

# Mapping the Legal Gender Gap in Getting a Job

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Aditi wants to save up enough money to buy an apartment in Mumbai, India, where she lives. She works at night in a call center to earn enough money for it. Aditi can work at night because she lives in the state of Maharashtra, and its government relaxed restrictions on night work for women in the information and communication technology industry (Government of Maharashtra 2003). But other Indian women are not so lucky—many states in India restrict women’s working hours. There are also 43 other economies, of the 141 covered by the World Bank Group’s *Women, Business and the Law 2012*, that have gender-based differences in laws on working hours, one of the many legal areas covered in the report.

## What we measure and why

*Women Business and the Law’s* getting a job indicator measures regulations affecting the formal private sector that differentiate between women and men that might affect women’s ability to get jobs. The regulations covered are working hours and industry restrictions, parental benefits, retirement ages, and legal rights in the workplace. Some of these differentiations might help women work. Others might prevent it.

For example, restrictions on which hours women can work or types of industries that they can work in—perhaps motivated by a desire to protect women—might limit their ability to get the jobs they want. In Taiwan, China, restrictions on women’s working hours decreased how long they worked (Zveglic and Rodgers 2003). In many economies, women are restricted from working in mining—as in Mongolia, where mining is a large part of the economy.<sup>1</sup> However, there is evidence of successful integration of women in the mining industry after lifting legislative barriers, as in South Africa when women were given the same opportunity as men to work in the sector.<sup>2</sup>

Parental benefits are another important area of labor regulation. A mix of maternity, paternity, and parental leave benefits is needed to ensure that employers do not discriminate against women in hiring, in anticipation



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of increased costs due to maternity benefits or women dropping out of the labor force. In Taiwan, China, maternity benefits increased women’s labor force participation (Zveglic and Rodgers 2003).

A study of women born around the 1960s in the United Kingdom, the United States, and West Germany showed that the wage gap between married and unmarried women in the United Kingdom and the United States was due to mobility into mother-friendly jobs. By contrast, in Germany discrimination against mothers accounted for more of the wage gap. Hence parental leave policies are important in helping parents share the financial burden of having children (Gangl and Ziefle 2009). A study comparing the earnings of mothers and non-mothers in the United States, controlling for age and marital status, found that in a cross-sectional model for white women in 2002, there was a 16 percent motherhood wage gap for one child—and a 29 percent gap for two or more. The highest penalty was borne by college-educated mothers (Anderson, Binder, and Krause 2002).

The length of women’s employment history is also linked to retirement and pensionable ages and affects women’s

earnings before and after retirement (Levine, Mitchell, and Phillips 1999). In some cases where retirement ages are mandatory and differentiated by gender, women do not have the opportunity to accumulate more years of work and so may not be eligible for promotions (Adams 2002), higher retirement benefits, or have sufficient savings for retirement. This disparity is further aggravated when women take time out of their careers for childcare (World Bank 2004). For employers, men might seem like a better investment due to the assumption that women will retire earlier once they qualify for it in economies with earlier retirement ages for women.

Discrimination against female workers has evolved, from marriage bars<sup>3</sup> and job categories with lower pay scales for women to more subtle, less explicit company policies that discriminate against women (Blau and Kahn 2000). Given the opportunity, women will enter the labor force in a wide range of fields. Hence laws are needed to ban gender-biased questions in hiring, discrimination in the workplace, and mandating equal pay for equal work. The reservation wage for women is quite high due to family responsibilities (high enough to pay for childcare and other household services), and wage discrimination discourages women from seeking work (World Bank 2004). A study of the Equal Employment Opportunity Law enacted in 1986 in Japan found that the number of women working in full-time jobs increased after the law went into effect, mainly for highly educated women under 40 (Abe 2011).

## Gender differences in labor regulations

All of the 141 economies covered by *Women, Business and the Law* have labor regulations that differentiate between men and women. The differences are in four main areas: working hours and industry restrictions, parental benefits, retirement and pensions, and legal rights.

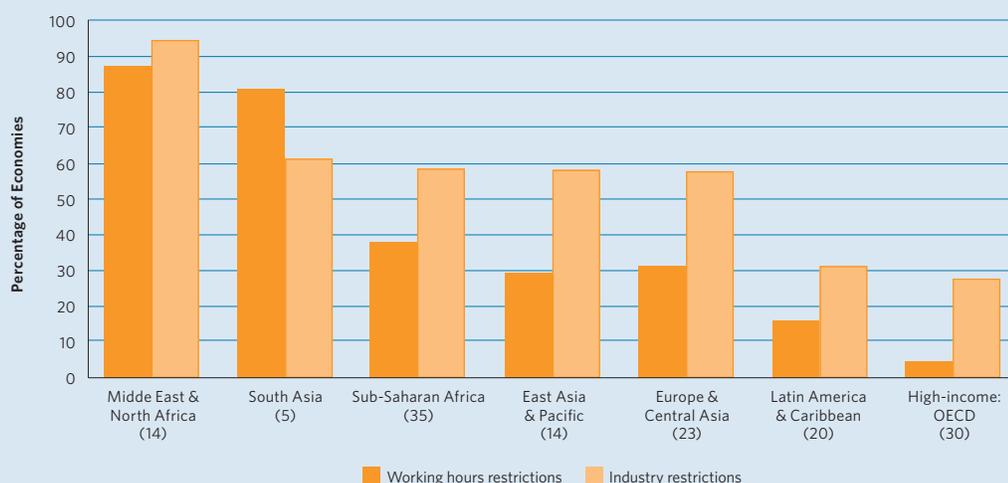
### Working hours and industry restrictions

The report found that 44 economies restrict the working hours of women and 71 limit the industries in which they can work (figure 1). Such restrictions are most common in the Middle East and North Africa and in South Asia, though they exist in every region. Examples include:

- Azerbaijan and Poland have a separate list of work considered especially strenuous or harmful to women's health in which it is prohibited to employ women.
- In Slovenia, as in many other economies, women are prohibited from working underground in mines.
- Bolivia's restrictions are particularly broad, banning women from working in hazardous and unhealthy jobs, jobs that require heavy lifting, and in occupations that may impair their morals and "good customs."<sup>4</sup>
- Jamaica's law prohibits night work for women except in a few industries such as packing fruit, nursing, and hospitality.

FIGURE 1

WORKING HOURS AND INDUSTRY RESTRICTIONS ON WOMEN'S WORK BY REGION



Source: *Women, Business and the Law* 2012.

- The Arab Republic of Egypt’s law states that the minister of labor can issue regulations on when women can work at night or in jobs considered unwholesome and morally harmful.
- India has different regulations for shop and factory workers, with female shop workers able to work slightly later hours than female factory workers. Women are prohibited from working near cotton openers or in jobs deemed unsafe by state governments.

### Parental benefits

Maternity, paternity, and parental leave affects the choices that women make and the opportunities available to them in the working world. Though maternity leave seems standard in almost all economies, it varies greatly in duration—from a few weeks to a few years. Most maternity leave is paid, though regions vary on whether it is paid by employers, governments, or both. Paternity leave is still not offered everywhere and tends to be just a few days in most economies. Parental leave (where both parents can take time off from work to take care of children) is nonexistent in most regions.

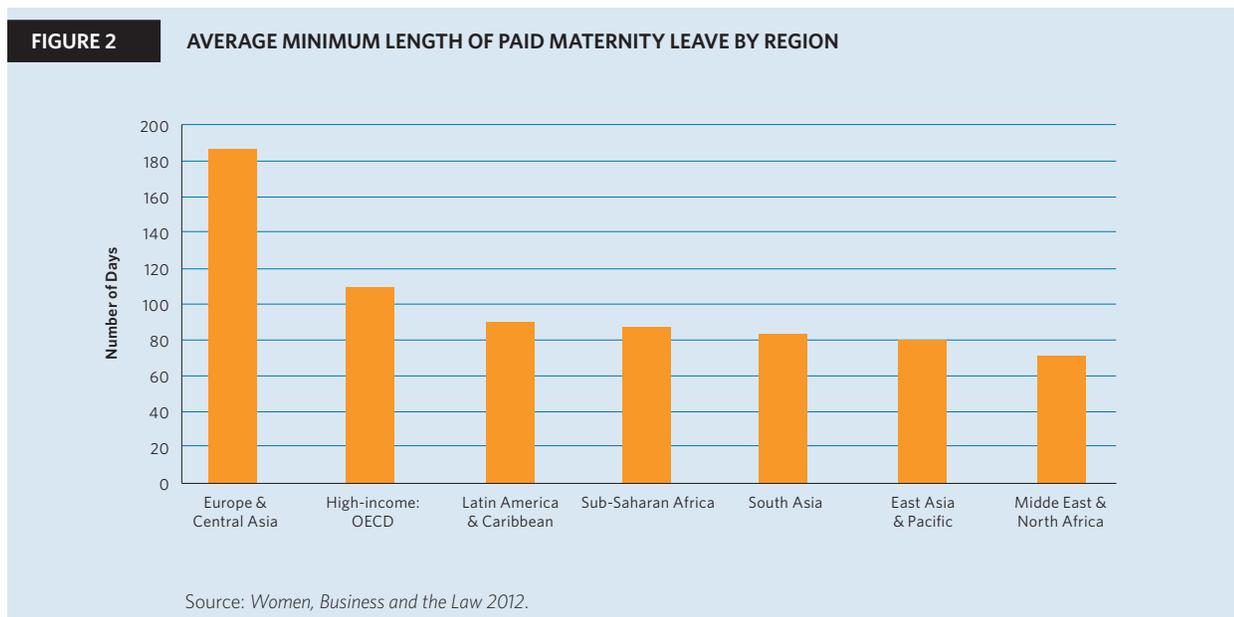
Of the 141 economies covered in *Women, Business and the Law 2012*, only Lesotho, Papua New Guinea, and the United States do not require paid maternity or parental leave (figure 2). Parental benefits for men (either through paternity or parental leave) are far less common. Only 82

economies require parental benefits for men, and in only 73 it is paid.

Just 48 economies offer parental leave, and in only 34 is the benefit paid. Parental leave is more common in middle- and high-income economies. Of the 30 high-income OECD economies, 28 have parental leave, as do 19 of 23 economies in Europe and Central Asia. No economy in Latin America and the Caribbean, the Middle East and North Africa, South Asia, or Sub-Saharan Africa grants parental leave. In East Asia and the Pacific only Taiwan, China, offers this benefit.

Of equal importance is who pays for such benefits. If firms must pay for maternity leave, their cost of hiring women of reproductive age will be higher than the cost of hiring men. But if governments pay for it, firms would not necessarily face higher costs for hiring women. In approximately 50 percent of the economies that provide paid maternity leave, governments pay the full costs of maternity benefits. In 22 percent the costs are shared between firms and governments, and in 28 percent employers pay the full cost (figure 3).

In Europe and Central Asia, the region with the most generous maternity benefits, paid maternity leave ranges from 112 days (Latvia and Turkey) to 410 (Bulgaria), with an average of 186 days. Across the region, 14 of 23 economies offer paid maternity leave between 125 and 141 days. Azerbaijan, Croatia, Georgia, Kosovo, Tajikistan, and



Turkey offer unpaid maternity leave—ranging from 14 days in Azerbaijan to 548 days in Tajikistan. Parental leave is provided in 19 economies, but in only 15 is it paid. Kosovo provides only 3 days of paid parental leave, but elsewhere in the region it ranges from 183 days in Croatia to more than two and a half years in Azerbaijan, Belarus, Moldova, and Ukraine. Paid parental leave in the region averages 409 days. Fathers can benefit from paternity or parental leave in 20 of the 23 economies.

In high-income OECD economies paid maternity leave ranges from 90 days (Iceland and the Republic of Korea) to 273 (the United Kingdom). In addition to paid maternity leave exclusively available to mothers, Canada, Ireland, Sweden, Switzerland, and the United Kingdom require that employers make available additional unpaid maternity leave ranging from 14 to 112 days. Among 30 high-income OECD economies, 17 do not offer paid paternity leave, but 4 offer unpaid paternity leave (including the Slovak Republic, which offers 196 days) and 11 offer paid parental leave. Paid parental leave ranges from 90 days in Belgium and Iceland to 927 in Hungary, with an average of 251 days.

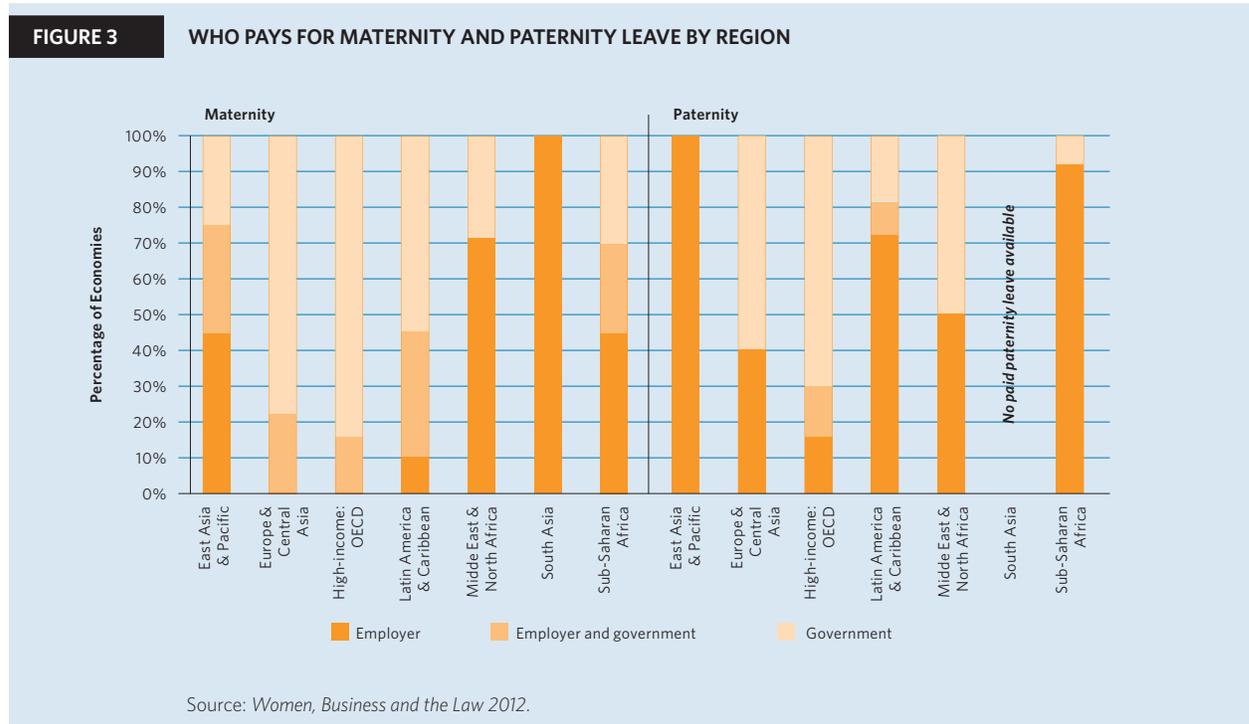
In Latin America and the Caribbean paid maternity leave ranges from 56 days (Jamaica and Puerto Rico, territory of the United States) to 126 (Chile and República Bolivariana de Venezuela), with an average of 89 days. Paraguay, Jamaica,

and Argentina offer additional unpaid maternity leave of 21, 28, and 90 days, respectively. None of the economies in Latin America and the Caribbean offer parental leave, though just over half offer paid paternity leave, with the amount ranging from 2 days (Argentina, Dominican Republic, Guatemala, Paraguay) to 14 (República Bolivariana de Venezuela).

In Sub-Saharan Africa only Lesotho does not mandate paid maternity leave, instead offering 84 days of unpaid maternity leave. Elsewhere, paid maternity leave ranges from 56 days (Malawi, Sudan) to 120 (South Africa), with a regional average of 87 days. None of the 35 economies covered has parental leave, though 14 provide paid paternity leave. Chad offers unpaid paternity leave. Where paternity leave is paid, it is usually for less than a week. Kenya is an exception, with two weeks.

In South Asia, Nepal offers 52 days of paid maternity leave; India, Pakistan, and Sri Lanka offer 84 days; and Bangladesh offers 112. There is no unpaid maternity leave. None of the economies in the region provide any paternity or parental leave.

In East Asia and the Pacific only Papua New Guinea offers unpaid maternity leave (42 days). The other economies all require paid maternity leave, ranging from 56 days in Taiwan, China, to 120 in Mongolia and Vietnam, with a



regional average of 81 days. Only Taiwan, China, provides parental leave—the length is 180 days and the leave is paid. China, Indonesia, the Philippines, and Taiwan, China, provide paid paternity leave ranging from 2 to 7 days.

In the Middle East and North Africa paid maternity leave ranges from 30 days in Tunisia to 120 in the Syrian Arab Republic, with a regional average of 72 days. Egypt, in addition to offering 90 days of paid maternity leave, allows women to take 730 days of unpaid maternity leave. Morocco is the only other economy in the region offering unpaid maternity leave, with 98 days of paid maternity leave and 90 days of unpaid. No economies in the region have parental leave, and four—Algeria, Morocco, Saudi Arabia, and Tunisia—offer paid paternity leave ranging from 1 to 3 days.

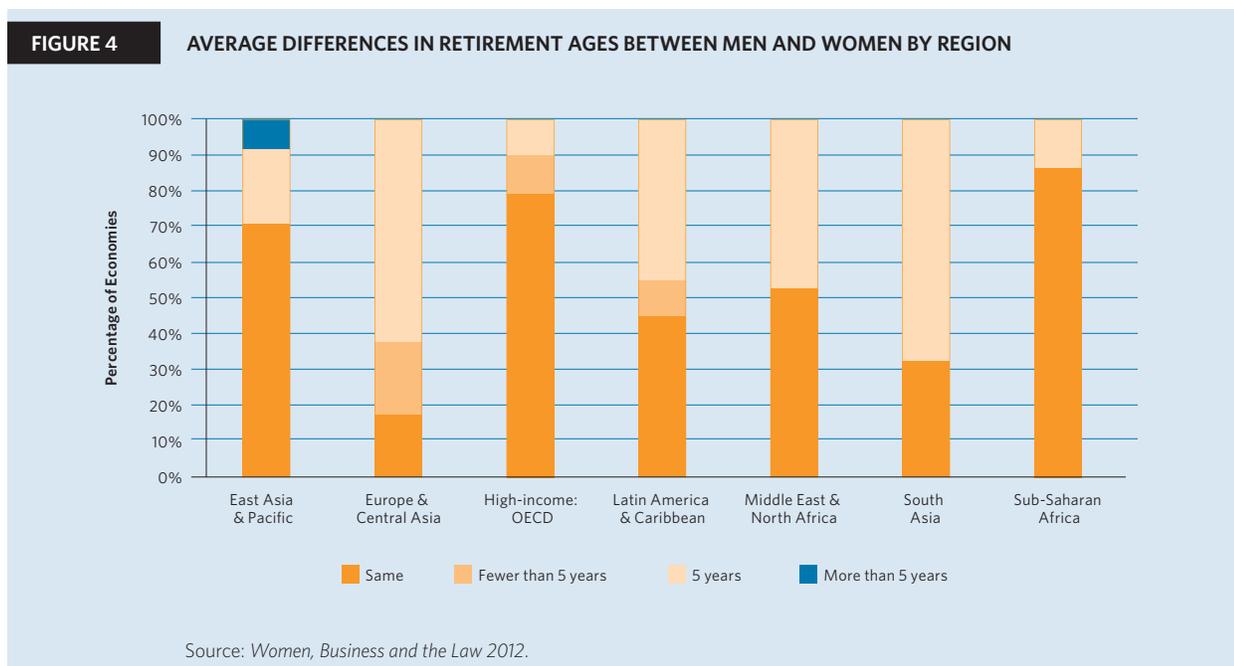
### Retirement and pensions

*Women, Business and the Law's* getting a job indicator captures the statutory retirement age in the private sector, the minimum pensionable age in the private sector, and whether it is mandatory to retire at the statutory retirement age in the private sector. Gender-differentiated retirement ages can affect career prospects, lifetime earnings, pension benefits, and retirement savings, especially as life expectancy increases. Among the economies covered, 52 have lower retirement ages for women (figure 4). None has a higher one.

In Sub-Saharan Africa most retirement ages are the same for women and men. Only four economies differentiate (in all cases by five years): the Democratic Republic of Congo, Madagascar, Mauritania, and Mozambique. Retirement ages generally range from 55 to 65, though Lesotho's is 70 for women and men. Eight economies require that people retire at the statutory retirement age: Burundi, the Democratic Republic of Congo, the Republic of Congo, Côte d'Ivoire, Gabon, Mauritania, Mozambique, and Senegal. Ethiopia, Malawi, and South Africa do not have mandatory retirement ages for the private sector.

In high-income OECD economies retirement and pensionable ages are mostly the same or being equalized. As life expectancy increases, many of these economies are delaying retirement to later ages by increasing retirement ages slightly every year. In Austria retirement ages are gradually equalizing until 2033, in Greece until 2013, in Estonia until 2016, and in the Slovak Republic until 2014. Israel and Italy are phasing in older retirement ages, though maintaining gender inequality. In six economies there is equal retirement between men and women at age 67. The youngest retirement ages are in France and the Republic of Korea, where the retirement age is 60 for women and men.

All economies in East Asia and the Pacific have mandatory retirement schemes for the private sector, and most make retirement ages the same for women and men. China has



the largest gap in retirement age, at 10 years, while the Lao People’s Democratic Republic, Mongolia, and Vietnam have gaps of 5 years. China, the Philippines, Singapore, and Taiwan, China mandate retirement at the statutory retirement age.

Most economies in the Middle East and North Africa either have retirement age gaps of five years or have equal retirement ages for women and men. But in the Islamic Republic of Iran the gap in the earliest age at which pensions can be received (even partial benefits) is eight years. The West Bank and Gaza is the only economy in the region that does not require pensions for private employees. Algeria, Egypt, Morocco, and Saudi Arabia mandate that people retire at the statutory age.

Nine economies in Latin America and the Caribbean do not have different retirement ages for women and men. Among those economies that do, most differentiate by five years. The exceptions are Bolivia (one year) and Costa Rica (two). Colombia is phasing in older retirement ages, but maintaining gender inequality. None of the economies in the region mandates retirement at its statutory retirement age.

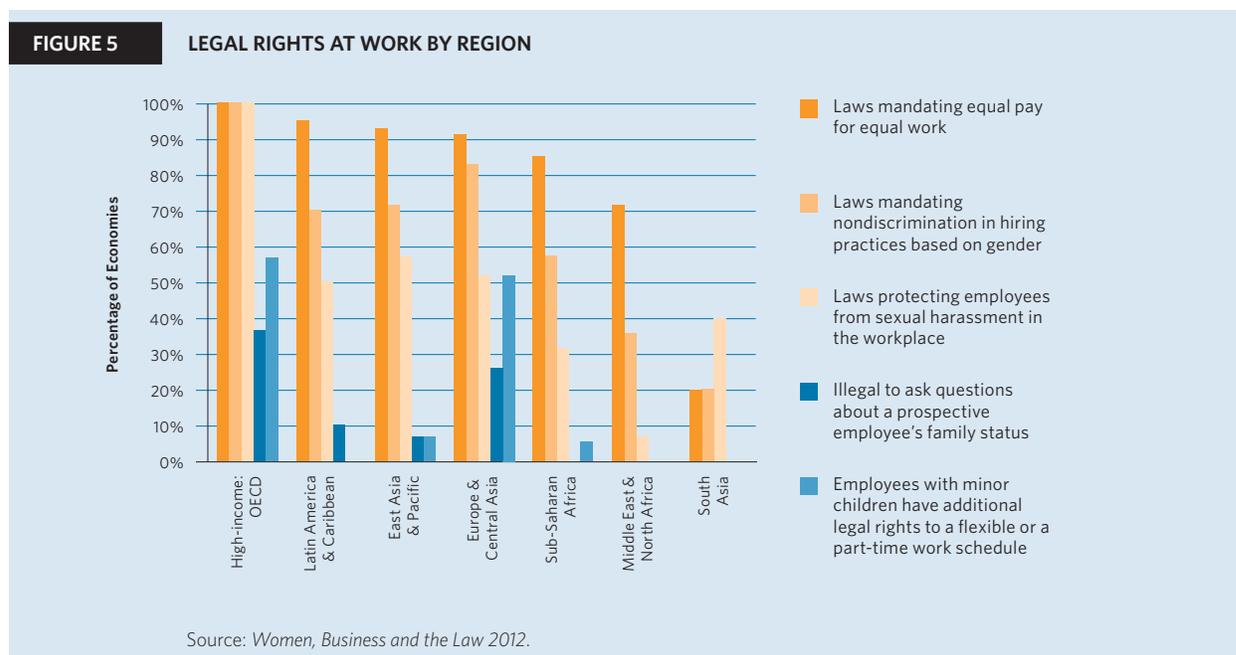
In South Asia, Bangladesh and Nepal lack mandatory retirement schemes for the private sector. In India the retirement age is equal between women and men, while Pakistan and Sri Lanka have an age gap of five years.

Economies in Europe and Central Asia are changing retirement ages. In Turkey retirement ages will gradually equalize by 2048 and in Latvia they equalized in 2011. Azerbaijan, Bulgaria, Romania, and Serbia are phasing in older retirement ages but maintaining gender inequality. Most retirement ages in the region differ, ranging from 55 years for women to 60 for men, to 65 for both. Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Romania, and Uzbekistan mandate retirement at the statutory retirement age.

### Legal rights

*The Women Business and the Law’s* getting a job indicator covers five areas: whether there are laws or constitutional provisions mandating equal pay for equal work, laws mandating nondiscrimination in hiring based on gender, laws protecting employees from sexual harassment at work, it is illegal to ask questions about a prospective employee’s family status during a job interview, and if workers with young children have any additional legal rights to flexible or part-time work schedules.

Of these areas, laws on equal pay for equal work are the most common, in place in 128 of the 141 economies covered by the report. In addition, 101 have laws on nondiscrimination in hiring, while 75 have laws protecting employees from sexual harassment at work (figure 5).



All high-income OECD economies have extensive regulations mandating equal rights in the workplace.<sup>5</sup> So future work in this area will likely focus on implementing rather than enacting legislation. By contrast, work remains to be done in Europe and Central Asia, particularly on sexual harassment laws—11 economies lack them. In Latin America and the Caribbean laws on equal pay for equal work are lacking only in Peru, but half the economies in the region lack laws protecting employees from sexual harassment at work.

In East Asia and the Pacific only Malaysia lacks laws mandating equal pay for equal work, but four economies lack laws mandating nondiscrimination in hiring practices, and six lack laws protecting employees from sexual harassment at work.

Laws on equal pay for equal work are widespread in Sub-Saharan Africa, but 13 economies lack laws mandating nondiscrimination in hiring practices based on gender and 23 economies lack laws protecting employees from sexual harassment in the workplace.

The Middle East and North Africa lacks sufficient legislation protecting women from discrimination at work. Only Morocco has laws protecting women from sexual harassment at work. Similarly, South Asia lacks enough legal protections for equal rights at work and all economies, except India, lack laws on nondiscrimination in hiring based on gender.

## Gender differences in labor regulations: Where and how is it changing?

With 19 economies instituting reforms, the getting a job indicator had the most reforms between June 2009 and March 2011 among the indicators measured by *Women, Business and the Law 2012*. Most were toward greater gender parity, four were neutral, and one was negative (table 1).

The European Union (EU) has extensive laws and guidelines on gender equality,<sup>6</sup> which likely influenced recent reforms in Albania and Estonia. In Estonia, the principle of equal pay for work of equal value was established in the amended 2001 Wages Act. In 2009 the European Commission referred Estonia to the European Court of Justice for its failure to adhere to the 2006 EU directive on gender discrimination in access to and the supply of goods and services, but the country avoided prosecution by amending its Gender Equality Act and passing a new Employment Contracts Act with stronger protections for women. Albania is a potential candidate for EU accession, and reforms in 2010 strengthened legislation on discrimination in hiring and mandating equal pay for equal work. While equal pay for equal work was already stipulated in the 1995 labor law and a law against discrimination was passed in 2008, the 2010 reforms provide more comprehensive protections and definitions of discrimination, particularly on hiring practices.<sup>7</sup>

TABLE 1 LEGAL REFORMS IN GETTING A JOB BY ECONOMY	
Economy	Reforms for gender parity
Albania, Chile, Estonia, Mongolia	Introduced nondiscrimination, rules on equal pay for equal work, and protections for pregnant women
Belgium	Eliminated industry restrictions
Belgium, Bulgaria, Estonia, the Philippines, Poland, Syrian Arab Republic	Changed maternity leave and introduced breaks for breastfeeding mothers
Peru, Rwanda	Introduced paternity leave
Australia, Japan	Introduced or extended parental leave
Greece, Syrian Arab Republic	Equalized retirement
Reforms neutral to gender parity	
Azerbaijan, Jordan, Norway	Changed the retirement and pensions scheme
Latvia	Changed maternity leave
Reform away from gender parity	
Bolivia	Differentiated retirement

In 2010 Australia introduced paid parental leave. Until then, it and the United States were the only high-income OECD economies that did not offer it. Rationales for the new scheme included benefiting the health of children and mothers, stimulating women's labor force participation, and increasing gender equity and balance between work and family life.<sup>8</sup> The new law states that the parental leave should be paid by the government or employers—though employers are subsidized by the government.

Paternity leave is available in just over half of the Latin American and the Caribbean economies covered by *Women, Business and the Law 2012*. In 2009 Peru approved 4 days of paid paternity leave. Colombia, Ecuador, and República Bolivariana de Venezuela have 10 or more, while Argentina, the Dominican Republic, Guatemala, and Paraguay have only 2, and Brazil, Chile, and Uruguay are in the middle. Such law was introduced in Peru to get fathers more involved in children rearing in compliance with a constitutional mandate to empower parents to care for their children,<sup>9</sup> but the difference in average leave days granted to women and men (90 days compared with 4) indicates that this goal will be hard to meet.

### Gender differences in labor regulations: Why does it matter?

Cross-economy analysis shows how data from *Women, Business and the Law 2012* on getting a job correlate with female labor force participation. The results presented are correlations and should not be taken as causal. The results indicate a link between labor regulations and a woman's ability to work:

- Where working hours and industry restrictions on women are more prevalent, female labor force participation is lower. These restrictions make women less flexible employees and narrow the number of jobs for which they are qualified.
- More women work in economies with longer maternity, paternity, and parental leave.
- Economies where the law mandates nondiscrimination in hiring have, on average, 10 percentage points more women in the labor force. In 32 economies, employees with minor children have additional legal rights to flexible or part-time work schedules. Having flexibility in working hours allows more women to work. The opposite is true for men. One possible

explanation is that fathers do not use their rights to flexible work schedules as much.

### Conclusion

The main lesson from *Women, Business and the Law 2012* on legal gender inequality when it comes to getting a job is that there is room for improvement in all regions. All regions place restrictions on when and where women can work. Introduced to protect women, such laws ultimately limit their choices and prevent them from finding employment in some fields. A good mix of maternity, paternity, and parental leave is needed so that employers do not have incentives to discriminate against hiring women. There appears to be no ideal mix of leave—different governments will opt for different options and the benefits thus vary widely by region. Europe and Central Asia has the most generous benefits, often with heavy government funding. More legislation is needed in all regions to prohibit employers from asking about the family status of prospective employees—because, given the opportunity, women will enter a wide array of careers. The importance of these issues cannot be overestimated. Against the background of an increasingly complex global economy governments everywhere are recognizing the need to boost productivity and confront weaknesses in the policies and institutions that underpin economies' competitiveness. A proper utilization of human resources, including expanding the range of employment opportunities for women, making the law the ally of inclusion and equality is an absolutely essential prerequisite.

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- 3 Where women were fired if they got married—and married women were not hired at all.
- 4 Decreto Supremo de 24 de Mayo de 1939, por el que se dicta la Ley General del Trabajo, elevado a ley el 8 de diciembre de 1942, Article 59, available at <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/46218/65057/S92BOL01.htm>.
- 5 All high-income OECD economies mandate equal pay for equal work. All mandate nondiscrimination in hiring practices based on gender. All have laws protecting employees from sexual harassment in the workplace.
- 6 See, for example, Article 119 of the Treaty of Rome, available at [http://ec.europa.eu/economy\\_finance/emu\\_history/documents/treaties/rometreaty2.pdf](http://ec.europa.eu/economy_finance/emu_history/documents/treaties/rometreaty2.pdf), Articles 10 and 157 of the Treaty on the Functioning of the European Union, available at <http://eurz-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0047:0200:en:PDF>, the European Social Charter, available at <http://conventions.coe.int/Treaty/EN/Treaties/Html/035.htm>, and the directive on implementing equal opportunities and treatment of women and men in employment and occupation, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:204:0023:0036:EN:PDF>.
- 7 See <http://www.equalrightstrust.org/newsstory25feb2010/index.htm>.
- 8 Australia's paid parental leave scheme, available at <http://www.deewr.gov.au/Department/Publications/Documents/PPLBooklet.pdf>.
- 9 See "Los Derechos Humanos de las Mujeres en el Peru" ("Human Rights of Women in Peru"), available at [http://www.demus.org.pe/publicacion/371\\_pdf%20los%20dd%20hh%20de%20las%20mujeres%20en%20el%20peru.pdf](http://www.demus.org.pe/publicacion/371_pdf%20los%20dd%20hh%20de%20las%20mujeres%20en%20el%20peru.pdf) and Decreto Supremo 014-2010-TR, available at <http://blog.pucp.edu.pe/item/120062/reglamento-de-la-ley-n-29409-ley-que-concede-el-derecho-de-licencia-por-paternidad-a-los-trabajadores-de-la-actividad-publica-y-privada>.

#### ENDNOTES

- 1 CIA World Factbook, updated on February 8, 2012, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/mg.html>.
- 2 Anglogold Ashanti, South Africa case study, available at <http://www.anglogold.co.za/subwebs/informationforinvestors/reports07/ReportToSociety07/women-SA.htm>.

This note presents research to encourage the exchange of ideas on women's economic participation and the law. The note carries the names of the authors and should be cited accordingly. The findings, interpretations, and conclusions expressed in this note are entirely those of the authors. They do not necessarily represent the views of the International Bank for Reconstruction and Development/World Bank and its affiliated organizations, or those of the Executive Directors of the World Bank or the governments they represent.

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