide range of stakeholders: it would reduce the burden of care on mothers, especially mothers in paid employment; it would improve gender equality for men in unpaid caregiving, and support greater gender equality at work; it would bring South Africa's labor policies in line with those of many countries globally and a growing share of its African peers; it would foster bonding and attachment between parents and newborn children; it would reduce parenting stress and absenteeism, thus benefiting workplaces; and for fathers like Terblanche, it would provide immeasurable support during one of life's most profound experiences.

*Laying the Foundation: Putting Gender—and Leave—on the Agenda*

By the time the new paid leave law was enacted in 2018, gender equality had been a focal point for a range of South African CSOs, helping to establish fertile ground for policy proposals that would advance equality at home and at work. Among the foremost organizations was Sonke, which had worked since its founding in 2006 on a wide range of issues central to gender equality, including gender-based violence and men's engagement in caregiving.

Sonke's work on paid leave for fathers stemmed from national statistics on unpaid care, which had found that women in South Africa spent around eight times as much time on unpaid care work with children as men, according to Sonke's Wessel van den Berg. The organization's first big opportunity to advocate for leave for fathers came in 2010 when it contributed to the White Paper on Families in South Africa, a government-led policy statement that drew on the expertise of CSOs nationwide and established a set of priorities for supporting families across the country.<sup>22</sup> Drawing on its working relationship with then deputy director general of the Department of Social Development, Zane Dangor, whose unit was responsible for drafting the white paper, Sonke was able to be closely involved in its development<sup>23</sup> and worked alongside a wider network of CSOs to ensure that the paper used gender-neutral language and addressed the diverse range of family structures present in South Africa. In addition, Sonke played an instrumental role

in the paper's recommendations around paid leave for fathers. Under action steps for "family strengthening," the paper listed:

Put in place mechanisms and policies, including paternity and parental leave, to facilitate the balancing of work and family responsibilities and to promote equal parenting care and responsibility between fathers and mothers, and encourage gender equality in parenting.

While the language fell short of a binding commitment, the paper represented a significant step, according to Van den Berg, particularly since it marked the first time the government had put forth "a set of directions for policy to follow in terms of families in South Africa" since it became a democracy.

Meanwhile, COSATU, which worked to advance a broad set of priorities in support of the country's workers and had been a leading voice for equality since the apartheid era, had begun taking a more deliberate approach to gender in its own work, building on prior victories for women workers. One of South Africa's oldest and most influential trade unions, COSATU had played a pivotal role in realizing South Africa's adoption of four months' paid maternity leave in the mid-1990s and had drafted the union's first gender policy in 2000. More recently, COSATU had elected women to three of its six leadership positions, including its first woman president.<sup>24</sup> In short, by the 2010s, COSATU was moving toward a more "proactive" stance on gender equality, according to Matthew Parks, deputy parliamentary coordinator, positioning the union to take a leading role in advancing leave for new fathers.

Nevertheless, neither organization was focused chiefly or exclusively on paternity leave, given the range of other pressing issues relevant to gender equality and to conditions of work. Sonke had also cofounded the international MenCare Global Fatherhood campaign and driven the campaign's activities in Eastern and Southern Africa. Paid leave for fathers is an important focal point of MenCare internationally. In South Africa, however, after the white paper consultations, Sonke largely "shelved" its national paternity leave work—"not deliberately, but we just got involved in other things," in the words of Van den Berg. Likewise, though COSATU was generally supportive of paternity leave, the organization "didn't really prioritize it," according to Parks. In 2014, this all changed.

#### *A Spark to Reenergize the Movement: One Father's Experience*

On November 14, 2013, Hendri Terblanche's wife Giselle gave birth at just twenty-six weeks to twin sons, Danté and Juandré. While both boys survived, they each weighed just around two pounds at birth and required extensive time in the intensive care unit before they were allowed to go home. In total, Danté spent 139 days in the hospital, while Juandré spent seventy-nine days. Terblanche, who at the time was working as a financial manager in Cape Town, considered himself lucky to have a job that gave him the flexibility to visit his sons in intensive care while

they were building the strength to come home. Yet he saw numerous other fathers spend just three days in the intensive care unit—their full allotment of paid leave under South Africa’s legislation at the time—and then rarely return; “although they wanted to stay,” he recounted, “they had to return to work.”

Terblanche decided to take action. As a first step, he submitted a petition to the National Council of Provinces (NCOP), one of the upper houses of Parliament, taking advantage of a provision in the South African Constitution that provided that any “interested person” could submit a petition to the NCOP, and that any member of Parliament could then present it to the full body.

The petition made a powerful and data-driven case for expanding leave for fathers from three to ten days. For example, Terblanche included research that demonstrated that increased leave would improve outcomes for children, improve the health and well-being of new mothers, and increase fathers’ long-term care involvement with their children. For businesses, Terblanche showed that paid leave for fathers would improve fathers’ and mothers’ physical and mental health, making them more productive and committed employees.<sup>25</sup> Drawing on his financial training, Terblanche took his argument one step further, using data from Stats South Africa to work out the average cost of leave for ten days per birth of each child.<sup>26</sup>

Terblanche also drew on comparative data. Over multiple years, the WORLD Policy Analysis Center had produced and disseminated data and tool kits on paid paternity and parental leave in partnership with national and international researchers, global and regional civil society leaders, UN agencies, and major media outlets. For example:

- In 2011, WORLD published research with leading researchers, including Zitha Mokomane at the Human Sciences Research Council of South Africa, on international perspectives on work-family policies and paid leave for fathers.
- In 2012, WORLD published work with the United Nations, including pieces for the Division for Social Policy and Development of the UN Department of Economic and Social Affairs in *Families at Work: What We Know about Conditions Globally*, which highlighted paid leave for fathers as a policy gap and an area for action.
- In 2013, WORLD launched *Children’s Chances: How Countries Can Move from Surviving to Thriving*, a global synthesis of data and comparative maps on laws and public policies in 190 countries, with Catherine Mbengue, chair of the African Child Policy Forum. This work included data on the gap between mothers and fathers on leave to care for new infants and the long-term impacts of this gap on maternal and child health.
- In 2014, WORLD launched a series of resources on the anniversary of the Convention on the Rights of the Child, including a piece with UNICEF on what it would mean to fulfill the convention’s potential. This work included infographics,

fact sheets, social media content, and knowledge translation materials shared directly with a wide range of South African and regional partners.

Also in 2014, Terblanche submitted his paid leave petition to the NCOP in July. In November, less than two weeks after the twins' first birthday, Terblanche presented his petition to the Select Committee on Petitions and Executive Undertakings, arguing that the cost of paid leave for fathers would be outweighed by the societal benefits it would bring as well as the direct benefits to employers with regard to decreased absenteeism and increased employee commitment.<sup>27</sup> He also noted that a range of other African countries—including Mozambique, Kenya, Algeria, Morocco, Rwanda, Tanzania, and Tunisia—had already adopted paternity leave, making it clear to the committee that paid leave for fathers was not limited to wealthy European nations.<sup>28</sup>

A director in the Department of Labour submitted a brief in opposition, broadly arguing that paid paternity leave would be cost prohibitive. Yet as the Select Committee noted in its report, no economic impact statement had actually been undertaken; in response, the committee directed the Department of Labour to “look into the possibility of conducting an economic impact assessment” on paid leave. It also recommended the matter to the Portfolio Committee on Labour and the Department of Labour.<sup>29</sup> Yet given the committee's very tentative language, Terblanche decided to also pursue other strategies for advancing his cause, including personally contacting each member of Parliament—and as he did so, he came to the attention of some powerful allies.

### *Collaborating to Reach Policy Makers*

As momentum began to build, Sonke continued to highlight research showing how South Africa compared to the rest of the world on paternity and parental leave. The MenCare Global Fatherhood campaign produced the first *State of the World's Fathers* report in 2015, with a dedicated focus on the benefits of paid leave for fathers.<sup>30</sup> In the same year, WORLD partnered directly with Sonke, alongside the MenEngage Alliance, to cohost a workshop on paternity and parental leave that brought together partners from across the region to share data, advocacy experiences, and research. WORLD's comparative data proved influential as labor leaders and members of Parliament noted the unfavorable comparisons. Van den Berg of Sonke said, “South Africa likes to position itself as an economic and policy leader on the continent, and showing where we are behind our neighboring countries, as well as how families have responded in countries where these policies have been implemented, is very powerful.”<sup>31</sup>

Meanwhile, as Terblanche set to work calling and WhatsApp-ing every MP he could reach, his one-man campaign began attracting media coverage. According to Van den Berg, “we saw a newspaper article about him and then [we] approached him,” with the goal of providing Terblanche with a greater platform to amplify his

message and media reach.<sup>32</sup> At the same time, Parks of COSATU learned of Terblanche's efforts through a listserv and felt compelled to find a way to support; as he recalled, "I said, okay, let's see how we can support this and let me see how I can use COSATU's influence to try to make the MPs listen to [Terblanche] because I [could] see they were not listening to him despite his persistence."<sup>33</sup>

Parks began meeting with contacts in government, including the Petitions Committee chair and Cheryllyn Dudley, a member of Parliament and of the African Christian Democratic Party. Meanwhile, Sonke worked to secure greater media coverage of Terblanche's efforts and simultaneously drafted a new position paper on paid leave for fathers in collaboration with the University of Johannesburg. To ensure that expanding leave was actually a strategy that would address inequalities in unpaid care, Sonke and Mosaic also held a series of consultations with women's organizations. Next, Terblanche worked with Sonke and partners to put together a draft bill, drawing on the position paper, which he shared with Dudley.

The collaboration soon paid off. In 2017, Dudley submitted a paternity leave bill to the National Assembly, which both Van den Berg and Parks attributed to the media attention that their and Terblanche's advocacy had garnered. Terblanche agreed that "the media played a crucial role" in attracting the attention of MPs.<sup>34</sup> This was especially notable as it was the first bill ever submitted by a private member, rather than by a minister, committee, or member of the Executive Council.<sup>35</sup> Ultimately, however, the member's bill drafted by Dudley deviated from the inclusive policy the group had sought to advance, in particular by excluding same-sex couples from full benefits.<sup>36</sup> In the end, Terblanche, along with Sonke and COSATU, opted to voice these concerns by making submissions on the bill once it was tabled, which came later in the process.

As the largest of South Africa's trade union federations, COSATU and its leadership, including Parks, were experienced in advocating for legislation. Parks was able to leverage COSATU's influence to push the bill to the next stage, bringing it before the National Economic Development and Labour Council, which would be essential for getting business buy-in. Yet initially, according to Parks, business leaders showed little interest either way, seemingly underestimating the effort and its momentum.

Meanwhile, Parks and COSATU were able to argue that South Africa was "actually quite far behind other African countries," several of which had already implemented policies similar to their proposal, as documented by WORLD research and shared across civil society in the convenings cohosted with Sonke.<sup>37</sup> He continued:

As a labour movement, we look to the Scandinavian countries as role models on many fronts, but . . . you're just not in a situation where we're going to get two years' paid leave . . . but I think it was useful to be able to say look at Kenya, look at Cameroon, look at Morocco. . . . So we are the leading industrial manufacturing economy on the continent. We have the most progressive constitution on the continent. I think



it was useful to say, look, other African countries are doing this thing. What's our problem?<sup>38</sup>

The data accompanied by COSATU's institutional weight were enough to get the support of the Portfolio Committee on Labour—the parliamentary body charged with making recommendations on bills relevant to workers—and move the bill forward.<sup>39</sup>

After the bill left the Portfolio Committee in November 2017, it was open for a public hearing and submissions from CSOs. Sonke and the women's rights organization Mosaic made a submission together, drawing on Sonke's original position paper on paid leave for fathers and on a consultation they had done with a wider network of organizations.<sup>40</sup> COSATU also presented an official submission in support, as did both Terblanche and another couple who had personally benefited from paid leave for fathers.<sup>41</sup> From then on, the bill continued to move forward and go through rounds of edits, until it was finally adopted and sent to the president's desk.

#### *A Step Forward: New Legislation*

On November 23, 2018, the powerful collaboration among all the partners finally paid off. President Cyril Ramaphosa signed the Labour Relations and Labour Amendment acts into law, guaranteeing fathers and partners ten days of paid leave.<sup>42</sup>

Moreover, while much of the advocacy and media campaign focused on paid leave for fathers, the amendments had wider-ranging benefits: for maternity leave, the payment amount was increased from 54 percent to 66 percent of the new mother's salary, meaning that mothers received more money than they previously did from the unemployment fund.<sup>43</sup> The language on paid leave for fathers was made gender-neutral so that it also extended to nonbirthing parents regardless of gender.<sup>44</sup> The new law also included an allocation of leave for adoptive parents or those who had a child by surrogacy, ensuring a legal right to time off from work in addition to payments that were already available. Finally, this right was available at the start of the adoption placement rather than on its finalization months later. Van den Berg of Sonke described this last inclusion as “a particular small clause that I pushed for personally on my own, which came from . . . my wife's difficult experience of trying to claim maternity leave as an adoptive parent.”<sup>45</sup>

#### *Impacts and Limitations*

All of the advocates involved in the push for paid leave for fathers and partners in South Africa viewed the reforms as a success, but they also noted that there were limitations. In particular, Terblanche, Sonke, and COSATU all acknowledged that ten days, while a distinct improvement over the previous allocation of three days' family leave, was still a very limited amount of time for new fathers, particularly in the case of a complicated or premature birth. A commitment to further expanding

leave is likewise reflected in the partner organizations' materials; since 2015, for example, COSATU's Gender Policy has stated that "there is a need for a minimum of 10 days paternity leave for fathers, with a view towards extending this to two months," and paternity leave was identified as a "key action area" at the organization's 2015 conference.<sup>46</sup>

The details also had the potential to limit coverage. Parks explained that because many adoptions of extended family members in South Africa are unofficial, the adoption leave would likely reach only a fraction of those who needed it.<sup>47</sup> Van den Berg of Sonke also noted that the ability to access paid leave relied on having accumulated a positive balance in a worker's unemployment leave account. If a worker has a child early in their career, "you have a minimal balance in your account" on which to draw.<sup>48</sup> Ultimately, however, the groups saw the bill as worth supporting. As Van den Berg put it,

We saw it as an end of the stage. We didn't want to make too much noise about it and delay it. We rather thought, let's support this process, get it established, and then based on data we can motivate for better leave as we go along with data.<sup>49</sup>

There was also a significant delay in implementation. Van den Berg described it as a delay in harmonizing the Labour Laws Amendments Act and the Unemployment Insurance Fund Act.<sup>50</sup> According to Parks, the problems ran deeper. As he characterized the process, "legislation is like a child. You must take it from creche to school to university."<sup>51</sup> He described implementation delays at two stages. First,

the government needed to fix unemployment insurance fund issues [which would fund paternity leave benefits]. . . . The President wanted to sign a raft of four or five bills, including introducing a national minimum wage for the first time . . . So they wanted to wait for . . . the President to sign them all at once. So that was a delay of a year.<sup>52</sup>

Second, even after the president signed the bill, the Department of Labour and Department of Public Service and Administration delayed the promulgation of the implementing provisions; ultimately, Parks and COSATU had to press South Africa's president to instruct the departments to complete the implementation. Consequently, though Parliament passed the bill in 2017 and the president signed it into law the following year, it wasn't until January 2020 that the provisions on leave for fathers came into force and May 2020 for some of the law's adoption provisions.<sup>53</sup>

Though the legislative changes have been recent, there were early signs that the leave amendments were making a difference. According to Sonke, the Human Sciences Research Council's 2019 South African Social Attitudes Survey showed "lots of support from mothers and fathers for leave for fathers."<sup>54</sup> For Terblanche, one powerful sign of impact was that fathers began taking leave before the regulations were even finalized, as they were so eager to see the reforms enacted: "People were

saying it's now a law. Everybody was taking parental leave without the regulation actually taking place . . . the regulations took forever and a day, but people started using it."<sup>55</sup>

*What's Next: The "Full Circle of Caretaking"*

The push for paid parental leave in South Africa is a powerful example of how policy, evidence, and advocacy organizations can create fertile ground for efforts to successfully amend legislation. It also demonstrates the power that can come from individuals committed to change when they have an avenue for making their voice heard and the necessary support to successfully navigate government. On the heels of the victory on parental leave, Terblanche has been advocating with partners for paid leave for caregivers of older adults—what he referred to as addressing the “full circle of caregiving”—including by filing a second petition in 2018, which called for eldercare leave and urged that “eldercare is just as important as childcare.” Sonke also pushed ahead to publish the 2021 *State of South Africa's Fathers* report, which showed encouraging findings about fathers' uptake of leave: 91 percent of those who qualified for leave took it, of whom 74 percent used all or most of their leave to care for their children.<sup>56</sup>

PROGRAMS AND SERVICES TO REALIZE  
A LAW'S PROMISE: IMPLEMENTING CHILDCARE  
LEGISLATION IN JORDAN

Effective enforcement is critical to ensuring laws have the intended impact. If a certain service or benefit is guaranteed by law but no one knows how to access it or no funds are devoted to its availability, the law's effects will be limited.

In Jordan in the mid-1990s, a provision in the Labor Code established that workplaces employing a certain number of mothers with young children were required to provide on-site childcare. For over a decade, however, the provision went unimplemented. And in Jordan as elsewhere, lack of access to childcare has long been a major barrier to work. According to a case study by SADAQA, a civil society organization in Jordan, 45 percent of women in Jordan who left the work force cited family circumstances and childcare burdens in their decisions.<sup>57</sup> This is in spite of their high educational attainment: as of 2011, women comprised the majority of Jordan's university students,<sup>58</sup> but their labor force participation rate stood at just 16 percent.<sup>59</sup>

That year, SADAQA decided to take action—and through a thoughtful, comprehensive strategy involving community and media outreach, economic analysis, deep engagement with the business community, and, eventually, further legal reform, they took powerful steps toward ensuring the childcare law lived up to its potential for parents and families nationwide.

*The Personal Becomes Political: Taking Action to Improve  
Work Outcomes for Mothers*

SADAQA was founded by two women who had deep personal experience with the lack of support for mothers engaged in paid work. Randa Naffa, a former professional tennis player turned gender advocate, had always “felt a strong belief in women’s rights, but it didn’t hit me personally until I got married and I had my first child.” For cofounder Lara Ayoub, an established journalist, the catalyst was her participation in a mentorship program, Vital Voices, designed to help women in Jordan and across the region advance their careers and grow their businesses. At the time, Ayoub didn’t yet have children herself, but during a focus group about the challenges facing women working in Jordan, she realized that “the common denominator was that when women get married and become mothers, they exit their career.” Yet one of the participants, a lawyer, brought the group’s attention to a critical tool: Article 72 of the Labor Code, which established that any business employing at least twenty women who collectively had at least ten children under age four was required to provide childcare. Despite being enacted in 1996—nearly fifteen years before the workshop—the law had never been implemented.

The workshop and the revelation about Article 72 are what launched SADAQA. While balancing their other careers, Ayoub and Naffa got the organization off the ground and recruited Reem Aslan to support the team’s management. They then turned to the questions that would drive their next decade of work: why hadn’t the childcare law been implemented, and what would it take to change that?

*Bringing Childcare to the National Stage: Research,  
Awareness-Raising, and Skill-Building*

The members of SADAQA began by researching the availability of childcare nationwide. As they had anticipated, few employers provided childcare: as of 2010, just twenty-eight childcare facilities had been established and licensed pursuant to the law. To shine a spotlight on this lack of implementation, SADAQA undertook a two-part campaign: an awareness walk, and a comprehensive media strategy.

*Building Awareness and Building Relationships through a Community Event.* In 2011, before even registering as a nonprofit, SADAQA organized a walk to bring attention to Article 72. Importantly, the organization was able to convince the government to cosponsor the walk, which consequently served not only to spread awareness about the law throughout the community but also to build a relationship with government officials that would prove instrumental as SADAQA’s efforts to implement the law moved forward.

SADAQA’s deliberate approach to the walk proved successful. At a time when protests were roiling the region, the “peaceful walk with a civil society organization and the government, holding up [signs saying] ‘yes to a family-friendly work

environment” was overwhelmingly well received; as Ayoub recalled, “all these parents started calling us and saying, ‘Hey, don’t shut down! Stay open! Register!’” At the same time, they felt they needed further training to carry the work forward. Ayoub continued: “And I was eight months pregnant then. I was like, how are we going to do this? We don’t have the skills.”<sup>60</sup>

Ayoub and Naffa saw the urgent need for the work but recognized that they needed help. They took a course on the methodology of community organizing from Marshall Ganz at Harvard and learned how to connect all of the stakeholders, engage government and employers, build networks and pressure, and continue to raise awareness. Not only did they take the course, but they also proceeded to teach it to the team they built.<sup>61</sup>

*Using Media and Communications for Exposure and Accountability.* A second key piece of SADAQA’s strategy was its extensive engagement with media, drawing on Ayoub’s training as a journalist; as she put it, “every activity we did was mirrored with media exposure.”<sup>62</sup> SADAQA reached out to traditional media about the 2011 awareness walk but was also able to rely on the nature of the walk itself to generate attention. The very fact that SADAQA had partnered with the government for the walk was newsworthy when it took place in 2011, coming as it did on the heels of the Arab Spring protests of 2010.

Ayoub also produced a series of short television segments, which brought together factory owners and business leaders to discuss the barriers to providing childcare with representatives from the Jordanian government in a workshop format. Ayoub would air a segment of that workshop during the program and then, during the interview segment, ask for a commitment from the business leader to institute a day care within a set amount of time. The strategy brought both progress and exposure. As Ayoub described it, “I got it on camera . . . on national TV, but come one year, when he had a day care, I was able to quote him . . . or hold them accountable.”<sup>63</sup>

#### *Engaging Business Leaders*

Although Ayoub’s interviews were powerful, getting the business sector on board was one of SADAQA’s greatest challenges and required a multifaceted strategy. During their initial research on implementation, Ayoub and Raffa had found that Ministry of Labor officials were extremely hesitant to apply Article 72 for fear that it would discourage businesses from hiring women or induce them to fire the women they already employed.<sup>64</sup>

*Identifying Barriers: Workshops to Listen to Business Concerns.* SADAQA identified the five main sectors of Jordanian business: telecommunications, health, education, finance, and industrial.<sup>65</sup> In engaging businesses, SADAQA began by conducting workshops and interviews with businesses to listen to their concerns

and identify the reasons the businesses were hesitant to create on-site childcare.<sup>66</sup> SADAQA positioned itself as a partner rather than as an adversary. As Ayoub explained, the organization's approach was to make clear: "We want to help you. We want to do the work. We want to understand why this is not happening."<sup>67</sup>

Some of the barriers to implementation identified by SADAQA ran across sectors, such as a lack of technical expertise and governmental guidelines as well as a lack of financial incentives and assistance.<sup>68</sup> In other cases, the barriers were sector-specific. Banks, for instance, often had smaller branch locations clustered in areas, but without necessarily enough employees to justify or mandate an on-site day care. Banks also had issues with finding space that met government criteria of being on the ground floor and in a safe location, given the public traffic through banks.<sup>69</sup>

*Addressing Financial Concerns: Strategies to Offset Initial Costs.* Listening to business leaders, SADAQA learned that one of the major disincentives was the initial costs of building the day care space. To reduce this barrier to entry, SADAQA helped convince the government that businesses needed help covering the cost of initial set-up. According to Farhan Ifram, chair of the Jordanian garment export association JGATE and former CEO of a company that worked with SADAQA to institute a childcare center, "the government of Jordan supported us through the National Center of Family Affairs. It paid for the furniture. . . . On top of that, the National Center paid for the salaries of the caregivers at 50 percent for twelve months."<sup>70</sup>

But SADAQA's team understood that, even with government support for start-up costs, businesses would be reluctant to institute a program that they believed would be a long-term drain on their finances. SADAQA needed to change the conversation. To do so, the organization commissioned a study to analyze whether childcare would actually help Jordanian businesses' bottom line, as research had demonstrated in other contexts. According to Ayoub,

We did research in 2016 on the impact of day cares for the employers and we took the telecom sector as an example . . . from that research, it was shown that a company could save up to a million dollars if they did a day care—700,000 JDS. . . . We got an economist to do it. It wasn't just us. . . . We needed facts. We needed to create a culture. It took time and that paid off at the end because now it's a norm.<sup>71</sup>

The study's findings were further validated when many companies that instituted day care started seeing its economic benefits. According to Ifram, his company saw a drop in absenteeism from 12 percent per day to 7 percent per day and a 33 percent decrease in turnover per year after creating an on-site childcare facility.<sup>72</sup> He continued,

The surprise was that after one year I stopped talking about the childcare as a cost center. It became a profit center. So now when I market it, I don't market it as

a cost. Yes, it will be a cost at the beginning, but eventually it will pay back. It will pay back emotionally. It will pay back financially as well by reducing the absenteeism and the turnover. These two factors were really major. Our productivity went up, our efficiency went up. So we saw the benefit of having the childcare.<sup>73</sup>

As Ifram emphasized, the economic benefits experienced by many companies were key not just to convincing businesses to implement day cares but also to keeping them going:

It has to be a sustainable model. Believe me, if our childcare was not successful at the end and it wasn't making money for us, we would phase it out. We will find ways to get out of it. So I'm telling you, I am a person who changed my opinion because of the outcome.<sup>74</sup>

SADAQA has been able to elevate these experiences to help drive further implementation. According to Reem Abu Ragheb, an early childhood education consultant, teacher educator, and owner of three day care centers whom SADAQA brought in to head its technical implementation team, when "business owners come in and give their side of the story and [describe] the benefits they've seen . . . that makes it easier for others to become convinced to try it out."<sup>75</sup>

*Addressing Logistics and Legal Concerns: Providing Technical Assistance.* Beyond financial costs, business leaders also raised questions and concerns about licensing, liability, staffing, and other issues involved with actually establishing a day care facility. In Ifram's words:

Frankly, in my first meeting where the government and all stakeholders wanted us to do a childcare, I was saying, "I'm scared to do one. What if something happens to a child? Is it our responsibility? Who's going to take care? We don't know how to do that" . . . We wanted to do the right thing, but we didn't know how.<sup>76</sup>

Recognizing that companies were worried about entering an area in which they had no experience, SADAQA brought on Abu Ragheb to provide technical support and trainings. As she recounted:

Along the way, we realized that the main concern of the business owners was the liability. They didn't have the know-how and they were very scared of the liability that would be upon them because they were the owners. . . . So we started doing workshops that give an explanation of everything that is within childcare centers in the workplace. These workshops explain the regulations of the Ministry. They explained the minimum accepted model of the childcare center. . . . We give them details of what their role in the day care is, what they are responsible for, what the manager is responsible for, the responsibilities of the caregivers, and so on. . . . We've seen that they've been more accepting of the idea because their concern was a bit less.<sup>77</sup>

Abu Ragheb's team worked with companies on site to help them with everything from creating a floor plan to hiring and training caregivers for the centers.<sup>78</sup> They also worked with individual sectors to obtain Ministry approval for alternative solutions when business facilities were not conducive to on-site childcare. As Abu Ragheb described it: "We found other scenarios that would work. So if a few factories or businesses were in an area where they do not have the space in that particular building, we'd have them establish one nearby that they can all share."<sup>79</sup> Likewise, for the banks with multiple small branches, SADAQA secured government approval for multiple branches to use one company-supported off-site center within a certain radius.<sup>80</sup>

Ultimately, in its national framework, SADAQA developed five models for childcare facilities, taking into account the different issues facing different sectors: on-premise facilities, off-premise facilities within walking distance of the employer, shared facilities outside of businesses for multiple employers, employer-provided vouchers to use at childcare centers of the parents' choice, and home-based care.<sup>81</sup>

Finally, SADAQA led training for personnel, including human resource managers and more than 300 caregivers, to ensure the safety, quality, and effective regulation of the day care centers.<sup>82</sup> While SADAQA continues to provide this hands-on support, it has also worked to put together a national framework, supported by the International Labour Organization, which has since been endorsed by the Ministry of Labor.<sup>83</sup>

*International Partnerships: Leveraging Influence and Resources  
to Support Locally Directed Work*

While all of SADAQA's work to advance childcare was locally driven and locally initiated, the organization also made strategic use of international partnerships. In particular, through Aslan and her work at the International Labour Organization, SADAQA had connections to the organization Better Work, which holds an annual forum for buyers in the garment industry to come from abroad. SADAQA used the forum to lobby the international buyers, explaining to them that companies that did not have day care facilities were breaking Jordanian labor laws.<sup>84</sup> Ifram noted that pressure from global corporations could be compelling: "We export all of our products to customers in the US. . . . Most of the American apparel brands want companies to follow the laws of the country. . . . The brands wanted that as well."<sup>85</sup>

While SADAQA began as a short-term campaign, it eventually grew into a full-fledged organization requiring funds. SADAQA also developed effective, mutually respectful partnerships with international donors.<sup>86</sup> Recently, these relationships have allowed SADAQA to temporarily pivot in its work to help day cares survive the challenges presented by COVID-19, with donors enabling SADAQA to quickly and effectively meet needs as they arise.<sup>87</sup>



*Celebrating Success: Recognizing Childcare Champions  
to Drive Further Change*

Finally, one of SADAQA's most important strategies has been to celebrate each achievement, recognizing each business's successful establishment of a day care as an example for the rest of its sector. SADAQA uses each success to continue to drive momentum for further change. As Naffa described it,

We knew that some of [the companies] would be welcoming. We were very successful with a few companies in the health sector and when they established a day care, we would celebrate. We will emphasize this. Their successful stories which shed light on them in the media create a big buzz and PR campaign around the success stories. We would take them around to speak about their stories to other companies in the sector. So it was like trying to use some of the champions to influence others in the same sector.<sup>88</sup>

Altogether, SADAQA persuaded forty-eight large companies to establish childcare centers in the initial phases of its campaign. At the time of our interviews, the organization had been involved not only in creating workplace childcare facilities but also in improving over ninety other facilities. SADAQA no longer had to seek out businesses with a positive story to tell; according to Abu Ragheb, "we've had many, many success stories. . . . Now business owners are reaching out to us."<sup>89</sup>

*From Strengthening Implementation to Improving the Law*

Although Section 72 of the Labor Code had provided the powerful foundation for all of SADAQA's work, SADAQA quickly realized through their efforts to implement the law that it needed improvement. Specifically, the provision's exclusive application to women created an incentive for employers to simply stop hiring women or terminate those they already employed, while perpetuating gender stereotypes about work and caregiving. At the same time, the law's limitation to workplaces with at least twenty women with ten children under age four among them created an arbitrary threshold that left many women in need of care out of luck.

*Proposing Amendments to Article 72.* To that end, SADAQA lobbied for amendments to Article 72, specifically for the wording to change from "women" with children to "employees" with children, removing the gender reference.<sup>90</sup> SADAQA also lobbied to change the child requirements to fifteen children under age five. Business leader Ifram explained the importance of these changes:

[Under the original legislation] the children would go home from four to five [years of age], and at five they enter the school. . . . So we have a gap year that the child loses all their friends or their people who they have been used to. . . . Another improvement [was that the child threshold] became fifteen children, regardless of the parent, if it's a mother or a father. So now there is a gender equality.<sup>91</sup>

Abu Ragheb also noted the importance of childcare's availability to male employees in driving change within families: "It gives a chance for a father to take his child to childcare and the mother to go to work somewhere else, so the caregiving in the family itself is not only the mother's job."<sup>92</sup>

*Working in Coalition to Enact Reforms.* Rather than address Article 72 alone, SADAQA worked with nine other like-minded organizations in 2018 to build a coalition to lobby for broader reforms to six articles in the Labor Code, with the goal of advancing more transformative change for women in the workforce. SADAQA applied the same thoughtfulness to coalition-building as they had to building relationships with government and business. As Naffa described it,

We were very careful selecting the NGOs, so every NGO came with its own expertise, knowledge, and with its own issue. So we had an NGO that was concerned with women's rights and nationality, we had an NGO concerned with pay equity, we took on the day cares, and two others were concerned with the issue of flexible work hours, so they came in with their expertise, with their case studies, with their arguments, with the justification to amend the law, with their relationship in the parliament.<sup>93</sup>

The coalition developed an action plan to lobby the Parliamentary Labor Committee before moving on to the wider Parliament. The coalition members were able to build on their existing relationships with allies in the Labor Committee, who were already familiar with the organizations' work, and SADAQA made a presentation to Parliament.<sup>94</sup> Specifically, the coalition lobbied for changes to Articles 72 (childcare), 53 and 54 (pay equity and equal pay for equal work), 69 (flexible work arrangement for caregivers and others), 12 (right to work), and 66 (paternity leave).

Of the changes, the inclusion of paternity leave posed the biggest challenge. According to Aslan, Labor Committee members urged her to drop the paternity leave proposal, claiming that it would be enough to kill the entire package of proposed amendments.<sup>95</sup> Rather than drop the amendment, Aslan and SADAQA took the opportunity to sensitize members of Parliament to the impact of restrictive gender norms, giving a brief presentation on the importance of involving both parents in children's lives and explaining that a majority of Jordanian fathers wanted to be more involved with their children.<sup>96</sup>

SADAQA and the wider coalition were ultimately successful in their efforts. Article 72 was amended to remove the gendered language and now requires that employers whose workforce includes employees (of any gender) who cumulatively have at least fifteen children under age five must provide childcare. Articles 53 and 54 were amended to give Jordanian women workers pay equity and to guarantee equal pay for equal work. Article 69 was amended to allow for flexible work arrangements for employees with family responsibilities as well as for employees who are

university students or have a disability. Article 12 was amended to give non-Jordanian children of Jordanian mothers (that is, those with non-Jordanian fathers) the right to work without applying for work permits. Lastly, Article 66 now guarantees Jordanian fathers three days of paternity leave.<sup>97</sup> While SADAQA's team is not satisfied with the length of the leave, Naffa noted, "At least it's established. It's the law. At least now it gives us a ground to start building on and asking for longer days."<sup>98</sup>

### *Resilience amid Crises*

In Jordan as in many countries, the COVID-19 pandemic posed a grave threat to even well-established social services and to childcare infrastructure in particular. During the country's initial three-month lockdown, Jordan's childcare centers lost 100 percent of their enrollment and income. In response, SADAQA launched an online platform, *Voices of Women Workers*, to bring attention to the impact of the lockdown on Jordan's care workers, the vast majority of whom are women. SADAQA also quickly produced four position papers documenting the challenges of the closures for working families and for childcare workers, urging the government to treat childcare workers like other essential workers in determining which sectors of the economy could reopen and calling on the government to address the rights and fundamental needs of childcare workers in the informal economy.<sup>99</sup>

Once childcare centers were permitted to reopen in June 2020, SADAQA adapted its strategy once again to revitalize the sector after accumulated debts, additional compliance expenses, and low demand due to widespread job and income loss resulted in only 614 of Jordan's 1,460 childcare centers initially reopening. In particular, SADAQA raised resources for a relief fund to save sixty centers from closing and organized a campaign of care workers to demand the creation of a government fund to help sustain the sector and provide stability post-COVID.<sup>100</sup>

Through these efforts—some of which are ongoing as of this writing—SADAQA has been playing a powerful role in ensuring that the provision of childcare in Jordan withstands the pandemic and its devastating economic consequences. And importantly, SADAQA's ability to respond quickly and effectively to the crisis built on the many years of work that came before, including its accumulated knowledge and relationship-building with working families, the care sector, employers, and government agencies.

## USING LEGAL AND POLITICAL MECHANISMS TO IMPROVE IMPLEMENTATION: GIRLS' EDUCATION IN UGANDA

In 1997, Uganda became a leader in increasing gender equality in education after removing tuition for primary school and adopting Universal Primary Education (UPE). While just 60 percent of girls were enrolled in primary school in 1992, the number soared to 83 percent in 1997.<sup>101</sup> Yet when the rapid gains in enrollment led

to a decrease in quality of education, civil society groups knew they needed to take action to fully realize the promise of free education for girls.

Through a multifaceted strategy involving budgetary analysis, media campaigns, a strong parliamentary partnership, and litigation, the Initiative for Social and Economic Rights (ISER) helped to not only achieve legal reforms but also ensure that the laws were fairly and effectively implemented.

*Increasing Funding for Primary School: A Critical Step  
for Gender Equality*

As enrollment in school goes up, so do average class sizes, unless broader-based public investment ensures that education infrastructure and teacher training and recruitment keep pace. According to ISER executive director Salima Namusobya, by the early 2000s, reports showed that there was “a decline in performance of our government’s publicly funded education and there was limited infrastructure again in many public or government grant-aided schools.”<sup>102</sup>

*Following the Money: Budget Analysis as a Tool for Accountability.* One of ISER’s first responses to these reports was to conduct a budget analysis. What the organization found was striking: since first implementing UPE, the government had not matched its per capita spending amount (referred to as its “capitation grant”) with the inflationary rates, meaning that real funding for education was consistently declining.<sup>103</sup> Even worse, in 2014, the government announced that it was cutting the little per capita funding available (from 7,560 shillings [\$2.88] to 6,800 shillings [\$2.60]), and chronically late disbursements created yet another barrier to schools’ solvency.

Consequently, schools were unable to hire enough teachers, address basic hygiene, or provide students with midday meals.<sup>104</sup> And without adequate public funding, they sought to pass on costs to students while circumventing the elimination of tuition. As Namusobya explained, the schools “started coming up with things like school development fees. . . . So in the end, you’d find that the amount of money that the parents still had to use in order to get their child into even a Universal Primary Education school was a lot. And many children were beginning to fall out of that education system.”<sup>105</sup>

ISER’s budget analysis identified what it deemed “wasteful expenditure” within the Ministry of Education, including inordinate levels of spending on things like cars and conferences. In response to these findings, ISER filed a suit before the High Court of Uganda seeking to increase the capitation grant. Due to the matter’s urgency, ISER sought an interim order from the High Court that would block the cuts to the capitation grants and order the Ministry of Education and Sports to eliminate waste to free up funding pending the main case’s hearing.<sup>106</sup> The process for obtaining this order, however, proved to be particularly cumbersome as well as political, even compared to the normally lengthy litigation process. The procedure required ISER to first “go before a registrar, rather than an actual judge,” which

in Namusobyá's view gave the state attorney far more leeway to influence the decision.<sup>107</sup> The state attorney falsely claimed that an order for the Ministry of Education to review its existing budget and allocate more money to primary education would "freeze the budget process for the entire East African community" and thus freeze salaries for public servants.<sup>108</sup> Consequently, as Namusobyá explained, "there was a lot of fear and [the registrar] declined to grant that order."<sup>109</sup>

*Advancing Change through Media and Public Advocacy.* Despite hitting this roadblock, ISER decided to continue moving its legal case forward while focusing on community mobilization through public advocacy and a media campaign. ISER had been strategic in choosing its partners, inviting a popular and vocal member of Parliament who served on the Education Committee, Joseph Gonzaga Ssewungu, to join them as a plaintiff.<sup>110</sup> In an affidavit, Ssewungu spoke about the case's implications, noting that:

Based on similar experiences, I know that continuing to reduce the meager UPE capitation grant will certainly be a huge disincentive for children enrolled in UPE schools, especially the girl child, whose retention levels are already very low.<sup>111</sup>

According to Saphina Nakulima, the programs manager for ISER's Right to Education Program, "the media blew the case to levels that we never expected . . . there was a lot of radio time given to us, TV time."<sup>112</sup> She continued, "[The story] was everywhere, in the newspapers, radio broadcasts, everywhere."<sup>113</sup> Nakulima attributed this media attention partly to the popularity of Ssewungu and partly to the nature of the problem, which personally affected families nationwide.

ISER built on this more widespread attention by producing policy documents designed to reach a broad public audience. For example, through a photo essay titled "The Failing Universal Primary Education (UPE) System in Uganda: State Failure to Invest in the Nation's Future," ISER used compelling visuals of the crowded, unsafe, and unsanitary conditions in schools in three districts to clearly document the necessity of increased funding.<sup>114</sup> This type of outreach, alongside the traditional media coverage, helped ISER engage a wide audience, with "so many people . . . from academia to the parents . . . up in arms" about the schools' inadequate budget.<sup>115</sup>

Ultimately, the media strategy proved so successful that ISER did not pursue the litigation strategy further. As Namusobyá explained, "it really worked very well because we got loads and loads of media interviews to an extent that the Ministry and the Minister for Education had to come out by themselves and make a commitment before Parliament to increase the capitation grants before the case went very far."<sup>116</sup> Rather than reducing the capitation grant, the government increased it from 7,560 Ugandan shillings to 10,000 Ugandan shillings per pupil, representing a critical victory for students and their families nationwide and an important step toward realizing the promise of universal primary education.<sup>117</sup>

*Broadening Access to Secondary Education: Using Research  
and Litigation to Address Disparities between  
Public and Private Schools*

Beyond its implications for primary class sizes, the rapid increase in primary enrollment also created new challenges at the secondary level, as Uganda lacked adequate secondary school seats for the rising numbers completing primary.<sup>118</sup> According to Namusoby, the government's solution was to draw up memoranda of understanding with private schools, whereby the government would pay the school a stipend per student to enroll those students without charging the students fees.

However, the private schools varied markedly in quality—and according to Namusoby, it was generally the “not very good private schools” that joined this new program, becoming known as “PPP” (public-private partnership) schools. Compared to the government-aided schools, the PPP schools received far less funding per student—about one-fifth as much—and no funding for teacher salaries, equipment, or infrastructure. Consequently, PPP schools often employed unqualified teachers, lacked necessary educational equipment, and had insufficient funding to provide safe, hygienic environments for their students.<sup>119</sup> The situation was exacerbated by the fact that students who had been attending the PPP schools as private students, rather than government students, and who continued to pay high fees, left many of these schools when their families felt that it was unfair that they should subsidize the government students, leaving PPP schools with even less money.<sup>120</sup>

*Documenting the Disparities: Field Research to Build a Case.* In 2016, ISER began conducting research on the PPP schools and visiting twenty-eight schools in nine districts throughout the country.<sup>121</sup> The different government funding levels for the schools unsurprisingly created starkly different educational environments. The government-aided schools and highest-tier private schools were able to provide their students with the tools they needed to succeed, while students at PPP schools lacked even basic equipment. Nakulima explained,

I'll give you one quick example of the disadvantages this was breeding. We have a government policy on science. When you pass sciences in your senior six . . . before joining the university, you'd get state sponsorship [for university]. Now with the schools that are getting the little capitation grants, they could not maintain science teachers. The kids had never gone to laboratories because they don't have equipment. They don't have apparatus. They don't have all the chemicals that are needed. So the first time they see an apparatus . . . is when they're sitting exams. So that meant that we are having two sets of learners in society. We have those that go to high-end state-funded subsidized schools. They have access to everything, so they can fit into the science policy during university and be able to do science courses. And then we had a group of kids who are going into these . . . less funded schools that had no access to qualified science teachers.<sup>122</sup>

In this way, the reliance on PPP schools to fill gaps in the availability of public secondary schools perpetuated disparities. The students most likely to be accepted into the government-aided schools were those who had performed the best in primary education, which largely meant those with the resources to attend expensive private schools. Poor students and those in rural areas were much more likely to attend the PPP schools, often after having attended an underfunded primary school; were unable to compete with wealthier students for scholarships and places at university; and were at a disadvantage academically if they did attend university. Meanwhile, those poor or rural students who managed to succeed at the primary level and were offered places at better schools were often unable to actually access that education due to fees.<sup>123</sup> The inequalities also reinforced gender gaps: families that were not able to send all of their children to more expensive schools generally sent sons, leaving their daughters at the PPP schools.<sup>124</sup> Thus, the educational stratification hurt poor students, but especially girls.

*Going to Court to Realize the Right to Education.* On the basis of these investigations, ISER opted to go directly to the courts; as Nakulima recounted, “when we finished with our research, all of the research members at the time were like, ‘On this matter, we have to go to court. We can’t even say that we’re going to the Ministry because for sure they see the disparities here.’”<sup>125</sup> It was simply too obvious for the Ministry to have overlooked it. She continued, “We went to court to say that there is inequality and discrimination in this situation where the state is funding Ugandan children at different levels, disadvantaging them in particular ways.”<sup>126</sup> ISER brought the case on the basis of Articles 21, 30, and 34 of the Ugandan Constitution, which guarantee the right to equality and freedom from discrimination and the right to education, to be afforded by the state.<sup>127</sup>

Bringing the case was a risk, as it initially created significant friction between ISER and staff at the Ministry of Education, with the potential to jeopardize ISER’s future education work. Yet ISER was soon able to get the staff on board by pointing out that the Ministry would likely have to account for the system’s clear failures, including girls’ high dropout rates, but that by demonstrating that the problem was chronic and systemic underfunding of the schools themselves, the Ministry would shield itself from undue blame while taking critical action to improve educational outcomes.<sup>128</sup> By mending relationships despite ongoing litigation, ISER also positioned itself to play an effective role in monitoring the Ministry’s implementation of any court-ordered changes.

The case also took great persistence as it was marred by delays. The government did not even respond to ISER’s complaint for a year. When it did, one of its primary defenses was that “whatever the private schools are doing, it’s none of our business,” according to Nakulima.<sup>129</sup> The case was delayed yet again in 2018 when the previous judge was reassigned and a new one appointed. That particular

delay, however, proved beneficial to ISER. The new judge, Justice Lydia Mugambe, upheld ISER's position on the matter and in her judgment cited the International Convention on Economic, Social, and Cultural Rights, the Convention on the Rights of the Child, and the Abidjan Principles, which outline "the human rights obligations of States to provide public education and to regulate private involvement in education."<sup>130</sup> The judge's inclusion of the Abidjan Principles was particularly significant given their clear applicability to private actors.

The judge further explicitly stated that the government has the primary duty of monitoring and regulating private provision of education, regardless of what body or organization is operating a school, negating the government's claim that it was not responsible for the PPP schools' failures. Judge Mugambe's ruling included the following:

Above all, there is a clear demonstration that the Government did not consider how as a part of its duty to protect the right to education, it was to regulate USE [universal secondary education] public-private partnership schools to ensure that they provide quality education and produce quality students from their educational systems. This burden remains on the Government always.<sup>131</sup>

The ruling continued by ordering that:

Government should take its lead position in regulating private involvement in education to ensure that minimum standards are always adhered to by the private actors and also that defaulters are sanctioned.<sup>132</sup>

*Next Steps: Monitoring the Judgment's Implementation and Creating Guidance for Future Policy Making.* After the judgment in ISER's universal secondary education case, the Ugandan government instituted a moratorium on new public-private partnerships in education. ISER, however, skeptical that the ban will be permanent, has already begun engaging the Ministry of Education and Sports to develop policy guidance for private involvement in education. According to Nakulima, "we knew that public-private partnerships were disadvantaging vulnerable children, including girls, and we thought that we needed something concrete. We have the judgment, but we needed a policy to guide private actors."<sup>133</sup> ISER held initial preliminary meetings with key government officials and had planned a larger convening, which was delayed due to the COVID-19 pandemic.

ISER has also been tracking the construction of new secondary schools as part of its efforts to monitor the implementation of both the judgment and Sustainable Development Goal 4, which calls on countries to "ensure that all girls and boys complete free, equitable and quality primary and secondary education." Since the court ruling and phaseout of PPPs from the universal secondary education program, ISER reported, the Ministry of Education and Sports has grant-aided 165 community secondary schools to deliver public secondary education, completed



construction of approximately 102 secondary schools, and begun construction on an additional 117, with funding for further construction secured. Nevertheless, ISER continues to urge the Ministry of Education and Sports to expand access further, since under the current approach, equal access to education remains out of reach in some large or highly populated areas that are served by only one secondary school.

*Lessons Learned and Comparative Insights: Using Legal and Political Processes to Strengthen Implementation*

Eliminating tuition for education can be transformative for girls—but as Uganda's experience shows, passing one strong policy is often just the beginning. Making sure that the policy achieves its intended impacts often requires adequate funding for implementation, ongoing monitoring, and the will to tackle any systemic challenges that threaten its success. In Uganda, ISER's dynamic advocacy using a range of different tools—from media and public advocacy to data analysis to litigation—has made a powerful difference for the accessibility and adequacy of education nationwide and offers valuable lessons about the potential impacts and challenges involved in different approaches to advancing change.

Indeed, ISER's powerful work to realize the promise of free, universal education in Uganda demonstrates how CSOs can use legal and political mechanisms to improve implementation. In Uganda, as in many countries, budget analysis by CSOs has been a valuable tool for increasing government's commitments to realizing the basic rights of women and girls.<sup>134</sup> Likewise, comparative data on budget expenditures can be a powerful tool, especially when combined with policy data illustrating what kinds of national approaches are feasible.

*Lessons Learned and Comparative Insights: Changing the Law*

Sonke's story illustrates one critical way that CSOs can advance gender equality: campaigning for new legislation. Sonke's story also highlights how civil society leaders can use data about other countries' policies, as well as rigorous research about those policies' impacts, to reach and influence decision makers.

Comparative data and research can also play an important role when they reach policy makers through media dissemination. In the Philippines, for instance, policy makers cited our recently published data showing that most other countries in the region provided a longer period of maternity leave, alongside our study with colleagues showing that extending maternity leave reduced infant mortality, to successfully advocate for a near-doubling of the leave available to new mothers, from sixty to 105 days.<sup>135</sup>

At the same time, even while the need for evidence and policy models remains consistent, effective approaches to changing the law are likely to vary across countries and across issue areas. As Sonke's story demonstrates,

common questions CSOs seeking to change the law are likely to face across countries include how to form a political coalition, how to achieve the political will to make change, how to use media, and how to determine how far policy makers are willing to bend. In Sonke's case, working in partnership to advance a new piece of legislation through Parliament proved effective; in other instances or contexts, strategic litigation may have greater success than building political consensus.

For example, in India, Bharatiya Muslim Mahila Andolan (BMMA), a Muslim women's organization, used strategic litigation to overturn the "triple *talaq*" divorce law, whereby a Muslim man could divorce his wife instantly by simply repeating "I divorce you" three times. For BMMA, going to court proved to be the most effective strategy: the organization had previously attempted to reform family laws through Parliament and human rights bodies, but had consistently found that the specific needs and issues facing their community were ignored. In 2017, the organization's lawsuit secured a favorable ruling from the Supreme Court, which ordered Parliament to change the law. Attaining a Supreme Court judgment also brought substantial attention to the issue; as BMMA cofounder Zakia Soman recounted, "in the process of fighting these . . . cases, we were able to build a lot of public education and public awareness within the community."<sup>136</sup> In 2019, the Muslim Women (Protection of Rights on Marriage) Bill banning triple *talaq* came into force.

In short, the most effective tactics for changing the law will depend on the context—but whether through advocacy, litigation, movement-building, or a combination of several of these approaches, CSOs can play a powerful role in bringing about meaningful legal change. Moreover, simultaneous media and/or public awareness strategies can both increase the likelihood of legal change and ensure that reforms are adequately implemented.

*Lessons Learned and Comparative Insights: Developing Programs  
and Services to Realize a Law's Promise*

SADAQA's success implementing a potentially transformative law that had been languishing on the books for years underscores the powerful role that CSOs can play in working and truly engaging with a wide range of stakeholders—from business leaders to government agencies—to create real, sustainable change in the lives of individual and families. Further, SADAQA's work on legal reforms following its focused efforts on implementation illustrates how using the law to advance gender equality is often an iterative and ongoing process. Through a thoughtful strategy of listening, responding, and building relationships, SADAQA helped realize a series of significant changes that benefited from broad buy-in. This approach also enabled the organization to act swiftly and effectively when COVID-19 threatened to dismantle the childcare sector altogether.

SADAQA's example shows how CSOs that develop programs to implement the law can significantly shape its ability to influence individual lives. To be clear, the extent of responsibility that SADAQA took on for implementing the law is not the only approach; similar programs initiated by government could have similar impacts, and businesses also bear responsibility for meeting their legal obligations even if civil society help isn't available.

Meanwhile, some CSOs choose to start with services regardless of whether there's a law—and in so doing, often demonstrate why national laws and policies, and their effective implementation, are so critical for making change happen at scale. CSOs that start with service delivery are also particularly well positioned to identify ways to strengthen existing laws and/or tap into their existing networks to organize to advance legislative improvements. In this way, CSOs working on policies and working on services can strengthen one another's efforts.

For example, in India, a CSO called Mobile Creches recognized construction workers' unmet need for childcare and began providing services at work-sites in 1969. Yet while their services were transformative for the women they reached, it soon became clear that "you couldn't make much headway unless you attended to the policy at the national level, unless you looked at the laws," according to Mridula Bajaj, Mobile Creches' executive director.<sup>137</sup> While working to expand service locations in the 1970s, Mobile Creches' leadership came across a new law specifying that employers must provide a creche at the work-site and began asking employers whether they had heard of it and seeking information from the government about its efforts to advance implementation. Over time, advancing legal change—in partnership with other CSOs focused on early childhood development, gender, and education—became integral to Mobile Creches' work, given the significant influence that a national policy framework had on their own services and the well-being of the children and families they served.

## CONCLUSION

As these stories show, partnerships among a wide range of stakeholders—including local civil society organizations, policy makers, labor unions, companies, media, and international groups—have played a powerful role in advancing gender equality. Moreover, these partnerships have yielded successes at all stages of legal reform—from drafting the first bill, to monitoring the law's implementation, to taking proactive steps to ensure the law is enforced. These stories offer insights about how each of us and all of us can contribute to change. The next and final chapter explores these lessons while evaluating how far we have to go and what it will take to achieve gender equality in our lifetimes.

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137. Interview with Mridula Bajaj and Devika Singh, July 12, 2021.



## Achieving Gender Equality in the Economy in Our Lifetimes

Every country in the world has committed to realizing full gender equality rapidly as part of the United Nations Sustainable Development Goals. Goal 5 could not be clearer: governments worldwide agreed to “achieve gender equality and empower all women and girls” by 2030, which requires “end[ing] all forms of discrimination against all women and girls everywhere.” What’s more, these promises and obligations are nothing new: the Universal Declaration of Human Rights, the landmark agreement adopted in 1948 that articulates fundamental civil, political, social, and economic rights and applies to all countries globally, unequivocally states that “everyone is entitled to [its] rights and freedoms . . . without distinction of any kind, such as . . . sex.” And since its passage in 1979, 189 countries have ratified the Convention on the Elimination of All Forms of Discrimination against Women, which clearly delineates governments’ duties to protect equal rights across gender in the workplace, in education, and across civil society. Yet despite all these commitments, world leaders barely shrug their shoulders when the World Economic Forum estimates that it will take over 267 years to close the global gender gap in economic opportunity and participation.

Gender inequality’s vast and varied consequences in daily life are treated as inevitable by governments when they seek to evade responsibility. But the dramatic differences in the size of gender gaps across countries make plain that gender inequality is principally man-made. The facts on the ground underscore the extent of government responsibility. Around the world, 129 million girls remain out of school.<sup>1</sup> Yet ensuring the affordability, accessibility, and safety of schools is a key duty of government everywhere. Globally, women represent just 39 percent of the labor force but nearly half of those earning the minimum wage or less, with discrimination continuing to significantly influence gender wage gaps.<sup>2</sup> Yet governments are responsible for setting—and enforcing—the rules about whether

employers can pay women less for the same work or systematically exclude them from promotions and training opportunities. In too many countries, inadequate care infrastructure leads millions of women to leave paid work when a child is born or an aging parent gets sick. Governments are uniquely positioned to ensure that quality and affordable care is available to all.

Governments regulate the economy, yet they have decided not to provide for pensions or social protections for care workers, who are disproportionately female. They have passed laws that discourage men from engaging in paid and unpaid care alike while presuming the work will be done by women, further structuring gender inequalities into economic roles. And although created to protect all people within their borders, most nation states have gone to great lengths to ensure the security of territory but not the security of populations, despite the fact that the healthy development of the next generation of citizens is just as essential to a society's survival.

With many contemporary government structures developed and designed at a time when women had neither full citizenship rights nor the vote, it's no wonder that many issues with profound implications for women's lives were inadequately or inequitably addressed. In this initiative, we have taken seriously the signed commitments that countries have made to immediate and long-lasting gender equality—with the goal of offering actionable solutions and a pathway toward undoing the structural inequalities that have held us back for so long.

### TAKING SOLUTIONS SERIOUSLY

Laws and policies shape which types of labor are paid, who is protected from discrimination, whether people have an equal chance at an education and a job, and whether all who live within a country's borders are guaranteed access to care throughout the life course. Laws also play a role in shaping—and changing—norms and values, including whether care's societal benefits and women's potential to contribute to the economy are fully recognized.

So if governments begin to take their signed commitments to equality seriously, where are we starting from? How far have we come and what remains to be done?

#### *Where the World Stands*

Addressing employment discrimination is fundamental. While 179 countries now take some approach to prohibiting gender discrimination at work, far fewer provide comprehensive protections. Indeed, eighty-nine of these countries still have not adopted legislation that prohibits gender discrimination in all aspects of employment—from hiring to pay to promotions, demotions, and terminations. This straightforward step is long overdue. Still more countries, ninety-six, lack any laws specifically prohibiting employment discrimination based on family status,

and eleven countries reinforce outdated gender norms around caregiving by protecting women but not men from caregiving discrimination.

Most countries must also do more to ensure that guarantees of equal rights at work extend to all women. A substantial body of literature has documented how women experiencing multiple forms of marginalization face even higher barriers at work, which is reflected in outcomes across countries. Yet thirty-five countries fail to prohibit both gender and racial discrimination at work, thirty-three fail to prohibit both gender and religious discrimination, and thirty-eight fail to prohibit both gender and disability discrimination. Substantially more countries lack laws that cover not only gender but also social class (sixty-nine), migration status (104), sexual orientation (125), or gender identity (160).

Countries similarly fall far short on prohibiting sexual harassment. Fifty countries worldwide still need to take the first step of enacting legislation that specifically prohibits sexual harassment in the workplace. Eighty-nine countries fail to prohibit behavior that creates a hostile work environment, and 108 countries fail to prohibit both sexual harassment and sex-based harassment.

Moreover, even countries with relatively strong laws must do more on enforcement, including by ensuring that women can access justice through the courts and through alternative mechanisms when they experience discrimination. Eighty-eight countries have no independent complaint mechanisms covering all three core areas: workplace gender discrimination, sexual harassment, and inability to take parental leave. In sixty-eight countries, women have no legal protection from retaliation for reporting workplace gender discrimination, and in even more countries, eighty-nine, women have no protection from retaliation if they report sexual harassment.

Achieving gender equality in the economy and our lives will also require closing the gaps in national policies around caregiving. Due to societal norms and lack of supports for greater equality in care, women continue to take on the majority of unpaid caregiving worldwide, with consequences for their employment and earnings. The International Labour Organization reports that 606 million working-age women, compared to just forty-one million men, are out of the labor force due to unpaid care work.<sup>3</sup> Yet many countries only further widen these gaps through policies that reinforce the idea that women should always be the primary caregivers and men the primary earners. Seventy-one countries worldwide have yet to adopt any paid leave that can be taken by fathers of infants, undermining women's opportunities at work and men's opportunities at home. An even greater number, 165, have yet to enact leave policies that actively encourage men's take-up.

Further, far too few countries provide adequate support for caregiving needs throughout the life course, which likewise disproportionately fall to women. Studies from across countries show that women consistently comprise the substantial majority of primary caregivers for aging family members and family members with disabilities. Yet 111 countries fail to provide paid leave for workers who need

to provide care or support to meet the health needs of an ill or aging family member, and eighty-seven countries lack policies guaranteeing paid leave to mothers and to fathers to meet children's serious health needs. When this leave is unavailable, women face outsized consequences.

And finally, investing in the next generation of girls—in particular through the universal provision of free, quality education—will be critical to long-term change. Yet sixty-two countries have yet to make school tuition-free through the end of secondary, reinforcing a demonstrated barrier to girls' ability to stay in school in gender-unequal settings. Countries also lack policies needed to create a healthy and equitable environment for all girls to learn. Ten countries take no approach to prohibiting gender discrimination in schools, and thirty-five countries take no approach to prohibiting sexual harassment. Moreover, nearly twelve million girls are married before the age of eighteen every year, driving as many as a third of school dropouts for girls.<sup>4</sup> Yet ninety-six countries still have legal loopholes that allow child marriage under the age of eighteen, including forty countries that allow girls to be legally married at a younger age than boys.

Critically, however, although there's far to go, change in these and related areas of the law is not only feasible but evident. For example, in a study of 113 low- and middle-income countries, while only 19 percent prohibited child marriage with parental consent in 1995, 58 percent did so in 2019. The proportion of countries guaranteeing paid leave to new fathers has likewise grown substantially, from 24 percent in 1995 to 63 percent in 2022. Protections for gender equality in constitutions, which can provide a powerful foundation for other laws and policies, have become nearly universal, appearing in every currently in-force constitution that was adopted since 2000, compared to just 54 percent of those adopted before 1970.

#### *How Closing Gaps Would Be Transformative*

Governments not only have a responsibility to end gender inequality in the law—they also have an opportunity to have tremendous impact by doing so. Our review of the rigorous research evidence and of case law demonstrated this transformative potential. Prohibiting discrimination provides just one example. In the United Kingdom, the enactment of new legislation specifically addressing gender discrimination in employment decreased the gender wage gap by 19 percent. In the United States, it led to a 10 percent decrease.<sup>5</sup> In Japan, a law prohibiting gender discrimination in vocational training preceded an increase in the share of young women attending university and majoring in business.<sup>6</sup> And in the Czech Republic, a 2009 law that banned employment discrimination on a wide range of grounds, including pregnancy, maternity, and paternity, decreased the motherhood wage gap significantly.<sup>7</sup> Further, laws addressing discrimination have been important for increasing the economic equality of women in marginalized groups. In the United States, for instance, the adoption of state-level antidiscrimination laws increased Black women's income by around 12 percent.<sup>8</sup>

In the courts, protections against employment discrimination have made a powerful difference for women of all backgrounds. In China, protections against gender discrimination in employment led to a series of rulings striking down employment ads that indicated a preference for male applicants.<sup>9</sup> In two cases from the Netherlands, migrant women who lost jobs or were not considered for open positions due to employer presumptions about their family responsibilities won lawsuits based on legal protections against both sex and race discrimination.<sup>10</sup> And in New Zealand, eldercare workers won a major victory in a case grounded in the law's guarantee of equal pay for work of equal value.<sup>11</sup>

Case law has likewise demonstrated the power of sexual harassment provisions. In South Korea, a collective lawsuit brought by women working at a five-star hotel in Seoul resulted in a landmark ruling holding seven executives liable for failing to address sexual harassment in the workplace.<sup>12</sup> In the United States, female mine workers won a groundbreaking class action lawsuit after they suffered relentless sexual and sex-based harassment at their male-dominated worksites.<sup>13</sup> In France, four migrant women who cleaned some of Paris's busiest train stations secured a powerful court victory not only for themselves but also for a male colleague who had been fired after speaking up on their behalf.<sup>14</sup> Moreover, the adoption of sexual harassment legislation has played an important role in increasing public awareness about what sexual harassment is and shaping workplace cultures to be intolerant of harassing behaviors—critical prerequisites for ending harassment altogether.

Beyond setting a baseline for equal rights at work, laws also make a difference for whether protections against discrimination and harassment are adequately enforced. When someone bringing a lawsuit has access to a lawyer, their chances of success in the courts increase as much as fourteen-fold.<sup>15</sup> Providing a legal right to counsel supports these outcomes, in employment cases and in other civil matters that are critical to gender equality. In Ecuador, a pilot program providing legal aid to low-income women improved their perceptions of the justice system and decreased the risk of domestic violence for women bringing family law cases.<sup>16</sup>

Meanwhile, legal provisions that allow for collective litigation in cases of employment discrimination and sexual harassment can help secure stronger remedies and advance systemic change. For example, a study of over 500 employment discrimination cases in the United States found that class actions were far more likely than other cases to yield court orders requiring the employer to take specific, substantive actions—rather than mere pro forma steps—to promote equal rights in the workplace.<sup>17</sup> In Canada, research has found that cases addressing systemic discrimination are five times as likely in the British Columbia Human Rights Tribunal, which allows for group litigation, than in the Human Rights Tribunal of Ontario, which lacks a standard group litigation procedure.<sup>18</sup>

Laws and policies around caregiving likewise provide rich evidence of the transformative potential of policy change for both gender equality and households' overall well-being. For example, one study of 117 countries found that

women ages twenty-five to fifty-five were more likely to participate in the labor force when their countries provided moderate-length paid maternity leave.<sup>19</sup> In Spain, the introduction of thirteen days of paternity leave increased mothers' probability of reemployment following childbirth by 11 percent.<sup>20</sup> And in California, two studies found that the introduction of an individual entitlement to paid parental leave, which was equally available to men and women, was associated with greater wages and working hours for mothers with children under age three.<sup>21</sup> Moreover, there are substantial benefits for children; as our research with colleagues has found, extending the duration of legislated maternity leave in low- and middle-income countries significantly reduces infant mortality, increases on-time immunizations, reduces the incidence of diarrheal disease, and improves rates of exclusive breastfeeding.<sup>22</sup>

How parental leave laws are structured also shapes whether fathers take it, and whether they take it matters. In particular, policies that provide father-specific leave or that offer an incentive if parents share the leave available have been shown to significantly increase men's take-up. In Germany, for instance, the share of new fathers taking parental leave jumped from just 3.5 percent in 2006 to 34 percent in 2014 following the introduction of a two-month leave "bonus" provided to the household if fathers took at least two months of leave.<sup>23</sup> Likewise, in Sweden, leave-taking by men nearly doubled from 46 percent of fathers whose babies were born two weeks before the introduction of a two-week "father's quota" to 82 percent of those whose babies were born in the two weeks afterward.<sup>24</sup> And when men do take leave, women's economic outcomes improve. In Sweden, research has shown that for each month of parental leave taken by her partner, a woman's future earnings increase by nearly 7 percent.<sup>25</sup>

Beyond leave, laws and policies guaranteeing access to free or affordable child-care and preprimary education make it more likely that parents—and disproportionately women, given underlying norms that shape patterns of care—can return to full-time work when they have young children. In Argentina, for example, mothers were 11–14 percent more likely to have paid work following the expansion of free preschool.<sup>26</sup> Improving access to early childhood education also has benefits for older children—especially girls—who otherwise could be expected to stay home from school to care for their younger siblings while their parents worked. In Mozambique, school attendance rates went up by 6 percent for older siblings of preschoolers after the establishment of a new preschool program.<sup>27</sup>

Laws also have an impact when it comes to caregiving for aging adults and family members with disabilities. Leave to support shorter-term or intermittent caregiving needs can make it more likely that caregivers for older adults can maintain their paid jobs. For example, in Japan, the introduction of ninety-three days of paid family leave was associated with a 7.4 percentage-point reduction in the probability that a worker would quit their job within a year of a parent first needing care.<sup>28</sup> Similarly, in California, a state-level policy guaranteeing eight weeks of

paid leave for a family member's serious health needs led to a 3 percent increase in the private-sector employment of forty-five- to sixty-four-year-old women who had a spouse with disabilities, relative to women in the same age group in states without an equivalent policy.<sup>29</sup> Moreover, laws addressing discrimination at work—including discrimination based on both age and caregiving responsibilities—can be particularly important for supporting the health and well-being of aging adults, as staying in the workforce longer can improve both health and economic outcomes.

Finally, laws governing access to education have made a clear difference for whether all girls can go to school, which fundamentally shapes their long-term economic opportunities. Across Ethiopia, Ghana, Kenya, Malawi, and Mozambique, eliminating tuition fees for primary education resulted in an immediate increase in enrollment of between 12 percent and 51 percent, with disproportionate benefits for girls.<sup>30</sup> Further, eliminating tuition has been shown to reduce child marriage and increase access to modern family planning methods.<sup>31</sup> Across Kenya, Rwanda, Uganda, and Zambia, for example, girls' likelihood of marrying before age fifteen fell by 4 to 5 percentage points after primary school tuition was eliminated. Making school compulsory has also had impacts on gender equality. In Turkey, for instance, increasing compulsory schooling from five to eight years improved girls' average attainment and reduced child marriage.<sup>32</sup>

In short, by addressing the legal gaps and inequalities known to create barriers to girls' and women's full and equal opportunities, countries would vastly accelerate progress toward gender equality. Moreover, in addition to their immediate impacts, these law changes would support long-term change through their influence on norms. Norm change is a complex process, and across cultures, norms are influenced by history, religion, media, and other social and political institutions. At the same time, laws and policies are a critical piece of the equation and can shape expectations about gender, work, and caregiving in ways that have very tangible effects.

For example, the way in which laws structure parental leave can influence norms and expectations about women's contributions at work and men's contributions at home. In a study with colleagues spanning nine European countries, we found that the adoption of at least two weeks of father-specific leave and/or incentives for fathers' uptake stimulated greater support of women in the workplace among men as well as women.<sup>33</sup>

Likewise, laws around education and child marriage have important normative value. Though substantial work remains to ensure child marriage laws are enforced, the values they communicate matter, even in the context of inadequate implementation. For example, our center's study of nineteen low- and middle-income countries found that legally banning child marriage was associated with a higher likelihood of viewing intimate partner violence as "unacceptable" among men and women alike.<sup>34</sup> Similarly, in another study with colleagues, we found that

exposure to tuition-free education increased the likelihood that women would have a say in their health decisions by 46 percent.<sup>35</sup>

Beyond these impacts on beliefs and practices, laws and policies shape who gets opportunities for leadership—and consequently, who is in a position to make decisions affecting many others. Currently, women occupy just 25 percent of parliamentary seats and 31 percent of senior management roles;<sup>36</sup> just twenty-six women are serving as heads of state, while just forty-one lead Fortune 500 companies.<sup>37</sup> Gendered barriers to full economic and political engagement across the life course contribute to these gaps and skew priorities among decision-makers. Studies have shown that women parliamentarians are more likely than men to invest in public goods like health and education.<sup>38</sup> Similar dynamics are seen at the local level. Increasing the share of women in the *panchayats*—village councils—of West Bengal and Rajasthan, India, led to a higher prioritization of drinking water projects, since fetching water was a primary and time-consuming responsibility of women and girls.<sup>39</sup>

These examples are but a few of many. Put simply, if governments step up and adopt demonstrated solutions to realize their commitments to gender equality, the potential impacts on individual lives as well as the structure of our societies and our collective beliefs and expectations can hardly be overstated.

### *A Path Forward*

The slow pace of change in the seventy-five years since the Universal Declaration of Human Rights, and the nearly forty-five years since the Convention on the Elimination of All Forms of Discrimination against Women, makes clear that accelerating progress will take broader action. Each of us has a role to play in advancing gender equality in our workplaces, communities, and national economies—and only if we all do our part can we expect to achieve gender equality in our lifetimes.

Social movements and civil society have a key role to play, and the innovative civil society organizations we studied showed paths forward—even in the face of setbacks, delays, and new challenges. In each country, a set of common tools that included raising public awareness, building evidence, and working across different stakeholders helped advance change.

With respect to evidence, each organization identified or developed data that would specifically detail the problem, addressed questions of feasibility and the impact of proposed solutions, and put forth arguments to address the opposition to the changes they were seeking. For Sonke Gender Justice in South Africa, this involved demonstrating that paid leave for fathers had been economically feasible in other African countries—a finding made possible through comparative policy data—and that it would have positive results for children, families, and society more broadly. For the Initiative on Social and Economic Rights (ISER) in Uganda, this meant analyzing the budget to illustrate that education funding had stagnated,



and that the government therefore was not doing its part to realize the promise of universal education. For SADAQA in Jordan, this required commissioning a study to evaluate the effects of providing childcare on businesses' bottom line, which demonstrated that implementing the law was in their best interest.

For each organization, creating the conditions for systemic change required building relationships and working in collaboration with partners across sectors. In Jordan, SADAQA was able to effectively work with both business and government to advance implementation of the childcare law. In South Africa, Sonke's and activist Hendri Terblanche's partnership with the Congress of South African Trade Unions (COSATU), a leading union that had significant prior experience working with policy makers and moving legislation through different committees, enabled their campaign to gain traction in parliament. And in Uganda, ISER was able to critique the government by illustrating how it had fallen short on implementing universal primary education while also maintaining positive and productive relationships with government agencies, driven by the compelling argument that ensuring the law's effectiveness at improving girls' access to schooling was in everyone's best interest.

For each high-impact organization, raising awareness involved both community mobilization and media engagement to reach people widely. For example, in Jordan, SADAQA kicked off its childcare campaign with a large public event that brought substantial public attention to the existence of the law and the organization's efforts to see it realized. SADAQA also capitalized on its cofounder's experience as a journalist to create news segments bringing the issue of the childcare legislation to a broad mainstream audience. ISER partnered with a popular member of parliament to bring far greater media attention to its findings on the education budget, which helped achieve an increase in funding even before the organization's court case resolved.

Perhaps most critically, in each story there was not a beginning and an end to advocates' efforts to strengthen legal rights that matter to gender equality, but rather a cycle of actions leading to improvements over time. Getting a law passed came first, followed by efforts to implement that law. Next came improving the law and identifying gaps or complementary policies needed to ensure it had impact—and then implementing and improving those reforms once adopted.

In South Africa, for example, the adoption of a maternity leave law, facilitated by COSATU, was an important start for supporting parents after the birth of a child and improving mothers' economic outcomes. Yet Terblanche and Sonke realized that this was only the beginning, and that gender equality in work and caregiving would remain out of reach without leave available for fathers. Their successful campaign to get South Africa to enact ten days of paid leave for fathers and partners was a powerful step in the right direction and a testament to the feasibility of adopting leave for fathers in low- and middle-income countries. Yet Terblanche, COSATU, and Sonke all share the view that ten days is not enough

and are working to expand fathers' leave to several months and adopt paid leave for other caregiving purposes, such as eldercare.

In Jordan, SADAQA's work to implement the decades-old childcare law resulted in the establishment of new childcare centers across the country—a powerful development for women's equal rights in employment. Yet it didn't take long for the organization to realize that the law itself needed improvement if it was to advance gender equality, specifically by guaranteeing childcare regardless of the gender composition of a particular business's workforce. In partnership with a coalition of organizations working on gender and the economy, SADAQA succeeded in advancing this reform along with a range of legislative changes to advance gender equality.

Even while broad collaboration is essential, individual people who have faced or witnessed barriers to gender equality can make a profound difference. In each case study, individuals played a powerful role in advancing change, even as their success ultimately relied on working in partnership with a range of stakeholders. In Jordan, two women with personal experience balancing paid work with care for young children were the driving force behind SADAQA and its campaign to secure access to childcare for all. In South Africa, one man's personal campaign to achieve paid leave for fathers, informed by his own experiences as a new dad, set the stage for his successful collaboration with experienced labor and civil society groups. In Uganda, a lawyer mobilized colleagues to launch ISER after her work with refugees inspired a realization that an organization devoted to social and economic rights would fill a critical gap in her country—an action that ultimately led to improvements in access to education for millions of girls. And alongside these large-scale undertakings, even small individual actions—such as signing a petition, calling a policy maker, joining a community organization, or attending a march—can add up and produce meaningful change.

And beyond individuals and civil society groups, international organizations, researchers, media, and policy makers all have important roles to play. International organizations can help hold governments accountable for their signed commitments to gender equality under international law by monitoring the adoption and implementation of the laws and policies known to make a difference. Researchers can continue to build evidence that demonstrates which law and policy approaches to gender equality are most effective. The media has a role in helping to communicate the critical importance of these issues to broad audiences and elevating the rigorous evidence about policy impacts and the experiences of community members that demonstrate how specific policies—or their absence—affect individual lives. Policy makers have a critical responsibility to take concrete action to ensure that all women and girls can fully and equally participate in their communities and economies. More broadly, all of us have a role to play in combating outdated gender norms that limit economic opportunities for women and opportunities to be engaged caregivers for men.

## WE ALL STAND TO GAIN

Excluding half the world's population from full participation in the economy has inevitable costs. Failing to ensure all girls can complete their education, for example, results in between \$15 and \$30 trillion in lost lifetime earnings globally.<sup>40</sup> Child marriage alone is responsible for approximately \$26 billion in reduced earnings each year across fifteen of the countries where it remains most prevalent.<sup>41</sup> Achieving gender equality in pay would increase human capital wealth (that is, the value of lifetime earnings) by 22 percent globally.<sup>42</sup>

Moreover, the costs go far beyond the economic. When girls are unable to complete their education, they face higher risks of early marriage and childbearing and the attendant risks to health, including maternal mortality and birth injuries. Their own children are less likely to finish school and more likely to have poor nutrition outcomes, while their spouses likewise face higher risks of poor health. Women without their own earnings are less likely to be able to leave an abusive relationship or otherwise exercise autonomy and choice. And when women experience barriers to paid work, their households are more vulnerable to falling into poverty following a job loss.

Yet just as current inequalities harm everyone, creating a more gender-equal world would lead to vast improvements in quality of life, longevity, and economic outcomes for all people. Numerous studies have shown that boosting girls' educational attainment propels economic growth—while simultaneously improving the educational outcomes of the next generation, reducing child malnutrition, and increasing life expectancy for men as well as women.<sup>43</sup> Truly ending discrimination of all kinds in employment would not only increase opportunities for women but also create better conditions for workers regardless of race or ethnicity, religion, migration status, disability, or sexual orientation. Eliminating sexual harassment in the workplace would both create a healthier work environment and reduce turnover costs and absenteeism. Investing more in care would dramatically improve conditions of daily life for aging, ill, and disabled people worldwide, while creating a stronger and more equitable foundation for all children's early learning opportunities and healthy development. Prioritizing care would also create hundreds of millions of jobs and establish new economic pathways for workers—including many men—whose current positions are at risk due to automation. And all in all, closing the gender gaps in employment could boost global GDP by a staggering \$28 trillion.<sup>44</sup>

In short, eliminating the barriers to economic opportunity for all women and girls—from alleviating the disproportionate burden of unpaid household labor that often begins in childhood, to ensuring all girls can access and complete a quality education, to ending all forms of discrimination at work, to providing robust support for caregiving and actively encouraging gender equality in both paid and unpaid care roles—would result in massive gains for gender equality while significantly improving conditions and opportunities for all.

## EQUALITY WITHIN OUR LIFETIMES

While in many societies it was taken for granted for centuries or even millennia that women were not full political citizens, countries around the world undertook dramatic legal change beginning in the 1890s. In 1893, New Zealand became the first modern-day nation to formally recognize women's right to vote, and within less than seventy years, 129 countries had granted women the franchise.<sup>45</sup> In some regions, progress was even more condensed: 80 percent of African countries adopted universal suffrage between 1950 and 1975, as countries began writing their own laws following the end of colonization. This shift—rapid in historic context—preceded many countries' election of significantly more female representatives and their first female heads of state, representing an important expansion in women's political leadership and engagement. But girls' and women's economic and social equality in law and practice is far from achieved globally.

Is transformative change in gender equality in our lifetimes possible? To be sure, the challenges before us are great—but even if the fight will be long, examples from other movements for equal rights illustrate the feasibility of rapid and transformative legal change.

Across groups and spheres, laws on equal rights have been catalytic in advancing equality across countries. Laws have rapidly changed marriage equality. It's only been a little over two decades since the Netherlands became the first country worldwide to legalize same-sex marriage; since then, at least twenty-seven countries have followed, in all regions of the world.<sup>46</sup> An expansion of equal rights that once seemed impossible to many has suddenly become mainstream.

The recognition of the rights of people with disabilities around the world has similarly led to dramatic and rapid changes in access to education. In Malawi, which prohibited discrimination on the basis of disability in education in 2013, the share of people with disabilities reporting ever having attended school increased from 79 percent in 2008 to 96 percent in 2014; similarly, in Egypt, which adopted a ministerial decree on inclusive education in 2009, the share of people with disabilities who had ever attended school nearly doubled from 43 percent in 2006 to 78 percent in 2012.<sup>47</sup> While the changes needed to advance equality for each group may differ, national laws and policies have an equally powerful role to play in accelerating gender equality.

Ultimately, long-term, transformative change in women's equal opportunities and engagement in the economy will require that everybody plays a role. To be sure, we cannot let government off the hook—governments have structured gender inequalities into each of our economies, and governments must realize their commitments to dismantle those inequalities and the consequences they've had for all. Yet it's on all of us to hold our governments to account. Currently, gender inequalities touch each of our lives—whether at school, at home, at work, or in what we've learned to believe is possible for ourselves or our sisters and brothers,

daughters and sons, nieces and nephews, and granddaughters and grandsons. Change in each of our countries will begin with each person identifying these gaps and injustices in their communities and taking small steps to address them, whether by joining a grassroots organization, calling an elected official, writing a letter to the editor, or launching a new advocacy campaign or system of accountability and seeking out partners who can offer guidance and support. While there are limits to what each of us can do alone, we can all do something, and only if each person takes action can we create a fundamentally different world rather than resigning ourselves to waiting 200 years or more until equality is realized. Equality within our lifetimes is feasible—but it will take all of us to achieve.

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## INDEX

- Abidjan Principles, 263  
Abu Ragheb, Reem, 254, 255, 256, 257  
access to justice. *See* justice, access to  
*actio popularis*, 120  
Act Providing for the Magna Carta of Women  
(the Philippines), 58  
affirmative measures. *See* positive action  
Afghanistan: childcare, 168  
age discrimination, 67, 69–70, 126, 201, 204;  
protections against, 68*fig.*7, 70, 71*fig.*8,  
76*tab.*2, 204, 278. *See also* older workers  
agricultural workers: discrimination in  
the workplace, 22; exclusion from legal  
protections, 63, 74–75, 87–88; paid leave for,  
164; sexual harassment, 87–88, 88–89  
*Airey v. Ireland* (European Court of Human  
Rights), 142n40  
*Air India v. Nergesh Meerza* (India), 42  
Albania: antidiscrimination legislation, 34;  
discrimination in the workplace, 26; gender  
norms and stereotypes, 26  
Algeria, 246  
Alianza Nacional de Campesinas (United  
States), 88  
alternative dispute resolution, 123–27, 139;  
availability, 124; damages, 127; legal  
enforceability of, 124–26; mandatory  
arbitration, 126–27  
*amparo colectivo*, 119  
*Andrew & Another v. Linfox Transport (Aust.)  
Pty. Ltd.* (Australia), 145n106  
Angola: access to justice, 124  
antidiscrimination legislation: age, 68*fig.*7, 70,  
71*fig.*8, 76*tab.*2, 204; caregiving status, 40–45,  
46*fig.*3, 47–48, 124, 125*fig.*11, 137–39*tab.*4,  
273–74; case law, 30–31, 33, 35, 36, 41, 42, 62,  
66, 72, 75, 88, 90–91, 92, 111, 123, 126, 131, 133,  
134, 186–187; disability, 33, 45, 57, 67, 68*fig.*7,  
69, 70, 71*fig.*8, 72–73, 76*tab.*2, 109, 136, 274 ;  
economic impacts of, 5–6, 7, 29, 30, 33–34,  
41, 57, 275, 282; exceptions for religious  
employers, 35, 59, 133–34; exceptions for  
small businesses, 35, 59; gender and sex, 3,  
29–35, 44–45, 46*fig.*3, 47*tab.*1, 58–59, 59–61,  
62, 63, 64*fig.*5, 66, 67–69, 70, 71–73, 75,  
76*tab.*2, 109, 110, 111, 120, 128–29, 132*fig.*13,  
133, 135, 137–39*tab.*4, 218–20, 230–32*tab.*7,  
273, 274, 275, 276; hiring, 32*fig.*1, 33, 34,  
35, 43–44, 45, 46*fig.*3, 47, 96, 273; indirect  
discrimination, 31, 32*fig.*1, 33, 41, 42, 43, 45,  
46*fig.*3, 47*tab.*1; intersectional and multiple  
discrimination, 58–59, 59–61, 62, 64*fig.*5, 66,  
67–69, 70, 71–73, 75, 76*tab.*2, 274; marital  
status, 33, 40, 42, 43, 44*fig.*2, 44–45, 46*fig.*3;  
migration status and foreign national origin,  
44, 63, 64*fig.*5, 70, 71*fig.*8, 76*tab.*2, 274, 276;  
pay, 30, 31, 32*fig.*1, 33, 34–35, 43, 44, 45, 47,  
237, 257, 273, 276; positive action, 34, 47*tab.*1,

- 72–73, 119; pregnancy status, 33, 40–41, 42, 43–45, 46*fig.3*, 220, 275; promotions/demotions, 32*fig.1*, 33, 34, 46*fig.3*, 47, 273; race and ethnicity, 33, 44, 56–57, 58–59, 60*fig.4*, 69, 71*fig.8*, 76*tab.2*, 109, 111, 275; religion, 33, 44, 56–57, 58, 62, 70, 71*fig.8*, 76*tab.2*; sexual harassment, 3, 44–45, 90–93, 94*fig.9*, 95–100, 101–102*tab.3*, 102, 110, 111, 274; sexual orientation, gender identity, gender expression, and sex characteristics, 33, 44, 64*fig.6*, 66, 70, 71*fig.8*, 76*tab.2*, 97–98, 100, 101–102*tab.3*, 163, 274; socioeconomic position/status, 59, 60*fig.4*, 61, 71*fig.8*, 76*tab.2*; terminations, 32*fig.1*, 33, 34, 43–44, 45, 46*fig.3*, 47, 128, 137–39*tab.4*, 161, 273; trends over time, 45, 46*fig.3*, 70, 71*fig.8*, 100*fig.10*, 275. *See also* equal pay for work of equal value
- Argentina: caregiving, 152, 182; case law, 111, 119, 127; discrimination in the workplace, 23, 127; early childhood education, 166, 277; sexual harassment, 85
- Armenia: access to justice, 113; paid leave, 164
- Aslan, Reem, 251, 255, 257
- Australia: access to justice, 117, 118, 122, 123; antidiscrimination legislation, 45; caregiving, 184, 185; case law, 36, 66, 131, 133; discrimination in the workplace, 24, 28, 36, 63, 66, 204; intersectional and multiple discrimination, 63, 204; sexual harassment, 85, 86, 89, 131
- Austria: caregiving, 182, 184, 195; discrimination in the workplace, 37, 65
- Ayoub, Lara, 251, 252, 253
- Azerbaijan: antidiscrimination legislation, 45; discrimination in the workplace, 2; paid leave, 163
- Bahl v. Law Society* (United Kingdom), 72
- Bajaj, Mridula, 266
- Bangladesh: access to justice, 118; antidiscrimination legislation 97; discrimination in the workplace, 67; education, 214, 225, 227; gender-based violence, 110; intersectional and multiple discrimination, 67; sexual harassment, 97, 110
- Barbados: antidiscrimination legislation, 35, 96, 133; discrimination in the workplace, 35; sexual harassment, 96
- Basic Conditions of Employment Act (South Africa), 242
- Beijing Declaration and Platform for Action, 47, 90, 117, 136, 238, 241
- Belarus: antidiscrimination legislation, 45
- Belgium: caregiving, 182, 184, 195; discrimination in the workplace, 38, 57; education, 225; intersectional and multiple discrimination, 57; paid leave, 162, 195
- Belize: antidiscrimination legislation, 96; education, 218; sexual harassment, 96, 218
- Bharatiya Muslim Mahila Andolan (India), 265; Zakia Soman, 265
- Bliss v. Canada* (Canada), 53n120
- Bolivia: access to justice, 125
- Bostock v. Clayton County* (United States), 80n54
- Brazil: access to justice, 122; antidiscrimination legislation, 237; caregiving, 152, 166, 167, 182, 183; childcare, 167; discrimination in the workplace, 2, 23, 25, 186; domestic workers, 74, 85, 96, 237; education, 166, 214; paid leave, 150; poverty, 59; sexual harassment, 85, 96
- breastfeeding: impacts on health, 155, 156, 157; paid breaks for, 149, 161, 170–72*tab.5*; paid leave and, 148, 155, 157, 158, 163, 277
- Brunei: paid leave, 161
- Bulgaria: caregiving, 184
- Burkina Faso: education, 221
- Burma. *See* Myanmar
- Caeiro v. Tecnosolar* (Uruguay), 92
- Cambodia: caregiving, 5
- Cameroon, 247; discrimination in the workplace, 2
- Canada: access to justice, 118, 120, 126, 276; antidiscrimination legislation, 30, 109; caregiving, 152, 182, 183, 184, 187; case law, 42, 91, 126; childcare, 166; discrimination in the workplace, 39, 42, 58, 62, 63; intersectional and multiple discrimination, 58, 62, 63; paid leave, 152, 153, 155; sexual harassment, 83, 84, 91
- caregiving: care for people with disabilities/serious illnesses, 181–88; childcare, 166–67, 169; discrimination in the workplace on the basis of, 8, 22, 27, 35–40, 42–43, 47–48, 58, 69, 151, 273–74; early retirement and, 187–88; eldercare, 181–88, 194–95; impacts on women's economic outcomes, 36–37, 39, 73, 150, 151, 152, 167, 181, 183–88, 194–96, 273; marginalized women and, 181, 185; part-time work and, 25, 28, 147, 185, 195–97; protections against discrimination on the basis of, 40–45, 46*fig.3*, 47–48, 124, 125*fig.11*, 137–39*tab.4*, 273–74; stigma experienced by men in, 6, 37, 40, 151, 153; value of, xiv, 1, 4, 73, 181; women's disproportionate role in, 1, 3, 5, 8, 25, 41, 147,

- 152, 169, 170, 181–83, 184, 187, 188, 189, 195, 243, 273, 274. *See also* paid leave
- care work: devaluation of, xiv, 1, 4, 8, 24, 73–75, 198–99; impact of investments in, 7, 167, 199, 253–254, 280, 282; marginalized groups' disproportionate role in, 4, 56, 73–75, 199; migrant status and, 73, 199; protections for informal care workers, 4, 73–75, 200, 273; public investment in, 4, 7, 8, 166, 167, 183, 198–200; women's disproportionate role in, 8, 30, 73–75, 167, 198, 258, 273. *See also* domestic workers
- Carole Louise Webb v. EMO Cargo* (United Kingdom), 42
- Case C-177/88 Dekker* (European Court of Justice), 53n116
- case law: access to justice, 117, 123, 126; discrimination in the workplace, 30–31, 33, 35, 36, 41, 42, 62, 66, 72, 75, 88, 90–91, 92, 111, 123, 126, 131, 133, 134, 186–187; discrimination on the basis of caregiving status, 35, 36, 41, 42, 186–87; discrimination on the basis of gender and sex, 30–31, 33, 111, 123; discrimination on the basis of marital status, 42; discrimination on the basis of migration status, 62; discrimination on the basis of pregnancy, 35, 36, 41, 42, 134; discrimination on the basis of sexual orientation and gender identity, 66; education, 220, 263; intersectional and multiple discrimination, 72, 75; sexual harassment, 88, 90–91, 92, 98, 111, 131, 133, 220, 276
- CEDAW. *See* Convention on the Elimination of All Forms of Discrimination against Women
- Chambers v. Omaha Girls Club* (United States), 134
- childcare, 149, 185, 194, 250; accessibility of, 5, 6, 148, 166, 167, 168, 173, 183, 250, 251, 277; affordability of, 150, 162, 166, 167, 168, 173, 277; civil society organizations, 250–258, 265, 266, 280, 281; COVID-19 and, 258, 265; employers' obligations to provide, 168, 250–57; impacts on economic development, 7, 167, 253–254, 280; impacts on women's economic outcomes, 147, 150, 162, 166, 167, 277; leave for, 148; quality of, 6, 166, 173; subsidization of, 167, 168; women's disproportionate role in, xv, 24, 167, 257, 258, 277
- Child Care and Family Care Leave Act (Japan), 189
- child marriage: domestic violence and, 221–22, 278; education and, 213, 215, 218, 220–21, 275, 278, 282; health effects of, 221; legal loopholes and, 222, 223fig.22, 224, 230–32tab.7, 275; legal prohibitions of, 222–24, 230–32tab.7, 275; socioeconomic position/status and, 228
- Chile: antidiscrimination legislation, 90, 99; sexual harassment, 85, 90, 99
- China, 16, 61, 192, 197; antidiscrimination legislation, 30, 276; caregiving, 182, 184, 187; case law, 30, 276; discrimination in the workplace, 21, 22, 23, 30, 37, 63; intersectional and multiple discrimination, 63; sexual harassment, 91–92
- citizenship, 62, 63, 88, 273, 283. *See also* migrants/migration status
- civil society organizations, 10, 15, 239, 279; access to justice, 111, 120, 121; childcare, 250–58, 265–66, 280, 281; education, 258–64, 279–80; family law, 265; gender-based violence, 238–42; paid leave, 241, 242–250, 264–65, 279, 280–81; sexual harassment, 88–89
- class, socioeconomic. *See* socioeconomic position/status
- class actions, 98, 119, 120, 121, 122, 123, 126, 151, 186, 276
- Code of Practices (European Commission), 90
- collective claims: *actio popularis*, 120; *amparo colectivo*, 119; class actions, 98, 119, 120, 121, 122, 123, 126, 151, 186, 276; class certification, 123; damages available, 122; eligibility of claims, 121–22; mass torts, 119; notice requirements, 122; public interest litigation, 120; right to bring a claim, 121; strategic litigation, 120, 239, 265
- college. *See* education: tertiary
- Colombia: access to justice, 113; caregiving, 182, 184; discrimination in the workplace, 23
- Congress of South African Trade Unions (COSATU), 243, 244, 247, 248, 249, 280; Matthew Parks, 244, 247, 249
- constitutions, 16, 42, 75, 121, 217fig.20, 230–32tab.7, 237, 245, 247, 262, 275
- Convention on the Elimination of All Forms of Discrimination against Women, 9, 47, 56, 89, 90, 136, 220, 239, 272, 279
- Convention on the Rights of Persons with Disabilities, 57, 136
- Convention on the Rights of the Child, 245, 263
- Costa Rica: antidiscrimination legislation, 90, 131; caregiving, 182; case law, 131; sexual harassment, 90, 131
- Court of Appeal of Bucharest, Civil Judgment 1858* (Romania), 53n113
- Court of Cassation Judgment No. 3052* (Italy), 50n41

- COVID-19, xv, 5, 28, 196, 198, 213, 255, 258, 263, 265
- CRC. *See* Convention on the Rights of the Child
- CRPD. *See* Convention on the Rights of Persons with Disabilities
- Czech Republic: antidiscrimination legislation, 41, 275; childcare, 166; paid leave, 163
- day care. *See* childcare
- Decent Work Act (Liberia), 66
- Decree on the Right of Persons with Disabilities (Laos), 69
- DeGraffenreid v. General Motors* (United States), 72
- Dekanosidze, Tamar, 239, 240, 241
- Democratic Republic of Congo: paid leave, 161
- demotions. *See* promotions and demotions
- Deng v. Beijing Shouwanshou Co. Ltd.* (China), 51n62, 284n9
- Denmark: antidiscrimination legislation, 5–6; caregiving, 169, 182, 195; paid leave, 150, 195
- disability, 112, 258; access to education, 6, 214, 283; access to justice, 113; benefits of diversity, 57; caregiving for people with, 22, 39, 45, 181, 182, 183, 184, 188, 194–95, 196, 274; discrimination on the basis of, 67, 109; discrimination on the basis of caregiving for people with, 39–40, 45, 186; paid leave for caregiving for people with, 189–90, 194–95, 202*tab.6*, 277–78; protections against discrimination, 33, 45, 57, 67, 68*fig.7*, 69, 70, 71*fig.8*, 72–73, 76*tab.2*, 109, 136, 274; reasonable accommodations, 69; sexual harassment, 67, 97, 218
- discrimination in the workplace: age, 67, 69–70, 201, 204; caregiving status, 8, 22, 27, 35–40, 42–43, 47–48, 58, 69, 151, 273–74; disability, 67, 109; family status, 22, 35–40, 42–43, 58, 273–74; hiring, 23–24, 25, 28–29, 36–38, 47, 54–55, 57–58, 59, 61–62, 65, 67, 69, 96, 273; human rights commissions, 110, 120, 124, 129, 134–36, 137–39*tab.4*; indirect, 22, 23, 31, 32*fig.1*, 33, 36, 41, 42, 43, 45, 46*fig.3*, 47*tab.1*, 55, 61; intersectional and multiple, 54–77; labor commissions, 124, 129, 134–36, 137–39*tab.4*; leadership positions, 6, 25–27, 28, 39, 72, 279; legal, 2, 4–5, 16, 26–27, 61, 63; marital status, 37, 42–43, 58, 134; migration status and foreign national origin, 58, 62–63, 88; occupational segregation and, 3, 4, 24, 25, 27, 34, 65–66, 109, 120, 198–99; pay, 1, 3, 8, 23, 24–25, 28–29, 36, 38, 39, 41, 47, 58, 59, 63, 70, 109–10, 273; pregnancy status, 22, 35, 36, 37, 38, 42–43, 63, 134; promotions/demotions, 22, 25–27, 28–29, 38, 39, 41, 47, 54–56, 62, 186–87, 273; race and ethnicity, 54–56, 57–58, 61, 62, 67, 72, 73–75, 133, 134, 276; religion, 57, 61–62; retaliation against victims/witnesses, 35, 112, 124, 127–29, 137–39*tab.4*, 186–87, 274; sexual orientation, gender identity, gender expression, and sex characteristics, 65–66, 133; socioeconomic position/status, 59, 73–75; terminations, 27–28, 39, 47, 58, 65, 67, 186, 273; training, 25–27, 28–29, 69–70, 127, 273. *See also* antidiscrimination legislation; gender discrimination; intersectional and multiple discrimination; labor; positive action; sexual harassment
- disparate impact. *See* indirect discrimination
- Djibouti: access to justice, 118
- Domestic Worker Law (Peru), 96
- domestic workers: antidiscrimination legislation, 96, 237; discrimination in the workplace, 63, 73; exclusion from legal protections, 3, 73–75, 96; history of discrimination against, 73–75; intersectional and multiple discrimination, 63, 73; paid leave for, 164, 165–66; sexual harassment, 73, 85, 96
- Dominican Republic: gender norms and stereotypes, 170
- early childhood education, 24, 166–70, 266; accessibility of, 147, 166, 167, 173; affordability of, 147, 166, 167, 173; impacts on older siblings' school attendance, 166, 277; impacts on primary school completion rates, 168; impacts on women's economic outcomes, 147, 166, 277; quality of, 166, 173; subsidization of, 167
- East Timor. *See* Timor-Leste
- economic development: impacts of caregiving, 4, 181, 195; impacts of investing in care, 7, 167, 199, 253–254, 280, 282; impacts of investing in education, 199, 225, 229–30, 282; impacts of paid leave, 151; impacts of reducing discrimination and disparities, 5, 6–7, 29, 34, 57, 198, 282; impacts of sexual harassment, 89, 93, 102; impacts of women's education, 229–30, 282; impacts of women's employment, 5, 6–7, 47, 57, 151, 282
- Ecuador: access to justice, 115, 116, 276
- education, 11, 12, 14, 25, 63, 74, 112, 155, 251, 252, 266, 272, 273; accessibility of, 1, 9, 12, 25, 61, 113, 212–13, 214, 215–16, 218, 224–25, 226–27, 228, 230–32*tab.7*, 258–64, 275, 278, 280, 281;

- accommodations for pregnant students, 220;  
 affordability of, 212–13, 215–16, 224–25, 226,  
 230–32*tab.7*, 258–64, 275, 278; caregiving  
 and, 1, 8, 166, 167, 227, 277; case law, 220, 263;  
 child marriage and, 213, 215, 218, 220–21,  
 230–32*tab.7*, 275, 278, 282; civil society  
 organizations, 258–64, 279–80; compulsory,  
 217*fig.20*, 217–18, 230–32*tab.7*, 278;  
 COVID-19 and, 213; economic development  
 and, 199, 225, 229–30, 282; gender norms and  
 stereotypes, 6, 24, 212, 213, 214, 215, 225, 227,  
 230; gender parity in, xiv, 1, 6, 9, 25, 113,  
 212–15, 226, 229–30, 258–64, 272, 275,  
 278, 281, 282; impacts on health, 6, 9,  
 216, 221–22, 229, 278–79, 282; impacts on  
 women's economic outcomes, 6, 9, 216, 218,  
 228–29, 277, 278; poverty and, 67, 228, 229;  
 primary, 1, 8, 212, 213, 214, 215, 216, 217*fig.20*,  
 218, 225, 226, 228, 229, 230, 230–32*tab.7*,  
 258–61, 278, 280; private schools, 225, 261–64;  
 prohibitions against gender discrimination,  
 218–20, 230–32*tab.7*, 275; public investment  
 in, xv, 9, 198, 199, 216, 224–25, 226–27,  
 258–64, 279–80; quality of, 213, 224–25,  
 228, 258–64, 275; rural infrastructure  
 development and, 9, 226–27; sanitation  
 infrastructure, 226; secondary, 1, 113, 213, 214,  
 216, 217*fig.20*, 218, 221, 226, 228, 229, 230,  
 230–32*tab.7*, 261–64, 275; sexual harassment,  
 218–20, 226, 230–32*tab.7*, 275; socioeconomic  
 position/status, 6, 213, 214, 215, 225, 228,  
 262; students with disabilities, 6, 214, 218,  
 283; subsidization of nontuition costs, 225;  
 tertiary, 8, 61, 214, 230, 250; transportation,  
 218, 226; tuition-free, 6, 9, 212–13, 215–16,  
 217*fig.20*, 224–25, 226, 229, 230–32*tab.7*,  
 258–64, 275, 278, 279, 280. *See also* early  
 childhood education
- Education and Training Policy (Ethiopia), 212
- EEOC v. *DeCoster Farms* (United States), 105n41
- Egypt, 16, 192; access to justice, 115; domestic  
 workers, 96; education, 227, 283; sexual  
 harassment, 91, 96
- eldercare, 39, 40, 181–88, 205, 250, 276, 281;  
 assistive technologies, 198; impacts on  
 women's economic outcomes, 184, 185, 187,  
 195; migrant workers' disproportionate role  
 in, 199; public investment in, 4, 183, 198–200;  
 women's disproportionate role in, 30, 181,  
 182, 184, 198
- Electoral Act (New Zealand), 237
- elementary school. *See* education: primary
- El Salvador: caregiving, 182; case law, 220;  
 discrimination in the workplace, 38;  
 education, 220; sexual harassment, 220
- Employment Act (Kenya), 95
- Employment Act (Malawi), 44
- Employment Equity Act (Canada), 109
- Employment Equity Act (South Africa), 33
- Employment of Foreign Manpower Act  
 (Singapore), 63
- Employment (Prevention of Discrimination) Act  
 (Barbados), 35
- Employment Relations Promulgation (Fiji),  
 34–35
- Employment Sexual Harassment (Prevention)  
 Act (Barbados), 96
- Equal Employment Opportunity Commission  
 (United States), 42, 90, 114, 125, 129
- Equal Employment Opportunity Law (Israel), 44
- Equal Employment Opportunity Law (Japan), 30
- Equality Now, 238–42; Antonia Kirkland, 239,  
 242; Emma Thompson, 241, 242; Jessica  
 Neuwirth, 238; Tamar Dekanosidze, 239, 240,  
 241; Yasmee Hassan, 238, 242
- Equal Opportunities Commission v. Director of  
 Education* (Hong Kong), 234n31
- Equal Opportunities Commission v. Secretary  
 of State for Trade & Industry* (United  
 Kingdom), 106n62
- Equal Pay Act (New Zealand), 31
- equal pay for work of equal value, 31, 34–35, 276
- Equal Treatment Act (Germany), 44
- Equatorial Guinea: education, 220
- Esoterikon v. Kalliri* (Greece), 51n70
- Estonia: discrimination in the workplace, 39
- Ethiopia: antidiscrimination legislation, 72–73;  
 education, 212–13, 215, 278; intersectional and  
 multiple discrimination, 72–73
- European Court of Human Rights, 117, 239
- European Court of Justice, 33, 35, 42, 186
- Fair Labor Standards Act (United States), 75
- family law, 13, 116, 118, 265, 276
- Federal Act on Gender Equality (Switzerland), 121
- Fiji: access to justice, 118; antidiscrimination  
 legislation, 34–35; domestic workers, 164;  
 paid leave, 164
- Finland: motherhood pay gap, 36; sexual  
 harassment, 111
- Fourth World Conference on Women, 9, 90, 238
- France, 197; antidiscrimination legislation, 90;  
 caregiving, 182, 184; discrimination in the  
 workplace, 37, 61; intersectional and multiple

- discrimination, 61; paid leave, 152; sexual harassment, 90, 99, 276
- Gambia, the: antidiscrimination legislation, 43
- gender-based violence, 1, 12, 13, 87, 89, 90, 91, 96, 97, 110, 114, 116, 120, 218, 221–22, 230–32*tab.7*, 239–40, 243, 276, 278
- gender discrimination: case law, 30–31, 33, 111, 123; employers' responsibility to prevent, 132*fig.13*, 133–34, 137–39*tab.4*, 139; gender-based violence, 1, 12, 13, 87, 89, 90, 91, 96, 97, 110, 114, 116, 120, 218, 221–22, 230–32*tab.7*, 239–40, 243, 276, 278; gender norms and stereotypes, xiii, xiv, 3, 6, 24, 26–27, 29, 30, 39, 40, 47, 65, 66, 72, 97, 111, 113, 114, 120, 154, 160, 163, 170, 197, 212, 213, 214, 215, 225, 227, 230, 256, 257, 274, 278–279, 281; implicit bias, 23, 27, 28, 29, 38, 39, 54, 67, 69, 214; indirect discrimination, 22, 23, 31, 32*fig.1*, 33, 36, 41, 42, 43, 45, 46*fig.3*, 47*tab.1*, 55, 61; in education, 1, 212–13, 214, 218–20, 230, 272, 275; intersectional and multiple discrimination, 54–77; in the workplace, 1, 21–29, 35–40, 54–77, 111, 120, 124, 125–26, 127; legal discrimination, 2, 4–5, 16, 26–27, 61, 63; legal remedies against, 21, 30–31, 110, 117, 118, 119, 120, 124, 125–27, 137–39*tab.4*, 274, 276; prevalence of, 21–22; prohibitions against, 3, 29–35, 44–45, 46*fig.3*, 47*tab.1*, 58–59, 59, 60*fig.4*, 61, 63, 64*fig.5,6*, 66, 67–69, 70, 71–73, 75, 76*tab.2*, 90–93, 94*fig.9*, 95–100, 101–102*tab.3*, 102, 110, 111, 120, 128–29, 132*fig.13*, 133, 135, 137–39*tab.4*, 218–20, 230–32*tab.7*, 273, 274, 275, 276; “protective” legislation, 4–5; retaliation against reporting, 35, 112, 124, 127–29, 137–39*tab.4*, 274, 186–87. *See also* antidiscrimination legislation; discrimination in the workplace; education; gender disparities; gender inequality; intersectional and multiple discrimination; sexual harassment
- gender disparities: access to justice, 112, 113, 114–15, 117, 127; education, 1, 25, 212–15, 226, 229–230, 262, 275, 282; hiring, 23–24, 25, 28–29, 36–38, 54–55, 57–58, 59, 61–62, 65, 67, 69, 96; labor force participation, 1, 29, 30, 41, 62, 67, 147, 151, 183–85, 195, 272, 274; leadership, xiii, 1, 25–27, 28, 134, 151, 185, 187, 196, 279, 283; pay, 1, 6, 24–25, 28, 30, 36, 39, 41, 58, 59, 63, 70, 87, 109–10, 112, 151, 153, 170, 229, 272, 275; promotions/demotions, 22, 25–27, 28–29, 38, 39, 54–56, 62; unemployment, 28, 67, 187. *See also* antidiscrimination legislation; caregiving; discrimination in the workplace; education; gender discrimination; gender inequality; intersectional and multiple discrimination; sexual harassment
- Gender Equality in Society Law (Albania), 34
- gender identity. *See* sexual orientation, gender identity, gender expression, and sex characteristics
- gender inequality: caregiving, 1, 3, 5, 8, 25, 41, 147, 152, 169, 170, 181–83, 184, 187, 188, 189, 195, 243, 274; care work, 8, 30, 73–75, 167, 198–99, 258; child marriage laws, 222–24, 230–32*tab.7*, 275; devaluation of “women’s work,” xiv, 1, 3, 4, 8, 24, 25, 73–75, 198–99, 273; historical examples, 15–16, 61, 74–75; impacts of access to legal aid, 116, 117; impacts of flexible work arrangements, 25, 28, 185, 187, 196–97; in economic resources, xiii, xiv, xv, 1, 28, 112, 187–88; international commitments to end, 9–10, 13, 47, 56–57, 70–71, 89–90, 91, 117, 136, 220, 238, 272, 273, 279; occupational segregation, 3, 4, 24, 25, 27, 34, 65–66, 87, 109, 120, 198–99; paid leave policies, 3, 147, 150, 151, 153, 154–55, 158–60, 161, 162, 163, 165, 170, 170–72*tab.5*, 274, 280–81; structural discrimination and inequality, xiv, 1, 3, 4, 5, 16, 24, 25, 29, 31, 54, 56, 67, 73, 75, 77, 84, 173, 200, 272, 273. *See also* antidiscrimination legislation; discrimination in the workplace; education; gender discrimination; gender disparities; intersectional and multiple discrimination; sexual harassment
- gender-neutral laws and policies, xiii, 3, 23, 31, 45, 100, 148, 153, 161, 163, 243, 248
- gender norms and stereotypes: access to justice, 111, 113, 114; caregiving, 3, 6, 40, 120, 170, 256, 257, 274, 281; discrimination in the workplace, xiii, 6, 24, 26–27, 29, 30, 40, 47, 65, 66, 72, 197, 281; education, 6, 24, 212, 213, 214, 215, 225, 227, 230; leadership, xiv, 6, 26–27, 39, 72; paid leave, 154, 160, 163, 278; sexual harassment, 97
- gender pay gap, 1, 6, 24–25, 28, 30, 36, 39, 41, 58, 59, 63, 70, 87, 109–10, 112, 151, 153, 170, 229, 272, 275
- Georgia: caregiving, 184; civil society organizations, 239–40; gender-based violence, 239–40
- Georgian Young Lawyers Association (Georgia), 239
- Germany, 197; access to justice, 118; antidiscrimination legislation, 44; caregiving,

- 182, 184; care work, 167; case law, 35, 63; childcare, 167; discrimination in the workplace, 35, 37, 38, 61–62, 70; intersectional and multiple discrimination, 61–62, 70; older workers, 70, 201; paid leave, 153–54, 162, 277; sexual harassment, 87
- Ghana: caregiving, 167, 184; childcare, 167; discrimination in the workplace, 26–27, 67; education, 226, 229, 278; intersectional and multiple discrimination, 67; sexual harassment, 93
- Gilmer v. Interstate/Johnson Lane Corp.* (United States), 144n84
- Goff v. Singing River Health System* (United States), 51n73
- Goldsboro Christian Schools, Inc. v. United States* (United States), 145n108
- Greece, 15; caregiving, 182; case law, 31, 33; discrimination in the workplace, 33, 62; intersectional and multiple discrimination, 62
- Griggs v. Duke Power Co.* (United States), 51n68
- Guatemala: caregiving, 182; education, 225
- Guinea: education, 227
- Guinea-Bissau: gender norms and stereotypes, 170
- Guo Jing v. East Cooking Vocational Skills Training School* (China), 51n64, 284n9
- Hassan, Yasmeen, 238, 242
- health: child health and development, xv, 148, 155, 156–57, 158, 161, 162, 163, 167, 169–70, 170–72*tab.5*, 173, 187, 189–90, 191*fig.17*, 202–4*tab.6*, 221, 229, 245, 275, 282; gender-based violence, 1, 12, 13, 89, 114, 221–22, 243; impacts of discrimination on, 201, 204; impacts of employment on, 187, 201; impacts of paid leave on, 155–57, 158, 169, 189, 192, 245, 264, 277; impacts of sexual harassment on, 87; impacts of women's education on, 216, 221, 229, 278–79, 282; infant mortality, 14, 155, 156, 264, 277; maternal health, 5, 41, 148, 155, 157, 158, 163, 221, 245, 282; mental health, 75, 87, 157, 187, 201, 245; reproductive health, 12, 216
- health care, 6, 12, 169, 189, 190, 192, 198
- high-income countries, 5, 7, 32*fig.1*, 33, 34, 36, 43, 44, 44*fig.2*, 45, 47*tab.1*, 59, 66, 69, 70, 76*tab.2*, 93, 94*fig.9*, 95, 97, 100, 101–2*tab.3*, 128, 129, 131, 135*fig.14*, 137–39*tab.4*, 156, 158, 160, 161, 164, 166, 170–72*tab.5*, 189, 191*fig.17*, 193*fig.19*, 202–4*tab.6*, 216, 218, 221, 222, 224, 230–32*tab.7*. *See also* Australia; Austria;
- Barbados; Belgium; Brunei; Canada; Chile; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hong Kong; Hungary; Iceland; Ireland; Israel; Italy; Japan; Kuwait; Latvia; Lithuania; Luxembourg; the Netherlands; New Zealand; Norway; Panama; Poland; Portugal; Qatar; Romania; Saudi Arabia; Singapore; South Korea; Spain; Sweden; Switzerland; United Arab Emirates; United Kingdom; United States; Uruguay
- high school. *See* education: secondary
- hiring. *See* antidiscrimination legislation; discrimination in the workplace; gender disparities
- Holland. *See* Netherlands, the
- Honduras: caregiving, 182; discrimination in the workplace, 38
- Hong Kong: case law, 220; education, 220
- human rights commissions, 110, 120, 124, 129, 134–36, 137–39*tab.4*
- Hungary: caregiving, 184; paid leave, 163
- ICCPR. *See* International Covenant on Civil and Political Rights
- Iceland: access to justice, 118, 125; antidiscrimination legislation, 72; intersectional and multiple discrimination, 72; paid leave, 146–47, 149, 152, 163
- ICERD. *See* International Convention on the Elimination of All Forms of Racial Discrimination
- ICESCR. *See* International Covenant on Economic, Social, and Cultural Rights
- Ifram, Farhan, 253, 254, 255, 256
- ILO. *See* International Labour Organization
- implicit bias, 23, 27, 28, 29, 38, 39, 54, 67, 69, 214
- India, 61, 197, 279; antidiscrimination legislation, 91, 120; caregiving, 5, 164, 167, 182; care work, 199; case law, 42, 91, 120; childcare, 167, 266; civil society organizations, 265, 266; discrimination in the workplace, 22, 23, 27, 42, 59; domestic workers, 85, 96; education, 225, 226, 227; family law, 265; intersectional and multiple discrimination, 59; sexual harassment, 84, 85, 91, 96, 110, 120; socioeconomic position/status, 59, 199, 228
- Indigenous groups, 58, 110, 113
- indirect discrimination, 22, 23, 31, 32*fig.1*, 33, 36, 41, 42, 43, 45, 46*fig.3*, 47*tab.1*, 55, 61



- Indonesia, 63; access to justice, 112, 113; discrimination in the workplace, 23; education, 214
- informal economy, 4, 11, 25, 73, 74, 75, 91, 96, 156, 164, 166, 167, 168, 200, 225, 258. *See also* agricultural workers; domestic workers
- inheritance and property rights, xiv-xv, 15–16
- Initiative for Social and Economic Rights (Uganda), 258–64, 279, 280, 281; Salima Namusobya, 259, 260, 261; Saphina Nakulima, 260, 261, 262, 263
- International Convention on the Elimination of All Forms of Racial Discrimination, 56–57, 117, 136
- International Covenant on Civil and Political Rights, 66, 117
- International Covenant on Economic, Social, and Cultural Rights, 56, 136, 263
- International Labour Organization, xiv, 2, 4, 7, 38, 73, 75, 90, 149, 154, 158, 160, 164, 183, 199, 200, 255, 274; conventions, 57, 91, 92, 95, 136, 149, 154; recommendations, 154
- International Labour Organization Convention No. 111 [Discrimination (Employment and Occupation) Convention], 57, 136
- International Labour Organization Convention No. 156 [Workers with Family Responsibilities Convention], 154
- International Labour Organization Convention No. 183 [Maternity Protection Convention], 149, 154
- International Labour Organization Convention No. 190 [Violence and Harassment Convention], 91, 92, 95, 136
- International Labour Organization Maternity Protection Recommendation, 154
- intersectional and multiple discrimination: on the basis of gender/sex and: age, 58, 67, 68fig.7, 69–70, 71fig.8, 76tab.2, 204; disability, 67, 68fig.7, 69, 70, 71fig.8, 72–73, 76tab.2, 97, 109, 274; migration status and foreign national origin, 58, 62–63, 64fig.5, 70, 71fig.8, 76tab.2, 88, 274, 276; race and ethnicity, 54–55, 57–59, 60fig.4, 61, 62, 67, 71fig.8, 72, 73–75, 76tab.2, 88, 97, 109, 274, 276; religion, 58, 61–62, 70, 71fig.8, 76tab.2, 274; sexual orientation, gender identity, gender expression, and sex characteristics, 64fig.6, 65–66, 70, 71fig.8, 76tab.2, 274; socioeconomic position/status, 58, 59, 60fig.4, 61, 70, 71fig.8, 76tab.2, 274
- Iran: caregiving, 182
- Ireland: access to justice, 118; civil society organizations, 241; paid leave, 241
- Israel: antidiscrimination legislation, 44; discrimination in the workplace, 62, 204; intersectional and multiple discrimination, 62, 204; paid leave, 153, 192
- Italy: access to justice, 123; caregiving, 182, 184; case law, 27, 41, 63; discrimination in the workplace, 27, 41, 63; intersectional and multiple discrimination, 63
- Jamaica: education, 220
- Janzen v. Platy Enterprises Ltd.* (Canada), 106n68
- Japan, 197; antidiscrimination legislation, 30, 275; caregiving, 152, 183, 187, 189; childcare, 168; discrimination in the workplace, 23; paid leave, 149, 155, 277; sexual harassment, 84, 96
- Jenson v. Eveleth Taconite Co.* (United States), 107n91, 285n13
- Jordan, 192; access to justice, 112, 114; childcare, 250–58, 280, 281; civil society organizations, 238, 239, 250–58, 280, 281; discrimination in the workplace, 16; sexual harassment, 89
- Judgment No 2323/2018 of the First Instance Civil Court of Athens—Labour disputes Section* (Greece), 51n69
- Judgment on Civil Suit No. 353 of 2016* (Uganda), 270nn130,131,132
- justice, access to: accommodation barriers, 113; alternative dispute resolution, 123–27; collective claims, 119–23, 276; corruption and, 115; distance barriers, 113; financial barriers, 112; gender disparities in, 112, 113, 114–15, 117, 127; human rights commissions, 110, 120, 124, 129, 134–36, 137–39tab.4; knowledge barriers, 112–13; labor commissions, 124, 129, 134–36, 137–39tab.4; legal aid, 116–19, 276; normative and societal barriers, 114–15; protections against retaliation, 127–29, 137–39tab.4; retaliation against claimants, 127; stigmatizing court practices, 114–15
- J v M Ltd* (South Africa), 106n58
- Kazakhstan: civil society organizations, 240; discrimination in the workplace, 5; gender-based violence, 240
- Kenya, 246, 247; access to justice, 121; antidiscrimination legislation, 95; education, 225, 278; sexual harassment, 95
- Kirkland, Antonia, 239, 242

- Kuwait: discrimination in the workplace, 27
- Kyrgyzstan: education, 214
- labor: benefits of diversity, 27, 57, 130; equal pay, 24–25, 30–31, 32*fig.*1, 33, 34–35, 43, 44, 45, 47, 56, 237, 257, 273, 276; flexible schedules, 39, 69, 186, 188, 195–97, 200, 257; gender pay gap, 1, 6, 24–25, 28, 30, 36, 39, 41, 58, 59, 63, 70, 87, 109–10, 112, 151, 153, 170, 229, 272, 275; informal economy, 4, 11, 25, 73, 74, 75, 91, 96, 156, 164, 166, 167, 168, 200, 225, 258; labor unions, 5, 98, 129, 134, 242, 243, 244, 247, 248, 249, 266, 280; legal discrimination, 2, 4–5, 16, 26–27, 61, 63; motherhood pay gap, 25, 36, 41, 151, 275; occupational segregation, 3, 4, 24, 25, 27, 34, 65–66, 87, 109, 120, 198–99; paid maternity leave, 148–151, 156–57, 158–62, 164–66, 170–72*tab.*5, 244, 248, 264, 277, 280; paid medical leave, 169–70, 170–72*tab.*5, 173, 189–90, 191*fig.*17, 192, 193*fig.*19, 194, 202–4*tab.*6, 274–75, 277–78; paid parental leave, 3, 5, 6, 124, 125*fig.*11, 137–39*tab.*4, 146–47, 148, 149, 150–51, 152–55, 157, 158, 159*fig.*15, 160, 161, 162, 163, 164, 165, 170–72*tab.*5, 242, 244, 245, 246, 250, 274, 277, 278; paid paternity leave, 148, 149, 150–51, 152–55, 157, 158, 159*fig.*15, 160, 161, 162, 165–66, 170–72*tab.*5, 241, 242–250, 257–58, 274, 275, 277, 278, 279, 280–81; paid sick leave, 73; part-time work, 25, 28, 147, 164, 185, 187, 195–97, 201; “protective” legislation, 4–5; reasonable accommodations, 69; remote work, 36, 195–97; unemployment, 5, 28, 42, 67, 73, 74, 75, 87, 88, 187, 228; women’s labor force participation, 1, 5, 6–7, 29, 30, 41, 62, 67, 147, 149–51, 161, 166–67, 183–85, 195, 196, 198, 228, 250, 272, 273, 274, 276–78. *See also* antidiscrimination legislation; discrimination in the workplace; sexual harassment
- labor commissions, 124, 129, 134–36, 137–39*tab.*4
- Labor Standards Act (South Korea), 35
- labor unions, 5, 98, 129, 134, 242, 243, 244, 247, 248, 249, 266, 280
- Laos: antidiscrimination legislation, 69; intersectional and multiple discrimination, 69
- Larbi-Odam and Others v. Member of the Executive Council for Education (North-West Province) and Another* (South Africa), 79n35
- Latvia: discrimination in the workplace, 39
- Law on Guarantees of Equal Rights and Opportunities for Women and Men (Uzbekistan), 44–45
- Law on the Equality of Opportunities between Women and Men (Peru), 34
- leadership: backlash against women in, xiv, 6, 72; discrimination in the workplace, 26–27, 39; gender disparities in, xiii, 1, 25–27, 28, 134, 151, 185, 187, 196, 279, 283; gender norms and stereotypes about, 6, 26, 39, 40, 72; sexual harassment, 96, 129, 130, 134, 139, 140
- leave, paid: adoptive parents, 147, 148, 158, 161, 162–63, 170–72*tab.*5, 242, 248, 249; grandparents as caregivers, 164; gender inequality in, 3, 147, 150, 151, 153, 154–55, 158–60, 161, 162, 163, 165, 170, 170–72*tab.*5, 274, 280–81; impacts on breastfeeding, 148, 155–57, 158, 277; impacts on economic development, 151; impacts on health, 155–57, 169, 189, 245, 277; impacts on men’s engagement as fathers, 147, 152–53, 157, 245; impacts on women’s employment outcomes, 3, 147, 149–51, 152, 153, 154, 189, 194–95, 276–78; informal, part-time, and self-employed workers, 164, 165–66; job protection during, 41, 149, 161, 170–72*tab.*5; leave to meet the health needs of adults, 189, 190–95, 202–4*tab.*6, 274–75, 277–78; leave to meet the health needs of children, 169–70, 170–72*tab.*5, 173, 189–90, 191*fig.*17, 202–4*tab.*6, 274–75, 277–78; maternity leave, 148–151, 156–57, 158–62, 164–66, 170–72*tab.*5, 244, 248, 264, 277, 280; men’s take-up of, 146–47, 150, 151, 153, 154, 160, 162, 163, 165, 173, 205, 250, 274, 277; parental leave, 3, 5, 6, 124, 125*fig.*11, 137–39*tab.*4, 146–47, 148, 149, 150–51, 152–55, 157, 158, 159*fig.*15, 160, 161, 162, 163, 164, 165, 170–72*tab.*5, 242, 244, 245, 246, 250, 274, 277, 278, 279, 280–81; same-sex couples, 161, 163, 247; sick leave, 73; single parents, 161–62, 169; trends over time, 149–50, 165–66, 275; wage replacement rates for, 146, 153, 160–61, 170, 170–72*tab.*5, 190, 194, 202–4*tab.*6
- leave, unpaid, 35, 160, 169, 170, 170–72*tab.*5
- Lebanon, 238, 239; sexual harassment, 86
- legal aid: access to, 116–19; eligibility for, 117–18; impacts on gender equality, 116, 117, 276; quality of representation, 118; underfunding of, 118
- legal loopholes: child marriage, 222, 223*fig.*22, 224, 230–32*tab.*7, 275; exceptions for religious

- employers, 35, 59, 133–34; exceptions for small businesses, 35, 59; marriage rape loopholes, 238–39
- legal protections against discrimination. *See* antidiscrimination legislation
- Lesotho: antidiscrimination legislation, 41; case law, 41
- Liang v. Guangdong Huishijia Economic Development Co. Ltd.* (China), 51n63, 284n9
- Liberia: access to justice, 116; antidiscrimination legislation, 66; education, 225
- Lindorfer v. Council of the European Union* (European Court of Justice), 80n40
- Lithuania: caregiving, 184; discrimination in the workplace, 39
- litigation, 110–23, 125, 126, 127, 128, 129, 265, 276; public interest, 120; strategic, 120, 239, 265
- long-term care, 199; access to, 194, 195, 197–98; public investment in, 4, 8, 183, 188, 198. *See also* eldercare
- low- and middle-income countries, 5, 6, 7, 12, 36, 59, 128, 151, 156, 157, 166, 190, 215–16, 221, 222, 224, 224fig.23, 229, 275, 277, 278, 280
- low-income countries, 32fig.1, 34, 43, 44, 44fig.2, 45, 47tab.1, 59, 69, 70, 76tab.2, 93, 94fig.9, 95, 101–2tab.3, 102, 129, 131, 135fig.14, 137–39tab.4, 158, 170–72tab.5, 189, 191fig.17, 193fig.19, 202–4tab.6, 218, 221, 222, 230–32tab.7. *See also* Afghanistan, Burkina Faso, Democratic Republic of Congo, Ethiopia, the Gambia, Guinea, Guinea-Bissau, Liberia, Madagascar, Malawi, Mali, Mozambique, Niger, Rwanda, Sierra Leone, Syria, Uganda, Zambia
- Luxembourg: paid leave, 153
- Macedonia: access to justice, 120; antidiscrimination legislation, 131; sexual harassment, 131
- Madagascar: discrimination in the workplace, 16
- Mahlangu and Another v. Minister of Labour and Others* (South Africa), 82n91
- Makafane v. Zhongxian Investment Pty Ltd and Another* (Lesotho), 53n114
- Malawi: antidiscrimination legislation, 44; caregiving, 183; education, 6, 215, 278, 283
- Malaysia: access to justice, 118; discrimination in the workplace, 63; intersectional and multiple discrimination, 63
- Mali: caregiving, 5; education, 169
- marriage: child marriage, 213, 215–16, 217–18, 220–24, 228, 230–32tab.7, 275, 278, 282; instant divorce, 265; property rights and, xiv–xv, 16; rape loopholes and, 238–39; same-sex, 163, 283
- Marshall Islands, 158
- mass torts, 119
- Mauritius: antidiscrimination legislation, 35; education, 215
- MenCare Global Fatherhood campaign, 244, 246
- MenEngage Alliance, 246
- mentorship, 28, 55, 85, 119, 251
- #MeToo movement, 88, 99, 119, 126
- Mexico, 197; caregiving, 166, 182; discrimination in the workplace, 23, 24, 38, 58; education, 166, 228; intersectional and multiple discrimination, 58
- Micronesia, 158
- middle-income countries, 32fig.1, 34, 43, 44, 44fig.2, 47tab.1, 59, 69, 70, 76tab.2, 93, 94fig.9, 95, 101–2tab.3, 129, 131, 135fig.14, 137–39tab.4, 158, 170–72tab.5, 189, 191fig.17, 193fig.19, 202–4tab.6, 218, 228, 230–32tab.7. *See also* Albania, Algeria, Angola, Argentina, Armenia, Azerbaijan, Bangladesh, Belarus, Belize, Bolivia, Brazil, Bulgaria, Cambodia, Cameroon, China, Colombia, Costa Rica, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Fiji, Georgia, Ghana, Guatemala, Honduras, India, Indonesia, Iran, Jamaica, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Laos, Lebanon, Lesotho, Macedonia, Malaysia, Marshall Islands, Mauritius, Mexico, Micronesia, Morocco, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Pakistan, Palau, Papua New Guinea, Peru, Philippines, Russia, Senegal, South Africa, Swaziland, Tajikistan, Tanzania, Thailand, Timor-Leste, Tonga, Tunisia, Turkey, Tuvalu, Uzbekistan, Vietnam, Zimbabwe
- migrants/migration status: access to justice, 113, 118, 129; benefits of diversity, 57; caregiving, 185; care work, 73, 199; discrimination on the basis of migration status and foreign national origin, 58, 62–63, 70, 88, 118; protections against discrimination, 44, 63, 64fig.5, 70, 71fig.8, 76tab.2, 274, 276; sexual harassment, 88, 99, 276. *See also* citizenship
- Mobile Creches (India), 266; Mridula Bajaj, 266
- Morocco, 246, 247; civil society organizations, 238–39; gender-based violence, 238–39
- Mosaic (South Africa), 243, 247, 248
- motherhood pay gap, 25, 36, 41, 151, 275
- Mozambique, 246; childcare, 166; education, 166, 214, 277, 278; gender norms and stereotypes, 170
- Muller v. Oregon* (United States), 18n19

- Myanmar: discrimination in the workplace, 38; education, 214
- Naffa, Randa, 251, 252, 256, 257, 258
- Nairobi Forward Looking Strategies for the Advancement of Women, 90
- Nakulima, Saphina, 260, 261, 262, 263
- Namibia: paid leave, 165
- Namusobya, Salima, 259, 260, 261
- Nauru, 158
- Nepal: antidiscrimination legislation, 35; education, 221
- Netherlands, the, 126, 283; access to justice, 125; caregiving, 152, 182; childcare, 168; discrimination in the workplace, 24, 58, 127, 276; intersectional and multiple discrimination, 58, 276; paid leave, 194
- Netherlands Institute for Human Rights, 58
- Neuwirth, Jessica, 238
- New Zealand, 237, 283; antidiscrimination legislation, 31; case law, 30–31, 276; childcare, 166; discrimination in the workplace, 30–31, 276; older workers, 201
- Nicaragua: caregiving, 182
- Niger: education, 221
- Nigeria: access to justice, 113; caregiving, 184; discrimination in the workplace, 23, 25; gender norms and stereotypes, 40
- nondiscrimination legislation. *See* antidiscrimination legislation
- Norway: paid leave, 6, 150, 152
- older workers: benefits of employing, 200–201; discrimination faced by, 67, 69–70, 126, 201, 204; health benefits realized by, 187, 201; protections against discrimination, 68*fig.*7, 70, 76*tab.*2, 204. *See also* age discrimination
- Oncale v. Sundowner Offshore Services* (United States), 106n61
- overturning and changing discriminatory laws, 237–38, 264–66, 279–81; childcare, 256–58, 266; gender-based violence, 238–41, 241–42; gender and sex discrimination, 238–42, 265; paid leave, 241, 242–250, 264
- Pakistan: caregiving, 5, 182; discrimination in the workplace, 23, 24; education, 214; sexual harassment, 85
- Palau, 158
- Palestine, 239
- Panama: caregiving, 182; childcare, 168; pay, 25
- Papua New Guinea, 158
- Parks, Matthew, 244, 247, 249
- part-time work: caregiving and, 25, 147, 185, 196, 197; impacts on women's economic outcomes, 28, 187, 196–97; older workers, 201; paid leave, 164
- pay. *See* antidiscrimination legislation; discrimination in the workplace; equal pay for work of equal value; gender disparities; gender pay gap; labor; motherhood pay gap
- Personal Status Law (Jordan), 16
- Peru: antidiscrimination legislation, 34, 96; discrimination in the workplace, 23; domestic workers, 96; education, 227; paid leave, 163; sexual harassment, 96; socioeconomic position/status, 228
- Philippines, the, 63; antidiscrimination legislation, 58, 90, 96; intersectional and multiple discrimination, 58; paid leave, 264; pay, 25; sexual harassment, 90, 96
- Phillips v. Martin Marietta Corp* (United States), 53n117
- Poland: caregiving, 184; discrimination in the workplace, 204; intersectional and multiple discrimination, 204
- Portugal: caregiving, 183; domestic workers, 96; sexual harassment, 96
- positive action, 34, 47*tab.*1, 72–73, 119
- poverty, 201; access to justice for people in, 117, 118; as a barrier to education, 214, 228, 262; caregiving and, 148, 160, 167; impacts of education on, 229; intersections with disability, 67; intersections with gender and sex, xiii, 2, 5, 70, 188, 282; intersections with race and ethnicity, 59, 67; paid leave and, 160, 161; protections from discrimination, 58. *See also* socioeconomic position/status
- pregnancy: discrimination on the basis of, 22, 35, 36, 37, 38, 42–43, 63, 134; expulsion of students on the basis of, 220, 221; job restrictions on the basis of, 4, 5, 35, 63, 149; mandatory testing for, 38, 63; protections against discrimination on the basis of, 33, 40–41, 42, 43–45, 46*fig.*3, 220, 275
- Pregnancy Discrimination Act (United States), 41
- Proclamation on the Right to Employment of Persons with Disabilities (Ethiopia), 72–73
- promotions and demotions. *See* antidiscrimination legislation; discrimination in the workplace; gender disparities
- property ownership. *See* inheritance and property rights
- Protection against Sexual Harassment Act (Belize), 96, 218–19

- “protective” legislation, 4–5
- Protocol to the African Charter on the Rights of Women (Maputo Protocol), 117
- public interest litigation, 120
- Qatar: discrimination in the workplace, 27
- Quebec Act on Pay Equity, 30
- race and ethnicity: access to justice, 113, 129; benefits of diversity, 57; discrimination on the basis of, 54–56, 57–58, 61, 62, 67, 72, 73–75, 133, 134, 276; inequalities, 4, 59, 61, 67, 73, 113, 115, 118, 185, 199; protections against discrimination, 33, 44, 56–57, 58–59, 60*fig.*4, 69, 71*fig.*8, 76*tab.*2, 109, 111, 275; sexual harassment, 88, 97
- reasonable accommodations, 69
- religion: antidiscrimination exceptions for religious employers, 35, 59, 133–34; child marriage and, 222, 224; discrimination by religious organizations, 133–34; discrimination on the basis of, 57, 61–62; protections against discrimination, 33, 44, 56–57, 58, 62, 70, 71*fig.*8, 76*tab.*2, 274
- religious and customary law, 61, 114, 116, 222, 224, 230–32*tab.*7
- retaliation: discrimination in the workplace, 35, 112, 127, 186–87; protections against, 124, 127–29, 137–39*tab.*4, 274; sexual harassment, 85, 86, 91, 114, 127, 129
- Romania: antidiscrimination legislation, 41; caregiving, 184; case law, 41
- Russia: caregiving, 182, 184; discrimination in the workplace, 5, 23, 36
- Rwanda, 246; access to justice, 118; education, 278
- SADAQA (Jordan), 250–58, 265–66, 280, 281; Lara Ayoub, 251, 252, 253; Randa Naffa, 251, 252, 256, 257, 258; Reem Abu Ragheb, 254, 255, 256, 257; Reem Aslan, 251, 255, 257
- Safe Spaces Act (the Philippines), 96
- Saudi Arabia: discrimination in the workplace, 26
- Scholz v. University of Cagliari* (Italy), 80n40
- Schöning-Kougebetoulou* (Germany), 80n40
- school. *See* education
- Schou v. State of Victoria* (Australia), 51n74
- S. Coleman v. Attridge Law* (United Kingdom), 207n36
- SDGs. *See* Sustainable Development Goals
- Senegal: education, 220
- Sentencia: 00038* (Costa Rica), 145n104
- Sentencia N° 32-3-2018* (El Salvador), 234n30
- Sentenza n. 937/2017* (Italy), 53n115
- Sex Discrimination Act (Australia), 45
- sexual harassment: absenteeism due to, 85, 89, 282; barriers to reporting, 86, 114–115; case law, 88, 90–91, 92, 98, 111, 131, 133, 220, 276; definitions of, 84, 90–91, 95–96, 100, 101–102*tab.*3; domestic workers, 73, 85, 96; employers’ responsibility to prevent, 93–95, 98–99, 102, 130–34, 137–39*tab.*4, 139; gender norms and stereotypes, 97; impacts on economic development, 89, 93, 102; impacts on health, 83–84, 87, 88; impacts on women’s economic outcomes, 84, 85–87; impacts on workplaces, 85, 86, 89, 282; independent bodies and, 134–36; informal employment, 91, 96, 200; in schools, 218–220, 226, 230–32*tab.*7, 275; labor unions and, 98, 134; legal remedies against, 110, 117, 118, 119, 120, 124–27, 137–39*tab.*4, 274, 276; LGBT+ workers, 97, 100, 101–102*tab.*3; male-dominated fields, 83–84, 87, 98; male victims of, 85, 97, 100; marginalized workers, 87–89, 97; #MeToo movement, 88, 99, 119, 126; migration status and, 88, 99, 276; norms regarding, 97, 99–100, 114; perpetrators of, 86, 87, 91, 93–95, 96, 100; prevalence of, 1, 22, 84–85, 88, 93, 98, 110; prohibitions of, 3, 44–45, 89–93, 94*fig.*9, 95–100, 101–102*tab.*3, 102, 110, 111, 274; public spaces, 96, 99, 110; retaliation against victims/witnesses, 85–86, 91, 102, 112, 124, 127–29, 137–39*tab.*4, 274, 274; women in leadership positions, 96–97; workplace cultures and prevention of, 93–95, 102, 129–30
- sexual orientation, gender identity, gender expression, and sex characteristics: discrimination on the basis of, 65–66, 70, 133; protections against discrimination, 33, 44, 64*fig.*6, 66, 70, 71*fig.*8, 76*tab.*2, 97–98, 100, 101–102*tab.*3, 163, 274; sexual harassment, 97, 100, 101–102*tab.*3
- Sierra Leone: access to justice, 113; education, 226
- Silke-Karin Mahlburg v. Land Mecklenburg-Vorpommern* (Germany), 51n72
- Singapore: discrimination in the workplace, 63; intersectional and multiple discrimination, 63
- Sisnero, et al. v. Taldelva SRL, et al.* (Argentina), 140n7
- Snow v. Vanguard Grp., Inc.* (United States), 207n39
- Social Security Act (United States), 74, 75

- socioeconomic position/status, 22, 85; access to justice, 110, 116, 118, 129, 139, 276; caregiving, 8, 185, 197; care work, 199; childcare, 147–48, 167; child marriage and, 228; discrimination on the basis of, 59, 73–75; education, 6, 213, 214, 215, 225, 228, 262; paid leave, 160; protections against discrimination, 59, 60fig.4, 61, 71fig.8, 76tab.2, 274. *See also* poverty
- Soman, Zakia, 265
- Sonke Gender Justice (South Africa), 242–250, 264–65, 279, 280–81; Wessel van den Berg, 243, 244, 246, 247, 248, 249
- South Africa: access to justice, 112, 113, 118, 123; antidiscrimination legislation, 33, 72, 75, 90, 131; caregiving, 167, 182; case law, 36, 62, 75, 90; childcare, 167; civil society organizations, 238, 242–250, 264–65, 279, 280–81; discrimination in the workplace, 36, 62, 67; intersectional and multiple discrimination, 67, 72, 75; paid leave, 242–250, 279, 280–81; sexual harassment, 84, 90, 131; socioeconomic position/status, 59
- South Korea: antidiscrimination legislation, 35, 99; caregiving, 164, 182; discrimination in the workplace, 62; intersectional and multiple discrimination, 62; paid leave, 153; sexual harassment, 98, 99, 276
- Spain, 16, 196, 197; antidiscrimination legislation, 90; caregiving, 182, 184; childcare, 167; paid leave, 150, 153, 277; sexual harassment, 90, 129
- Spotti v. Freistaat Bayern* (Germany), 80n40
- strategic litigation, 120, 239, 265
- structural discrimination and inequality, xiv, 1, 3, 4, 5, 16, 24, 25, 29, 31, 54, 56, 67, 73, 75, 77, 84, 173, 200, 272, 273
- Sustainable Development Goals, 7, 10, 13, 47, 71, 136, 156, 199, 263, 272
- Swaziland: paid leave, 161
- Sweden: antidiscrimination legislation, 90; caregiving, 182, 183; discrimination in the workplace, 26, 65; intersectional and multiple discrimination, 65; motherhood pay gap, 36; paid leave, 150, 153, 157, 162, 163, 170, 277; sexual harassment, 84, 90, 96
- Switzerland, 237; access to justice, 120, 121; caregiving, 182; discrimination in the workplace, 37, 38; “protective” legislation, 4
- Syria: civil society organizations, 241–242; gender-based violence, 241–242
- Tajikistan: education, 214
- Tanzania, 246; discrimination in the workplace, 24; education, 215
- Terblanche, Hendri, 243, 244, 245, 246, 247, 248, 249, 250, 280
- terminations. *See* antidiscrimination legislation; discrimination in the workplace
- Terranova Homes & Care Ltd v. Service and Food Workers Union Nga Ringa Tota Inc.* (New Zealand), 51n65, 285n11
- Thailand: caregiving, 167; childcare, 167; pay, 25
- Thompson, Emma, 241, 242
- Timor-Leste: access to justice, 113, 114
- Title VII of the Civil Rights Act (United States), 30, 42–43, 66, 90
- Tonga, 158
- Toonen v. Australia* (Australia), 66
- training. *See* antidiscrimination legislation; discrimination in the workplace
- Tunisia, 239, 246; discrimination in the workplace, 37
- Turkey: caregiving, 8; childcare, 168; education, 8, 216, 218, 278; gender norms and stereotypes, 24
- Tuvalu: sexual harassment, 91
- Uber Technologies Inc. v. Heller* (Canada), 144n86
- UDHR. *See* Universal Declaration of Human Rights
- Uganda: case law, 263; civil society organizations, 238, 258–264, 279, 280, 281; education, 6, 215, 218, 258–264, 278, 279, 280, 281; sexual harassment, 218
- unemployment, 5, 87, 228; benefits during, 42, 73, 74, 75, 87, 88; gender disparities in, 28, 67, 187
- UNESCO. *See* United Nations Educational, Scientific, and Cultural Organization
- Union de l’Action Feminine (Morocco), 238
- United Arab Emirates: discrimination in the workplace, 27
- United Kingdom, 197; access to justice, 122; antidiscrimination legislation, 30, 91, 275; caregiving, 152, 184, 186; care work, 199; case law, 42, 72, 91, 186; childcare, 7, 166, 183; discrimination in the workplace, 24, 37, 38, 39, 42, 54–55, 65, 67, 72, 186; intersectional and multiple discrimination, 54–55, 65, 67, 72; paid leave, 150; sexual harassment, 91, 97
- United Nations, 2, 65, 239, 245; agencies, 112, 168, 216, 218, 227, 228, 245; declarations, 56, 136, 272, 279; Sustainable Development Goals, 7, 10, 13, 47, 71, 136, 156, 199, 263, 272; treaties, 9, 47, 56–57, 66, 89, 90, 117, 136, 220, 239, 245, 263, 272, 279; treaty bodies, 9, 117, 239
- United Nations Committee against Torture, 239

- United Nations Committee on the Elimination of Discrimination against Women, 9, 239
- United Nations Committee on the Elimination of Racial Discrimination, 117
- United Nations Educational, Scientific, and Cultural Organization, 168, 216, 228
- United Nations Human Rights Committee, 66, 117, 239
- United States, 187, 192, 197; access to justice, 114, 115, 116, 119, 122, 123, 124, 125, 126, 130, 276; antidiscrimination legislation, 30, 41, 42, 90, 99–100, 275; caregiving, 152, 182, 184, 185; care work, 199; case law, 4–5, 33, 35, 42, 66, 72, 88, 90–91, 98, 111, 123, 126, 133–34, 186–87, 276; childcare, 5, 166; child marriage, 221; discrimination in the workplace, 22, 24, 29, 33, 35, 39, 40, 42, 65, 67, 69, 111, 115, 123, 133–34, 186–87; domestic workers, 74–75, 96; intersectional and multiple discrimination, 58, 65, 67, 69; older workers, 201, 204; paid leave, 5, 150, 151, 155, 158, 160, 163, 194, 277–78; “protective” legislation, 4–5; sexual harassment, 84, 85, 86, 88, 90, 96, 98, 99–100, 114, 130, 276
- Universal Declaration of Human Rights, 56, 136, 272, 279
- university. *See* education: tertiary
- Uruguay: antidiscrimination legislation, 92; case law, 92; sexual harassment, 92
- Uzbekistan: antidiscrimination legislation, 44–45
- van den Berg, Wessel, 243, 244, 246, 247, 248, 249
- Venezuela: access to justice, 124; discrimination in the workplace, 23
- Vietnam: sexual harassment, 89
- Vishaka & Ors v. State of Rajasthan & Ors* (India), 106n64
- Wales: access to justice, 112, 118
- Wal-Mart v. Dukes* (United States), 123
- White Paper on Families in South Africa, 243, 244
- Williams v. Saxbe* (United States), 106n60
- Women’s Act (the Gambia), 43
- women’s labor force participation, 161, 196; caregiving and, 7, 183–85, 195, 273, 274; childcare and, 166–67, 250, 277; economic impact of, 5, 6–7, 151, 198; education and, 6, 228; gender disparities in, 1, 29, 30, 41, 62, 67, 147, 151, 183–85, 195, 272, 274; paid leave and, 5, 147, 149–51, 195, 276–78
- Woolworths (Pty)ltd v. Whitehead* (South Africa), 51n75
- work. *See* labor
- Zambia: education, 278; paid leave, 160; socioeconomic position/status, 228
- Zimbabwe: access to justice, 118; education, 228; sexual harassment, 86

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