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Tackling Legal Impediments to Women's Economic Empowerment

by Katharine Christopherson, Audrey Yiadom, Juliet Johnson, Francisca Fernando, Hanan Yazid and Clara Thiemann

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Tackling Legal Impediments to Women's Economic Empowerment

**Prepared by Katharine Christopherson, Audrey Yiadom, Juliet Johnson,
Francisca Fernando, Hanan Yazid and Clara Thiemann**

Authorized for distribution by Rhoda Weeks-Brown

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ABSTRACT: It is well established that a wide range of legal impediments in countries' domestic laws have prevented women from achieving full economic empowerment, which in turn has negative macroeconomic implications. In many countries, laws often reflect and perpetuate gender norms that limit women's economic participation, and removal of these impediments through legal reform has been shown to be an effective method to catalyze greater participation of women in the economy—along with the related macroeconomic benefits. Once legal barriers are removed and provisions for more equal treatment under the law are embedded, the law can also be employed as a powerful tool to incentivize women to pursue equal opportunities, change mindsets regarding the role of women, and hold institutions and individuals accountable for achieving results. Accordingly, it is imperative for countries to focus on eliminating existing legal impediments and designing appropriate incentives to increase women's participation in the economy.

This paper goes beyond previous Fund work by categorizing the key sources of laws that impede women's economic empowerment, as well as ways in which the law can be used as a tool to create behavioral changes and shifts in perceptions of women in the economy. Case studies of six countries (Iceland, Peru, Rwanda, The Philippines, Tunisia, and the United States) that rank high in gender equality in their respective regions demonstrate how legal reforms have been implemented in differing contexts to help achieve women's economic empowerment. Given the relevance to the Fund's mandate, the paper also notes the case for a stepped-up role for the IMF in advising on legal reforms that remove barriers to, and incentivize, women's economic empowerment. Although this paper highlights dominant belief systems and cultural norms that have contributed to limiting the economic empowerment of women, it does not intend to render any judgment on these systems or norms.

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I. INTRODUCTION

The International Monetary Fund (IMF) is concerned about women's economic empowerment because of its relevance to macroeconomic and financial stability and helping member countries to achieve inclusive and more sustainable economic growth. Empowering women to reach their full economic potential, not only tangibly supports the key goal of reducing gender inequality, but also, has tremendous significance on the advancement, competitiveness, and future-readiness of economies worldwide. In this regard, empirical evidence shows that women's economic empowerment and the closing of gender gaps in key areas, is associated with positive macroeconomic outcomes, including higher economic growth, lower inequality, increased productivity, better financial sector outcomes and greater financial stability. Conversely, the economic disempowerment of women, gaps in access to education, health, and financial services, and legal barriers to women's economic participation, can all negatively impact macroeconomic and financial stability and countries' ability to achieve strong and sustainable economic growth. For example, it is estimated that global GDP could increase by US\$12 trillion by 2025 through reducing gender gaps and promoting women's economic empowerment, such as participation in the workforce or presence in leadership positions.² Similarly, implementing policy reforms to increase women's participation in the labor force would increase growth in the US by 5 percent, in Japan by 9 percent, in the UAE by 12 percent, and in Egypt by 34 percent.³ Other macroeconomic impacts of greater women's economic empowerment have also been identified.

However, despite momentous strides toward improved educational and employment opportunities for women and girls, gender gaps persist, and legal barriers remain. Furthermore, the recent impact of COVID-19 threatens to widen the gender gap throughout the world, as women and girls are disproportionately affected by the economic and social consequences of the pandemic.⁴ Women are more heavily impacted by the pandemic for a number of reasons: (i) they are more likely to work in social sectors that require face-to-face interactions;⁵ (ii) they are more likely to be employed in the informal sector, which is not covered under most labor laws;⁶ (iii) women do more unpaid household work than men and as a result bear the brunt of impact of the shutdown on families;⁷ and (iv) young girls are more likely to drop out of school to help supplement household income lost due to COVID-19.⁸ In addition, there are concerns that the Covid-19 pandemic will

² McKinsey Global Institute (2015).

³ IMF (2017a), at p. 8.

⁴ United Nations (2020).

⁵ Close to 40 percent of employed women work in hard-hit sectors, including accommodations, food service, wholesale and retail services. Despite making just 39 percent of global employment, women account for 54 percent of job losses during the pandemic. UN Women (2021).

⁶ Globally around 750 million women work in the informal sector, exposing the inadequacy and vulnerability of social protection (e.g., paid leave, unemployment protection, etc.).

⁷ Closure of schools and mobility restrictions have increased unpaid care demands in households and it is estimated that 20 million secondary school-aged girls in developing countries will drop out of school. Malala Fund (2020)

⁸ IMF (2020a). Fabrizio et al. (2021).

delay ongoing gender equality reforms, including in relation to repealing gender discriminatory laws and the enactment of new laws necessary for gender reform.⁹

The majority of countries have ratified treaties promoting gender equality, such as the 1945 United Nations (UN) Charter,¹⁰ the 1979 UN Convention on the Elimination of all Forms of Discrimination against Women,¹¹ and the 1989 UN Convention on the Rights of the Child.¹² As a result, opportunities for women and girls have drastically improved. Between 1960 and 2010, IMF and World Bank data suggest that around 280 legal reforms have been enacted to improve gender equality.¹³ Most of these changes involved introducing a non-discrimination clause based on gender in constitutions, guaranteeing property rights for women, and ensuring the right of a married woman to get a job and pursue a profession without a male's consent.

Despite recent legal reforms toward gender parity, legal impediments continue to exist in many countries. According to the latest World Bank report on Women, Business and the Law, some 20 economies have laws preventing women from working in specific jobs; 49 economies do not have laws preventing sexual harassment in the workplace; about 30 percent of economies have at least one constraint on women's property rights; around one-fifth of economies restrict women's agency and freedom of movement; 19 economies allow men to prevent their wives from working; 43 economies do not grant widows with the same inheritance rights as widowers;¹⁴ and 16 economies accord lower evidentiary value to women's testimony as opposed to men's testimony.¹⁵

Discrimination against women in the workforce globally has led to more restricted options for paid work, fewer opportunities in management, and the prevalence of a gender wage gap. The gender wage gap causes an average national income loss of 15 percent in OECD countries, 40 percent of which is a result of entrepreneurship gaps.¹⁶ Addressing the gender inequality in the workforce has the potential to unlock needed resources (especially for developing countries) and support economic development. It would also help reduce global poverty, since women are more likely to be illiterate and poor. Furthermore, reducing gender inequality could help mitigate the negative

⁹ UN Women (2020).

¹⁰ The preamble notes the determination of the peoples of the United Nations: "to reaffirm faith in fundamental human rights, in the dignity of and worth of the human person, in the equal rights of men and women."

¹¹ Article 3 provides: "States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men."

¹² Article 2(1) provides: "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."

¹³ Gonzales et al. (2015a), para. 24.

¹⁴ World Bank (2021).

¹⁵ World Bank (2018).

¹⁶ World Bank (2018).

effects of a shrinking workforce in developed countries. Realizing this, the IMF has been integrating gender issues more systematically in its country work since 2015.¹⁷

It is widely accepted that women have no inherent limitations to assuming the same roles as men. However, history, dominant belief systems, and cultural norms have often subjected them to formal and informal constraints that have become enshrined in countries' legal frameworks to varying degrees. Since laws can incentivize changes in behavior, legal reforms supportive of gender equality can help change cultural biases against women and promote gender equality.¹⁸ Although this paper highlights dominant belief systems and cultural norms that have contributed to limiting the economic empowerment of women, it does not intend to render any judgement on these systems or norms.

Eliminating gender bias and discrimination in the law is only the first step, but this alone is not enough. In addition, legal reform should also incentivize women to participate in the economy and encourage employers to hire women in traditionally male dominated roles. This includes implementing laws which protect women from discrimination in the workplace due to pregnancy and childbirth, and which promote higher presence of women in leadership roles. In addition, resources should be allocated via policy reforms that make it easier for women to enter and stay in the workforce, such as parental leave, lactation facilities, etc. Ultimately, gender mainstreaming and gender budgeting on all levels would transform gender relations and reform existing structures that cause discrimination.¹⁹

The IMF has published several papers and studies that highlight the economic impact of gender inequality; however, this paper is unique because it categorizes types of laws that countries should focus on to improve women's economic empowerment. With examples from each region, it explains how a few countries with different backgrounds and cultural traditions, have worked to remove legal impediments. It then goes further to explain the framework and tools available to the IMF to support members specifically in addressing those legal impediments.

This paper is organized as follows: Section II explains the different types of legal barriers to women's economic empowerment, their origins, and how they have inhibited women's economic participation. Section III discusses how legal reforms can effectively promote gender equality and incentivize women to increase their participation in the economy. This section provides specific country examples through a selection of cross-regional case studies, focusing on how countries in various regions and cultural contexts (Iceland, Peru, Rwanda, the Philippines, Tunisia and the United States) have removed such legal barriers, incentivized women's economic empowerment, and how such measures have impacted economic growth. Section IV discusses the IMF's role in supporting members from the perspective of its key functions, namely, surveillance, financing, and technical assistance. Section V provides conclusions and recommendations. For additional reference, the table in Annex I highlights some of the key pieces of legislation that were adopted

¹⁷ IMF (2018).

¹⁸ See below for more on the link between legal reform and behavioral change.

¹⁹ See on gender equality approaches, EIGE (2013), pp. 7 et seqq.

by countries to address various aspects of legal reforms, while Annex II provides more detailed case studies of countries.

II. SOURCES OF LEGAL IMPEDIMENTS TO WOMEN'S ECONOMIC EMPOWERMENT

This section discusses the way in which various categories of laws can include impediments that hinder women's economic empowerment. In addition, this section explains some of the origins of these legal impediments, including dominant belief systems and cultural norms, and how negative ideas about the role of women sometimes need to be challenged, particularly through legal reform, to improve gender equality.

A. SOURCES OF LAWS IMPEDING WOMEN'S ECONOMIC EMPOWERMENT

The categories of laws noted below often contain significant barriers to gender equality. These include constitutional law (civil rights and citizenship), property law, family law, labor law (employment and social security) and tax law. The paper chooses to highlight these categories, different from other studies on gender equality, to specifically look at the legal impediments and to distill legal reforms that have removed them. More specific country examples related to these different categories of legal reforms are then further discussed in Section III, with additional details provided in Annexes I and II. We have focused on areas of law that have a direct impact on the economic participation of women, which are often interdependent.²⁰

i. CONSTITUTIONAL LAW AND CIVIL RIGHTS

Legal impediments to women's economic and political participation are often found in constitutional law, which provides for civil rights and civil liberties. Removing barriers to gender equality contained in legal provisions related to citizenship, the right to vote, and freedom of movement should be the first step in addressing gender equality and promoting women's economic empowerment. As the 2019 Women, Business and the Law report accurately explains, "a woman cannot effectively look for a job or go on an interview if she cannot leave her home without permission."²¹ The report published by the High-level Group on Justice for Women estimates that about one billion people face challenges in proving their nationality and legal status.²² In forty-five countries, women cannot apply for a passport or travel outside the country on the same terms as men.²³ These types of discriminatory laws prevent some women and their families from accessing legal identity. These barriers are usually based on customary norms or belief systems

²⁰ This paper does not address laws that seek to prevent gender-based violence; however, we acknowledge that those types of laws too can help to support women's economic empowerment.

²¹ See World Bank (2019), at p. 2.

²² UN Women (2019). The High-Level Group is comprised of members of UN Women, IDLO, the World Bank Group, and representatives of several governments, other international and national organizations.

²³ 2019 OECD (2019a), at p. 151.

where a woman's legal status was derived from her relationship with a man. For example, in about one quarter of the world's countries, women are not permitted to travel by themselves. If a woman is prevented from traveling due to a legal prohibition on travel, or her travel is subject to male consent, this hinders her job and business opportunities. One study has shown that the freedom of women to travel outside of home is positively correlated with the number of female firm owners.²⁴

In some countries the legal framework prevents women from voting and running for political office. As the case studies in Section III will show, legally required quotas for women in leadership roles (in the public and in the private sectors) can significantly increase the number of women in those roles, thereby adding a more diverse perspective to the agendas. This can also be positively supported by reforming laws to adhere to principles of gender-budgeting, financial inclusion, and gender-mainstreaming at national, regional and local levels.

Legal literacy and access to justice for women is crucial to achieve gender equality. If women can access justice and their rights are appropriately enforced, this discourages gender-based discrimination. Conversely, the failure to enforce women's rights often perpetuates inequality. Access to justice for women entails the ability to exercise the same legal rights as men to sue (including the right to bring a legal case in front of the judiciary), apply for legal aid, provide testimony and obtain a fair trial. Often women experience legal restrictions in exercising their rights due to gender-based discrimination. Discriminatory laws prevent their cases from being sufficiently adjudicated. For example, in 48 countries, the testimony of women does not carry the same evidentiary weight as men.²⁵

ii. FAMILY LAW

Family law touches on the most intimate part of people's lives, regulating marriage, divorce, adoption, child custody and other domestic issues. It is the area of law most often affected by cultural norms and belief systems regarding the role of women and men in a household. Reforms pushing for women's rights are often met with greater resistance under the guise of conservation of national and cultural identity, which in turn cements the unequal distribution of power between women and men, and has a negative economic impact on women.²⁶ Research shows greater female labor force participation rates where men have a higher share in childcare and other household responsibilities because it enhances the possibilities for women to combine work with having children.²⁷ It is telling that Article 16 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which provides for the equality of women in all matters relating to marriage and family relations, is the provision of this treaty to which the greatest number of countries have established reservations.

For this reason, family law often reflects gender inequality in society. In several countries, the legal age to marry is lower for women than for men. Early marriage may lead to early motherhood,

²⁴ Islam et al. (2019).

²⁵ OECD (2019a), at p. 154.

²⁶ Htun et al. (2019).

²⁷ Gonzales et al. (2015a), at p. 7.

which hinders girls' chances of continuing their education and thereby limits their prospects for work.²⁸ This is closely connected to legal norms that provide for the husband's power over the marriage (and the wife's obedience respectively). A study found that legal discrimination against women in the form of limits on their ability to be head of household is negatively correlated with female labor force participation.²⁹ It reduces their bargaining power when allocating roles within the family and ability to pursue professional roles outside the household.³⁰ This is exacerbated when women do not have the same rights as men to divorce when they want to end a marriage.

iii. PROPERTY LAW

Property law governs the ability to collect, own, manage and transfer assets. Therefore, property law is an essential component of engaging in productive employment and entrepreneurship. Assets are needed to sustain a person's livelihood, provide for family members, help build wealth, and serve as collateral for credit. In addition, the ability to control and accumulate assets provides non-material gains by providing tangible rewards for a person's efforts. Laws that prevent women from owning property and other assets can effectively hinder or significantly disincentivize them from participating in the economy. Research shows that control over earned income increases female labor supply and labor force participation.³¹

Legal impediments related to property law appear in various forms. Some laws prohibit women from owning movable and/or immovable property on their own. Customary marriage and inheritance norms can further interfere with property rights.³² Because of laws hindering or prohibiting women from owning, acquiring and disposing of assets, some women do not have the same access to financial services, including opening bank accounts. This in turn prevents them from building credit, borrowing and saving money, or obtaining insurance. Female entrepreneurship evidently suffers from all of these impediments and can be further dampened by legal constraints on signing contracts or registering a business.

Certain laws regarding marriage are related to property rights. Specifically, the distribution of property during a marriage and after a divorce often discriminates against women. Women are more often affected by the less favorable valuation (or non-valuation) of nonmonetary contributions in marital property regimes.

Many countries have laws that prevent daughters or female surviving spouses from inheriting property because they follow the cultural norm of male lineage. Reforms in this regard are the most difficult to pass due to strong adherence to social norms. This can have a detrimental impact

²⁸ UN Women (2019), at p. 46.

²⁹ Gonzales et al. (2015a).

³⁰ Islam et al. (2019); Htun et al. (2019).

³¹ Rigol et al. (2016).

³² UN Women (2011), at p. 39.

on women because property, particularly land, is an important asset needed to secure credit, to provide for a family, to start or grow a business, and to build wealth.³³

iv. LABOR LAW

Employment is the most common way that women can participate and contribute to the economy. When women are prevented from obtaining employment, the economy loses a significant portion of potential for growth. The impact becomes even more important during a recession. Globally, 55 percent of adult women are in the labor market compared to 78 percent of men; moreover, women face a 37 percent wage³⁴ and 51 percent income³⁵ gap compared to the wages and income of men.³⁶ The focus of equal rights advocacy lies on the equal value and share of work, and on equal distribution of burdens and benefits of work.³⁷

There are often legal restrictions to work, including laws that prohibit women from choosing a certain profession or industry according to their interests and abilities, as well as laws that require a spouse or other male relative to provide a work authorization. Around ninety economies still have at least one restriction on professions women can pursue (for instance, laws preventing women from undertaking work related to underground mining and handling industrial machinery). Studies show that such discrimination is a significant predictor for the gender wage gap.³⁸

As numerous organizations have found, women continue to be paid less than men for work of equal value. Data shows that fewer than half of countries have a law mandating equal pay for equal work.³⁹ As the World Bank's study of legal reform over the past decades points out, the wage gap narrowed where legal reform showed greater strides towards equality and increased female labor force participation.⁴⁰

The lack of protection and failure to prevent gender-based discrimination and sexual harassment in the workplace often hinders women from obtaining jobs or advancing their careers. This begins with discriminatory hiring practices and later with concerns about unfavorable treatment and dismissal of women, especially when pregnant or after giving birth. Ninety-one percent of countries do not have laws prohibiting employers from inquiring about family status in hiring processes and 60 percent have no laws mandating non-discrimination in hiring.⁴¹

³³ World Bank (2021), p. 6.

³⁴ The ratio of the wage of a woman to that of a man in a similar position.

³⁵ The ratio of the total wage and non-wage income of women to that of men.

³⁶ World Economic Forum (2021), at p. 14.

³⁷ EIGE (2013), at p. 19.

³⁸ Htun et al. (2019).

³⁹ World Bank (2021), p. 14.

⁴⁰ World Bank (2021), p. 6.

⁴¹ *Id.*

Parenthood is the area with the most room for improvement in terms of gender inequality, as women typically bear the bulk of household responsibilities (including childcare and eldercare). However, progress has been made through law reform on this front in recent years. Many countries have adopted new laws aimed at alleviating the negative effects of childcare on women's careers through childcare allowances and parental leave benefits, including the right of men to take paternity leave to encourage them to share the household responsibilities with women. However, many countries do not yet provide for paid maternity and paternity leave and where countries do so, it is often the employer who bears the burden of cost, thereby reducing retention of female employees who become more costly than men.⁴² Generous parental leave provisions are however associated with smaller wage gaps in economies with a large formal sector.⁴³

Social security and pension laws affect women's retirement conditions negatively when they do not account for times of absence or part-time employment due to childcare. The statutory retirement age may also be different between women and men. Shorter working lives of women have a negative impact on their income, on their contributions and ultimately on their pensions. The gender wage gap also has a direct negative effect on pensions for women relative to men even when they have equal years of contributions to the social security system because women's salaries are usually lower than men's.

All of these issues may have an impact on a woman's decision to work.

v. TAX LAW

Certain revenue raising measures can result in taxation practices that discriminate against women and lead to distortions that result in higher tax burdens for them. These tax-induced gender biases, however, may not always be easily identifiable because sufficiently granular gender-disaggregated data are often unavailable to policy makers.⁴⁴

Governments do not always raise tax revenue in the most gender equitable way. Substantive tax legislation as well as tax procedural rules can exhibit both explicit and implicit gender biases.

Explicit gender bias is generally easily identifiable and is expressly specified in the language of the relevant tax law provisions. Some illustrative examples include explicitly assigning different tax rates to male and female taxpayers, permitting tax preferences only for male or female taxpayers, or assigning joint business, asset income or childcare deductions or allowances only to males.⁴⁵ While such direct forms of explicit gender bias are increasingly rare, more indirect forms still exist. For instance, where import taxes (or tariffs) are set at higher rates on women's goods than on the equivalent men's goods.⁴⁶

⁴² World Bank (2020), p. 8.

⁴³ Asai (2019).

⁴⁴ Fabrizio et al. (2020), at p. 11.

⁴⁵ Stotsky (1996), at p. 1.

⁴⁶ Taylor and Dar (2015); see also New York City (2015).

In the area of personal income taxation, the family-based method of determining income undermines the individual filing system and results in secondary earners (usually women who make less money and want to stay in the workforce) facing a higher marginal tax rate.⁴⁷ Therefore, providing options for individual income taxation could be a necessary legal reform to increase female labor force participation.⁴⁸ Even within income tax systems that impose a joint income tax on the household, it is possible to structure the income tax to reduce the higher effective tax rate on secondary earners, in particular through tax benefits (for instance, targeted tax reliefs) to promote the female labor supply. Other examples of implicit gender bias would be the availability of tax deductions for work expenses predominantly borne by men (for instance, uniforms or tools) but not for work expenses predominantly borne by women (for instance, the cost of daycare).⁴⁹

Implicit or explicit biases may also exist in tax procedural rules, such as the inability of spouses to separately file personal income tax returns, or where consent of the spouse is required where a possibility of separate filing exists. Such procedural requirements can impede women's economic empowerment.

The global COVID-19 pandemic is generally expected to further exacerbate gender inequalities. Demands placed on the household from lockdowns and school closures, for instance, increase pressures on second earners—predominantly women—to leave the workforce even if only temporarily.⁵⁰ In developing countries, for instance, where women are predominantly employed in the informal sector, gender inequality will be more difficult to address through tax measures affecting only the formal sector.

⁴⁷ Grown and Komatsu (2010). See also OECD (2016).

⁴⁸ Gonzales et al. (2015a), at p. 8.

⁴⁹ Stotsky (2017).

⁵⁰ Fabrizio et al. (2021).

Box 1. Gender Sensitive Tax Reforms

Incentives that increase women’s participation in the labor market

Many countries have introduced tax and subsidy incentives that increase women’s participation in the labor market, including child and dependent care policies, such as the introduction or the increase of tax allowances for childcare (*Canada, UK*), while others have implemented targeted tax relief for single parents (*the Netherlands*). In some cases, fundamental tax reform was undertaken, which aimed at ensuring that the tax system provides greater incentives for women to work (*Austria*).

Alleviating tax burdens on basic (female) necessities

- *South Africa* has reduced the value-added tax on paraffin (e.g., kerosene), an important household fuel in poor households, which are predominantly headed by women.
- Several East African Community (EAC) countries (*Rwanda, Kenya and Tanzania*) have exempted sanitary products from VAT to make them more affordable.

COVID-19 related measures

In an effort to tackle the inequality effect of the crisis, several countries have enacted gender sensitive tax measures aimed at providing tax benefits or incentives to sectors where women are overrepresented, such as healthcare, education and the service sector (*Cameroon, China, Tunisia, the U.S.*).

Source: IMF (2017b); Stotsky (2016), and authors’ compilation.

B. IMPACT OF CULTURAL NORMS, TRADITIONS, AND BELIEF SYSTEMS ON GENDER EQUALITY

There are various root causes for the existing inequality between men and women under law, including cultural norms, traditions and belief systems that are interpreted as promoting differential treatment of women. In addition, plural or inherited legal systems often facilitate the inclusion of legal provisions that have a gender bias. Legal reform can be utilized to change attitudes and behavior, and thus be an important tool to achieving gender equality. As noted above, this paper in no way intends to render a judgement on countries’ broadly accepted cultural norms and beliefs.

i. CULTURAL NORMS AND BELIEF SYSTEMS

Many laws that prevent women from having the same legal status as men are derived from deep rooted cultural norms or other beliefs. For example, customary norms which provide that only men can be the head of household are often reflected in laws which prevent women from inheriting or owning property and reinforce the notion that a woman’s role is in the home, thereby dampening her wage-earning power. It is often these cultural norms regarding a woman’s role, and their embodiment in constitutional, family and property laws, that are the main obstacle to progress. If these underlying laws are discriminatory, then women are prevented from achieving their full economic potential.⁵¹

⁵¹ See e.g. Ndulo (2011); Maluleke (2012).

There are various reasons for the persistence of norms and beliefs that impede the advancement of women's rights. Some argue that certain beliefs are harder to change because they are considered by society to be divinely inspired and sacred. Others argue that unequal treatment of women is the product of a culture of patriarchy and the consolidation of power in men, with religion serving as justification for conservative interpretations regarding gender roles.⁵² Legal reform becomes more difficult when interpretations endorsed by the state are reflected in the law because this calls into question not just the law itself but the traditions they exemplify.⁵³

However, some countries have adopted legal reforms previously considered to be infeasible in light of prevailing norms and beliefs. For example, laws that provide that women only inherit half of what their brothers inherit have been challenged in some countries in recent years. Turkey replaced its inheritance laws and Turkish law now grants equal inheritance rights of land and non-land assets to female and male children and surviving spouses.⁵⁴ Egypt amended its inheritance legislation in 2017 to impose strict sanctions on those who disinherit family members. Although the reform does not give women additional inheritance rights, it penalizes the illegal deprivation of those rights.⁵⁵ Côte d'Ivoire amended its marriage laws in 2019 to facilitate women's access to credit by allowing them to use land as collateral.⁵⁶ The former marriage laws had restricted female spouses' rights to manage, dispose of, and inherit marital property.⁵⁷

ii. PLURAL LEGAL SYSTEMS

Many countries have plural legal systems that recognize different sources of law (e.g., common law, customary law, and religious laws).⁵⁸ These plural legal systems accept that different legal systems can coexist, and they may overlap, complement, reinforce, and even conflict with each other at times. This can become more complex in countries where multiple legal systems exist in parallel. For instance, Indonesia has 6 and Lebanon has 18 different recognized sources of family law.⁵⁹ The existence of legal pluralism affects gender equality in different ways. While in some cases it helps advance women's rights by providing more avenues for legal redress, it can create a barrier in other situations. First, it makes the legal system more complex and difficult to navigate when seeking justice. Second, legal reforms that conflict with recognized traditional beliefs are harder to enact because these traditional beliefs are more deeply woven into society. This is exacerbated where the state formally upholds the integration of religion and culture in the law.

⁵² Cherif (2010), at p. 1145.

⁵³ Htun et al. (2019); Htun and Weldon (2012), at pp. 6, 33 et seqq.; Htun and Weldon (2015); UN Women (2015), at pp. 30 et seqq.

⁵⁴ Civil Code Articles 495, 499; Land Inheritance Law, Article 661.

⁵⁵ OECD/ILO/CAWTAR (2020).

⁵⁶ LOI n° 2019-570 du 26 juin 2019 relative au mariage.

⁵⁷ Law on Marriage (2012).

⁵⁸ UN Women (2015), at pp. 30 et seqq.; Chiongson et al. (2012), at pp. 7 et seq.; Shahar (2008); Sieder and McNeish (2013), introduction.

⁵⁹ UN Women (2011), at pp. 66 et seqq.

Third, different belief systems can contain provisions that discriminate against women.⁶⁰ In some plural legal systems, reforming the legal framework to promote gender equality requires dialogue with ethnic and religious leaders as well as women's groups to empower each of them to challenge discriminatory laws. It also requires education and resources to navigate these complex systems.⁶¹ Access to courts for women needs to be improved and courts encouraged to interpret customary law in a way that advances equality.⁶²

iii. INHERITED LAWS

In addition, many countries in the world inherited legal codes from colonial powers, which included provisions that discriminate against women. After independence, a number of former colonies maintained these legal systems and the gender bias within these codes. Ironically, while most European countries have phased out the gender discrimination in their codes, the original codes are still in force in some former colonies. For example, in Equatorial Guinea, a woman still needs her husband's permission to sign a contract because of the 1960 Spanish Civil Code. Seventy-five percent of economies in Francophone Africa have regulations which restrict women's employment, mirroring a 1954 ordinance from the former federation of French West Africa. Thus, in Chad, Guinea-Bissau and Niger, married women cannot open a bank account without their husbands' permission. In addition, due to a Spanish decree enacted in 1957, women in 12 countries in the Spanish speaking world are prohibited from working in mining, certain construction jobs and the electricity sector.⁶³ Countries that still maintain gender-biased codes inherited from the British, French and Spanish legal systems could usefully embark on reforms similar to those the former colonial powers have introduced to remove these gender impediments. Annex III discusses how some of the former European colonial powers (the United Kingdom, France and Spain) removed legal barriers to women's economic empowerment and used law as a tool to promote gender equality.

C. CHANGING BEHAVIOR THROUGH LEGAL REFORM

It is widely accepted that laws and legal reforms influence behavior.⁶⁴ The ultimate goal of legal regulation is to exercise control over certain behaviors,⁶⁵ which can happen in various ways. Usually, a regulatory framework lays out the specific behavior that is either permissible or impermissible. For instance, laws can allow individuals to own property but criminalize stealing

⁶⁰ *Id.*, pp. 68 et seqq.

⁶¹ Chiongson et al. (2012).

⁶² Ndulo (2010), at p. 92. See also the proposal to shift the paradigm from viewing culture merely as an obstacle to women's rights to seeking to ensure equal enjoyment of cultural rights; and ultimately realization of all their human rights, Cultural Rights, Note by the UN Secretary-General, General Assembly A/67/287 (2012).

⁶³ World Bank (2018), at p. 14.

⁶⁴ Anderson and Whitman (1972), at p. 831. There has been extensive research on how law impacts behavior, with research frequently relying on economic and psychological theories and empirical studies.

⁶⁵ *Id.*; Bilz and Nadler (2014), at p. 241.

another person's property. Such regulation can achieve compliance by directly rewarding or sanctioning respective behavior.⁶⁶ It can also incentivize or disincentivize behavior by softer means, such as taxing or subsidizing certain activities or purchases. (See Box 1 for examples of how tax laws can incentivize gender equality.) Most importantly, laws that regulate certain behavior can, over time, change moral and cultural beliefs. When laws promote certain behavior, these behaviors become a habit and ultimately internalized as morally desirable. The most frequent example invoked in this regard are the numerous regulations on smoking such as smoking bans, increased taxation on cigarettes, and advertisement restrictions that have led to a significant decrease in the number of smokers despite the strong lobbying of the tobacco industry.⁶⁷ The law expresses values and underlying attitudes of a community. It puts social realities into the legal framework so that it can be interpreted and applied by courts.⁶⁸ As long as the legal obligations imposed are representative and legitimately passed through democratic means, it is generally easier for the public to accept. Democratically produced legislative outcomes are an even stronger signal to people that the values expressed by the law are deemed desirable by society.⁶⁹

As is discussed in the next section, country-specific experiences in the area of gender equality show the power of legal reform to change behavior and produce positive outcomes in achieving women's economic empowerment.

III. PROMOTING WOMEN'S ECONOMIC EMPOWERMENT THROUGH LEGAL REFORM—SELECTED CASE STUDIES

Removing legal impediments to women's economic empowerment and increasing protections for women under law can encourage behavioral change and cultural shifts, particularly in countries with prevalent belief systems or traditions that discourage the inclusion of women in the workforce. In addition, legal reforms can help increase female labor-force participation and create an environment which supports women's economic empowerment. More specifically, reforming a country's legal framework to remove discriminatory provisions and support women's economic empowerment is proven to result in positive legal, social and economic outcomes. The case studies used for this paper—*Iceland, Peru, The Philippines, Rwanda, Tunisia, and the United States*—demonstrate the power of legal reform in various areas that impact women's ability to work and contribute to economic growth. These countries were selected particularly because they represent cases of successful trajectories of legal reform across different world regions that has placed them in the upper rankings of reputable studies, including the World Bank's WBL Report, the World Economic Forum's (WEF) Global Gender Gap Report and the OECD's Social Institutions and Gender Index (SIGI). Such examples show how the gradual removal of legal impediments and further legislative efforts significantly improve gender equality. Detailed analyses of these country

⁶⁶ This is the so-called standard model of law and economics, under which law impacts behavior depending on whether the cost of this behavior is lowered or raised. Later research showed however, that individual self-interest plays less of a role in accepting new regulation, except in cases of measurable, immediate monetary effects. Today's expressive theory of law combines pecuniary and nonpecuniary factors that contribute to compliance with legal rules; on evolution and literature see: Romaniuc (2016), at pp. 450 et seqq.

⁶⁷ Bilz and Nadler (2014), at pp. 241 et seqq.

⁶⁸ Htun and Weldon (2012), at p. 5.

⁶⁹ McAdams (2000), at p. 340.

case studies are provided in full in the Annex II to this paper. The key points from these case studies are highlighted below.

A. ICELAND

Since 2009, the WEF's Global Gender Gap Report has concluded that Iceland is the most gender egalitarian country in the world. Iceland has made remarkable progress on increasing labor force participation of women, from 71 percent in 2006 to 84.3 percent today, and decreasing the pay gap between men and women from 16.3 percent in 2008, to 11.5 percent today.

The overarching legal framework for women's empowerment dates to the Gender Equality Act in 1976, which outlawed gender discrimination at work and at school. This was followed by the enshrinement of equal rights of men and women in the Constitution in 1995. The Icelandic government has focused intensively on *labor law*, particularly in the area of equal pay.⁷⁰ Although Iceland adopted the Equal Pay Act in 1961, pay equity did not become a reality until the government's adoption of the Equal Pay Standard in 2018. Under this standard, companies are required to adopt wage management systems that transparently establish job criteria and wages for clearly defined positions, without regard to the gender of the person in the position. Companies must obtain certification from third-party auditors to prove that they are in compliance with the standard and renew it every three years. If an employer does not get certified, it faces financial penalty. In establishing this standard, Iceland has "put teeth" into its equal pay legislation.

The government of Iceland also understood that changes in *family law* and a supportive institutional framework for working families was required to expand women's employment participation. For example, all children under school age are entitled to attend municipal early childhood education and care, an opportunity that was used by 95% of children between the ages of 2 and 3 in 2019. This access enables women who might otherwise stay home to take care of their children in these early years, the opportunity to engage in formal work. Another important family support is Iceland's parental leave policy, which for most of the past two decades provided three months of leave for each parent, and three months to share between them.⁷¹ In households with parents of opposite sex, the dedicated leave to fathers has increased fathers' role in early childhood and household responsibilities. Iceland has also taken legislative action to limit derogatory stereotypes of women, by criminalizing prostitution, banning strip clubs, and strengthening the protection of women subjected to domestic violence.

None of the key legislative measures adopted by Iceland in the area of gender equality would have been possible without a strong women's political movement, and significant female political leadership at the national level, where a woman has been either the head of state or prime minister in 22 of the last 40 years.⁷²

⁷⁰ See Box 2 for further details.

⁷¹ In 2021, the parental leave was extended to five months for each parent, and two months shared, for a total of one full year of leave.

⁷² Marinósdóttir and Erlingsdóttir (2017).

Box 2. Iceland's Equal Pay Standard

Iceland first enacted equal pay legislation in 1961 and reiterated the principle of equal wages for equal work in the Gender Equality Act of 1976. But general legislation was not enough to close the gender pay gap, and in 2008, the Icelandic Confederation of Labor and SA-Business Iceland collaboratively financed the development of the Equal Pay Standard with the Ministry of Welfare, which was ultimately introduced on a voluntary basis in 2015. Again, the pace of change was not fast enough, and in 2017, Parliament made the Equal Pay Standard (IST Standard 85) mandatory for companies with more than 25 employees. The law covers 1,180 employers and 147,000 employees, or about 80% of the labor market. Employers must evaluate each job and assess its main components, and the skills required to perform those tasks. Employers must have a transparent system of how additional skills or experiences might be rewarded. Thus, an employee *could* receive a higher salary for performing the same job as another employee, but the reasons for the difference in salary must be based on objective factors, not gender. The employer's job classification system and wage policies are reviewed by a third-party auditor for consistency with the IST Standard 85. The auditor issues a report that the employer's policies for setting wages do not involve gender-based discrimination, and submits it to the Directorate of Equality, which in turn gives the employer a certificate and grants them the privilege of using a special equal pay symbol in their corporate and marketing materials. If employers don't get certified by the deadline (which varies by company size) they can face daily financial penalties as well as public shaming. Employers have to obtain the equal pay certification every three years.

B. PERU

In Latin America, Peru takes the top spot with respect to gender equality according to the World Bank's Women, Business and the Law rankings. Reforms made to Peru's *constitutional law* framework facilitated improvements in the area of gender equality. Specifically, the 1993 Constitution of Peru prohibits discrimination on the basis of sex and provides for equality under the law (Article 2 Para. 2), as well as equality of opportunity regarding employment (Article 26). If there is any conflict between customary laws and formal law with respect to fundamental rights, the latter prevails (Article 149). The increase in female labor participation, which currently stands at 75.3 percent (compared to 87.2 percent for men) is often credited to this critical change.⁷³

The 1993 Constitution and the establishment of a dedicated Ministry of Women and Vulnerable Populations in 1996, ushered in an era of reforms. Peru has made efforts to increase female political representation and participation by introducing gender quotas and gender parity and alternation for

⁷³ Constitución Política del Peru, 1993.

general elections.⁷⁴ In the *labor law* area, such reforms include paid maternity and paternity leave, prohibiting gender discrimination in hiring and in terminating employment based on pregnancy, and establishing a right of return to workplace following maternity leave. The Law of Equal Opportunities between Women and Men enacted in 2007 gave further impetus in this area.⁷⁵ Legislation was enacted to provide for minimum working standards in the traditionally female-dominated sectors like agroindustry, clothing, and domestic work. Protections against sexual harassment in work and public spaces were also recently established.⁷⁶ Notwithstanding the existence of supportive legislation, implementation may lag. For example, a 2018 law provides for equal pay for equal work,⁷⁷ but women still earn only 70.7 percent of what men earn for the same job.

Peru has also implemented various *property laws* that facilitate the economic opportunities of women, such as establishing the right of women to inherit property, which has led to a higher level of joint property ownership by spouses and improved women's bargaining power in households.⁷⁸

With respect to *family law*, legal impediments to women's equality persist. Women cannot remarry on the same terms as men, as the law imposes a mandatory waiting period after a husband's death or divorce.⁷⁹ Women often do not receive a fair allocation of property upon divorce.⁸⁰ Furthermore, despite passage of an innovative national law that required the government to account for unpaid work in the home, this law has not been operationalized. Women's unpaid work, which averages 39 hours per week, leads many to take jobs in the lower-paid segments of the labor market, and further contributes to the gender wage gap. Nonetheless, there remains strong political will to advance women's empowerment, including the 2019 National Policy on Gender Equality that aims to increase awareness of the structural causes of gender inequality and 2020 Multisectoral Strategic Plan for Gender Equality.⁸¹

C. THE PHILIPPINES

In Asia, the Philippines ranks among the top countries with the narrowest gender gap, in part due to supportive legal reforms advocated by women-led NGOs; a force that remains influential today.⁸² The governing framework for women's rights was established by the 1987 *Constitution*, which stipulates equality of women and men and the protection of working women. More recently, the *Magna Carta of Women* (2009) represents a comprehensive action plan that sets out the

⁷⁴ Law No. 26859 (1997), article 116 and Law No. 31030 (2020)

⁷⁵ Law No. 28983 of March 16, 2007 (Ley de Igualdad de Oportunidades entre Mujeres y Hombres).

⁷⁶ Law No. 30314 of March 26, 2015; Legislative Decree No. 1410 of September 11, 2019.

⁷⁷ Law No. 30709 of December 26, 2017; Supreme Decree No. DS N° 002-2018-TR of March 7, 2018.

⁷⁸ Wiig (2013).

⁷⁹ Article 243 (3) Peruvian Civil Code.

⁸⁰ Property regime in Articles 295 to 331 Peruvian Civil Code.

⁸¹ Política Nacional de Igualdad de Género, Supreme Decree No. 008-2019-MIMP of April 3, 2019 and Supreme Decree No. 002-2020-MIMP of March 4, 2020

⁸² Valdeavilla (1995).

obligations of the state to promote and protect women's rights and equality. Complementing legislation, the government's 30-year Strategic Framework Plan for women was adopted in 2001, and governmental agencies are required to allocate 5 percent of their budgets for programs to address the needs of women. *Tax and PFM laws* mandate that a percentage of appropriations are allocated to advance gender equality.

The most progress in the Philippines has been in the area of *labor law*, as equal remuneration for both sexes is mandatory, and discrimination against women workers when hiring, promoting or terminating is prohibited.⁸³ Legislation has also eliminated barriers to the types of work women can do (e.g., night work), established protections for women in vulnerable categories (e.g. domestic workers),⁸⁴ and established maternity leave and universal childcare to support working mothers.⁸⁵

Property law is also an area where women enjoy many of the same rights as men. Women have the right to own and inherit land, to enter into contracts and to access credit, loans, and resources.⁸⁶ Women can own property jointly with their spouses and do not need their husbands' consent to generate income. However, even though a woman can jointly own marital property with her husband, there is a legal presumption in favor of the husband in any dispute.⁸⁷

It is in the area of *family law*, where more work remains to be done. Belief systems and traditions continue to impact women's economic empowerment. For example, the 1977 Code of Muslim Personal Laws (CMPL) applies to the Muslim population (about 5.6% of the population⁸⁸), and it restricts women significantly by permitting a lower age of marriage and unequal rights to work, own assets, or inherit property.⁸⁹ Moreover, the Philippines is the only country (apart from the Vatican) without a generally applicable divorce law; addressing this is a legislative priority of the Philippine Commission on Women.⁹⁰ Women also spend between 4.5 and 6.5 hours per day on unpaid domestic and care work.⁹¹ Dominant cultural beliefs about women's family obligations may explain why, despite a generally supportive legal framework, the female labor force participation rate of 46 percent still lags that of men, at 74 percent.⁹²

⁸³ Provisions in Philippine Labor Code.

⁸⁴ Kasambahay Law or Domestic Workers Act 2012 (Republic Act No. 10361).

⁸⁵ Maternity Leave Act (RA 8282); Paternity Leave Act (Republic Act 8187); Expanded Maternity Leave Law (Republic Act No. 11210) of 2019.

⁸⁶ These rights are part of the bill of rights in the Constitution that does not discriminate against women. Further, equality was strengthened e.g. by Republic Act No. 6657 of 1988 that gave rural women access to land, as well as the 1992 Women in Development Act and the 1997 Social Reform and Poverty Alleviation Act that gave women equal access to agricultural credit programs. See Articles 979 et seqq. Philippine Civil Code (inheritance rights).

⁸⁷ Articles 96 and 124 Family Code, Executive Order No. 209 (1987).

⁸⁸ World Population Review.

⁸⁹ OECD (2019b).

⁹⁰ <https://pcw.gov.ph/adopting-divorce-in-the-family-code-2/>.

⁹¹ Philippine Commission on Women (2019), at p. 27.

⁹² Modeled ILO estimates.

D. RWANDA

Rwanda is among the top 10 countries in the world for closing the gender gap according to the WEF's 2021 Global Gender Gap Index.⁹³ Rwanda's progress came about in the aftermath of the country's 1994 genocide which fundamentally altered Rwanda's demographic configuration and required rethinking women's roles in the economy and society.

The overarching legal framework is the *2003 Rwandan Constitution* which enshrined the principle of equality between men and women and implemented a requirement that women should occupy at least 30 percent of positions in Parliament. Today, over fifty percent of parliamentarians and ministers are women.⁹⁴ Female parliamentarians have, in turn, been able to successfully push for key legal reforms aimed at strengthening gender equality in Rwanda. For example, with respect to *property law*, Rwanda has passed legislation to provide for equal inheritance, succession and land rights for women, including prohibiting discrimination based on sex in matters relating to ownership and possession of property. In the area of *labor law*, the parliament has enacted laws to establish equal working conditions and equal wages. In addition, legislation provides for specific rights and benefits related to childbearing, including maternity leave, maternity pay, guarantee of employment after maternity leave, and facilities for pregnant and breastfeeding women. With this supportive legal framework, it is not surprising that Rwanda has one of the higher rates of female participation in the labor force (at 84 percent) compared to the global average of around 47 percent.⁹⁵ From a *tax law* perspective, Rwanda recognizes gender equality as one of the principles of the budgetary system. The PFM laws require the budget framework paper to include a gender budget statement containing gender-related principles that will underlie the budget to be proposed for the coming fiscal year. In addition, all public entities must submit an individual audit report detailing how the programs for gender equality have been implemented

To be sure, legislation alone is insufficient, there must also be political will from the top. In Rwanda, the national government has enshrined gender considerations in several key governmental strategies (e.g., Vision 2020, National Gender Policy 2010), and established gender-focused institutions (e.g., a Ministry in Charge of Gender and Family Promotion, a Gender Monitoring Office and National Women's Council).

E. TUNISIA

Following independence from France, the Tunisian government enacted several civil and constitutional laws that improved the status of women. The 1956 Code of Personal Status⁹⁶ enhanced women's rights in the public sphere by abolishing polygamy and granting women the right to marry, divorce, adopt, file for custody, and receive an alimony. The *1959 Constitution* guaranteed all citizens equality under the law, including rights to property ownership, mobility,

⁹³ World Economic Forum (2021).

⁹⁴ *Id.* at p. 29.

⁹⁵ See International Labor Organization, ILOSTAT database.

⁹⁶ <http://law2.wlu.edu/deptimages/Law%20Review/64-4Charrad.pdf>.

and political participation. There are also no legal restrictions on women opening a bank account or establish a business. **Labor laws** were also introduced in 1966⁹⁷, guaranteeing men and women equal rights to employment and granting women special benefits such as maternity leave, breastfeeding rights, and protection from pregnancy discrimination. In addition, the Tunisian government understood the linkage between women's literacy and economic empowerment, which led to a 1991 law mandating education for all children (regardless of gender) up to the age of 16.⁹⁸

Fast forward to the 2010-2011 Arab Spring, when gender equality became central to the movement. Following the inclusion of women in political party lists for the 2011 national assembly elections, elected female politicians and women's civil society groups played an important role in drafting the **2014 Constitution**. Unlike the previous versions, the current Constitution guarantees equal treatment and duties under the law for all citizens, including the right to work in decent working conditions and the right to fair wage. It also commits to granting equal opportunities for men and women in all domains; attaining gender parity in elected assemblies; eradicating violence against women; and guaranteeing civil and political rights (election, voting, candidacy) for all citizens in accordance with the law.

Despite steady progress, Tunisia ranks 126th according to the 2021 Global Gender Gap Index,⁹⁹ largely due to **family law issues**, including that men are exclusively considered the head of household under the law, and women are prohibited from working certain hours and participating in specific work sectors, based on biased notions about women's roles in society and their responsibilities at home. Thus, while Tunisia leads among Middle Eastern and North African countries, much work remains to be done.

F. THE UNITED STATES

Like many other countries, the United States originally had a cultural tradition of patriarchy that was deeply ingrained in its legal framework. As a result of the suffragist, civil rights and women's movements, which demanded legal reforms to provide women with equality under law, legal impediments to gender equality have been slowly removed over time. The first phase of removing these legal impediments focused on making reforms to **constitutional law** to provide women with civil rights, including securing the right of women to vote in 1920 (Nineteenth Amendment to the US Constitution). During the 1960s, significant legislation changes were made to **labor laws** to prevent gender discrimination. For example, the Equal Pay Act of 1963 provided the right to receive equal pay for equal work, and Title VII of the Civil Rights Act of 1964 protects women from discrimination in the workplace based on sex.

Despite the progress achieved under these laws, the number of women in the workplace did not drastically increase because women were not allowed to receive the necessary training that would

⁹⁷ <http://www.legislation.tn/sites/default/files/codes/travail.pdf>.

⁹⁸ <https://borgenproject.org/7-facts-about-education-in-tunisia/>.

⁹⁹ World Economic Forum (2021).

allow them to be competitive. To remedy this issue, the United States Congress passed Title IX which banned sex discrimination in all educational programs that receive federal support (PL 92-318). Furthermore, legal reforms were made in the 1970s to prohibit discrimination based on pregnancy, including many important United States Supreme Court cases which culminated in the passage of the Pregnancy Discrimination Act of 1978. The Economic Equity Act, which was implemented through over 30 separate bills, amended federal laws that did not treat women and men equally. In 2009, the Lilly Ledbetter Fair Pay Act was passed to better allow individuals to file charges of alleged pay discrimination. Under the 1963 Equal Pay Act, women had difficulties enforcing their right to equal pay due to provisions on the statute of limitations. The new law eliminated these restrictions on the time period for filing complaints. Most recently, in 2019, the United States enacted a law providing for 12 weeks parental leave for federal employees. As a result of these laws, the economic participation of women in the workforce has increased from 30 percent in 1950 to 47 percent in 2017.¹⁰⁰

Unfortunately, there are many challenges that remain. For instance, the gender pay gap still persists. As of 2018, women earned 85 percent of what men earned. In addition, women are lagging behind men in leadership roles in the United States. Women accounted for only 5 percent of fortune 500 CEOs in 2017, and 20 percent of Fortune 500 Board members in 2016.¹⁰¹ Despite these challenges, the United States has very high levels of female economic participation and education, compared to its peers as a result of the removal of legal impediments and law reforms to incentivize women's participation.

IV. ASSISTING IMF MEMBERS IN TACKLING LEGAL IMPEDIMENTS TO WOMEN'S ECONOMIC EMPOWERMENT

This section discusses the IMF's experience in assisting members to address gender gaps in connection with its operations and consistent with its mandate. The Fund's mandate is focused on macroeconomic and financial stability. In turn, narrowing gender gaps and promoting women's economic empowerment can have significant implications for countries' macroeconomic and financial performance. These gender-related outcomes, therefore, are directly relevant to the Fund's exercise of its core functions.

A growing body of literature including analytical work by IMF staff has shown that improving women's access to opportunities and to decision-making roles can raise economic growth, lower inequality and enhance macroeconomic and financial stability.¹⁰² From this perspective, the IMF assists its members in addressing gender issues through its three key functions: surveillance, financial assistance, and capacity development. The IMF has already made efforts to integrate and operationalize gender-related issues more systematically in its work program and has also recently encouraged its members to implement legal reforms to close gender gaps and reduce gender

¹⁰⁰ Menasce Horowitz et al. (2017).

¹⁰¹ *Id.*

¹⁰² IMF (2013a), Annex 1; IMF (2017a); Gonzales et al. (2015b); Christiansen et al. (2016); Khera (2016); IMF (2015b); Kazandjian et al. (2016); IMF (2018).

inequality.¹⁰³ The following summarizes the ways in which IMF’s operations can assist its members in connection with tackling legal impediments to women’s economic empowerment.

A. SURVEILLANCE

Under Article IV(1)(i) of the IMF’s Articles of Agreement, each member country shall “endeavor to direct its economic and financial policies toward the objective of fostering orderly *economic growth* with reasonable price *stability*” and “seek to promote stability by fostering orderly underlying economic and financial conditions.” When conducting bilateral surveillance, the IMF focuses mainly on those economic policies of members that can significantly influence present or prospective balance of payments and domestic stability. Exchange rate, monetary, fiscal, and financial sector policies of the member are always subject to bilateral surveillance, including where related to gender (e.g., fiscal or financial sector policies focused on addressing gender gaps). Other economic policies, including those related to women’s economic empowerment, are to be examined if they significantly influence a country’s present or prospective balance of payments or domestic stability.¹⁰⁴ Gender issues fall under this purview, for example, when they are relevant for achieving and maintaining members’ economic growth and stability.¹⁰⁵ Policies, including on gender, that fall outside the scope of bilateral surveillance may still be discussed in the context of bilateral surveillance with the consent of the member concerned.

Accordingly, the IMF has for the last few years integrated gender analysis in surveillance in a number of countries, for example, by providing advice related to the potential growth impact of increasing women’s participation in the economy.¹⁰⁶ For instance, in the 2019 Article IV Consultation for Japan, IMF staff found that women were underrepresented in managerial and policy-making positions and that the gender wage gap was large, both across all Japanese prefectures and also relative to other OECD countries.¹⁰⁷ At the same time, a funding gap for public social security, particularly pensions, was projected, affecting pension sustainability and intergenerational equity. Thus, the policy advice was tailored to help address these concerns. In particular, the IMF recommended that social security and tax reforms be removed to disincentive to full-time and regular work, such as the spousal tax deduction.¹⁰⁸ Additional examples of countries where the IMF has provided advice regarding gender equality issues in context of surveillance are included in Annex IV to this paper.

¹⁰³ For instance, the IMF has recently made recommendations on gender-responsive policies and budgeting to help mitigate the impacts of the Covid-19 crisis. IMF, UNDP, UN Women (2021).

¹⁰⁴ Decision on Bilateral and Multilateral Surveillance, IMF Decision No. 15203-(12/72), July 18, 2012; took effect on January 18, 2013. See also IMF (2013a), Annex 7.

¹⁰⁵ IMF (2015a), at para. 75; IMF (2018), at para. 10.

¹⁰⁶ IMF (2018), para. 3.

¹⁰⁷ IMF, Japan: 2019 Article IV Consultation – Press Release; Staff Report; and Statement by the Executive Director for Japan, at p. 51.

¹⁰⁸ *Id.* at pp. 22, 24.

B. FINANCIAL ASSISTANCE TO MEMBERS

In accordance with Article I(v) of the Articles of Agreement, the IMF makes its general resources temporarily available to member countries to help them address their balance of payment problems under adequate safeguards to Fund resources. In addition to providing this financing to its members under its General Resources Account (GRA), the Fund has also established the Poverty Reduction and Growth Trust (PRGT) under the authority of Article V, Section 2(b) of the Articles of Agreement to support low-income members through concessional financing. Fund financing in the GRA and the PRGT is normally approved through Fund arrangements to support members' economic adjustment programs. Under the Fund's legal framework, program conditionality is included in those arrangements where measures that are within the country's direct or indirect control are considered of critical importance for achieving the goals of the member's program or for monitoring implementation of the program.¹⁰⁹ Specific policies to address gender gaps and women's economic empowerment can thus be included in the conditionality under a member's Fund-supported program where these requirements are met. As with all conditionality, the particular measures included as conditions must also be tailored to the member's specific needs and particular circumstances. For example, this was done in the 2019 IMF-supported program for Pakistan, where conditions were included to enhance the financial inclusion of women and narrow the educational gender gap. This Fund-supported program included a condition requiring the authorities to launch the "one woman one account" initiative to ensure financial and digital inclusion of around 6 million women by end-October 2019. Further, the Fund-supported program also included a condition requiring the authorities to boost girls' educational enrollment by augmenting a social program with "a girl bonus" of 250 Pakistani rupee to be regularly provided on a quarterly basis by end-December 2019.¹¹⁰ These measures were implemented by the time IMF staff conducted a first review of the program's progress in December 2019.¹¹¹ Annex IV to this paper provides more examples of countries in which the IMF has assisted member countries in addressing gender issues through program design and conditionality.

C. CAPACITY DEVELOPMENT

Article V, Section 2(b) of the Articles of Agreement authorizes the IMF to provide technical services, upon request, as long as these services are consistent with the Fund's purposes. In light of this provision, the Fund engages in capacity development (which encompasses both technical assistance and training), by providing expertise to member countries to help strengthen institutional capacity to design and implement effective macroeconomic, financial, and structural policies. In this context, the IMF has provided capacity development to members aimed at improving gender outcomes. A very important part of this work has focused on gender budgeting, which is an approach to fiscal policy and public financial management that promotes gender

¹⁰⁹ Guidelines on Conditionality (IMF), Decision No. 12864-(02/102), September 25, 2002, as amended.

¹¹⁰ IMF, Pakistan: Request for an Extended Arrangement Under the Extended Fund Facility – Press Release; Staff Report; and Statement by the Executive Director for Pakistan, 2019, pp. 13-14.

¹¹¹ IMF, Pakistan: First Review Under the Extended Arrangement Under the Extended Fund Facility and Request for Modification of Performance Criteria – Press Release; Staff Report; and Statement by the Executive Director for Pakistan, 2019.

equality and the empowerment of women and girls (see Box 3 for elements of budget laws). The IMF has provided technical advice on gender budgeting in over 60 countries, including Albania, Austria, Cambodia, Ethiopia, Niger, and Ukraine.¹¹² For more information on how gender budgeting laws can improve gender equality, see Box 3 below.

Box 3. Gender Budgeting Laws

Several countries have included gender budgeting as a formal and substantive part of the legal framework for their budgetary processes and good public financial management (PFM), although the scope varies widely across jurisdictions. For example:

- Several laws recognize gender equality as one of the **principles of the budgetary system** (*Albania, Rwanda, Uganda, Ukraine, Vietnam*).
- **On budget formulation**, some PFM laws require that a gender-based perspective is incorporated into budget planning across all programs and projects to promote gender equality (*Mexico, South Korea, Sweden, Tunisia*). Other laws require that all public entities identify and report on gaps in gender equality for the government’s budget preparation (*Ecuador*), or that when submitting their institutional budget proposals, they include a report on the impact that the budget is likely to have on gender equality (*South Korea*).
- **For the presentation of the annual budget law**, some PFM laws require that the draft budget bill details the impact of the budget on the attainment of gender equality targets (*Sweden*), that a “gender note” is attached to it (*Belgium, Iraq*), or that a special certification by the Ministry of Finance or other entity is issued to the effect that the proposed budget is gender and equity responsive, before submission to Parliament (*Uganda*).
- **During budget execution**, some PFM laws provide that resources allocated or earmarked for programs that address gender inequality cannot be removed or diminished (*Mexico*).
- Some PFM Laws, where **performance-based budgeting** has already been implemented in the country, have introduced specific requirements for gender-related objectives and indicators (*Austria, Morocco*);
- Finally, to support **accountability and fiscal transparency**, some PFM laws have explicitly stipulated that all public entities must submit an individual audit report detailing how the programs for gender equality have been implemented (*Rwanda*). Others mandate that the evaluation of the budget execution incorporate analysis of gender equality, a so-called “gender sensitive settlement of accounts” (*South Korea, Peru*), or require the presentation of a results-based gender report to be included as part of the following year’s annual budget and presented to Parliament (*Morocco*).

Given the direct relevance that efforts to close gender gaps and address women’s economic empowerment can have for the IMF’s mandate of macroeconomic and financial stability, the IMF has already made very important contributions to address gender issues in a number of areas, including on the removal of legal barriers to women’s economic empowerment.¹¹³ Empirical data,¹¹⁴ as well as the analysis and case studies in this paper, have shown how carefully designed reforms focused on the removal of these legal impediments can have very positive macroeconomic

¹¹² Fabrizio et al. (2020).

¹¹³ IMF (2018), at paras. 8, 17, 20; IMF (2013a), Annex 1.

¹¹⁴ Gonzales et al. (2015a); Novta and Wong (2017); IMF (2017a), see chapter 12.

impacts across a range of dimensions, including on women's labor force participation, wage equality, and economic output. Considering this and the IMF's mandate, the IMF could step up efforts in helping countries to address the removal of legal barriers to women's economic empowerment. This could include assisting in the design of reforms to remove these barriers, and the enactment of laws, regulations or other measures that incentivize women's economic participation. IMF staff have long provided advice on legal and institutional reforms in a range of other areas with similar implications for the Fund's mandate, including fiscal, tax, financial sector, central banking and exchange rate legal frameworks, corporate and household insolvency, AML/CFT, and governance and anti-corruption. Advice on the removal of legal barriers to women's economic empowerment would build on both these existing legal and institutional reform efforts as well as the work already under way to address macro-critical aspects of gender in other areas.

A targeted approach would be essential, particularly focused on countries where empirical evidence shows the macro-criticality (and thus the benefit of reform) is greatest. Equally essential would be a close partnership and coordination with other international organizations in this area, including the World Bank, UN Women and the OECD.

V. CONCLUSIONS

Legal reform to remove barriers to women's economic empowerment can be used as a very powerful instrument to promote women's economic participation and help countries achieve higher growth and a range of other macroeconomic benefits.¹¹⁵ In addition, legal reforms should be adopted that incentivize overall women's economic participation, even after legal impediments have already been removed via law reform. As noted in Section II above, these legal reforms can entail a broad range of measures across different categories of laws, including repealing laws which discriminate against women, providing parental leave for women and men, making gender pay gaps illegal, implementing regulations that require appropriate facilities and infrastructure to allow women to benefit fully from participating in the economy, including subsidizing childcare, ensuring laws do not penalize secondary earners, providing incentives for training and hiring women in traditionally male dominated fields, as well as facilitating women's capacity to exercise all their rights including through reforms on access to justice.

Countries that have high levels of female labor force participation have made extensive changes to their legal frameworks to facilitate this. As illustrated by the case studies in Section III, the pace and nature of legal reform varies from country to country and is very specific to a country's historical, cultural and beliefs systems. In some cases, legal reform was brought about as a result of strong women's rights movements or after key historical events (e.g., in the aftermath of civil wars, political change, or economic turmoil). In other cases, legal reform has been more gradual and piecemeal. Furthermore, despite such reforms, barriers to women's economic empowerment remain.

¹¹⁵ *Id.*

While recognizing that the nature of legal reform is very specific to an individual country context, examples of best practices from different countries could serve as a useful roadmap for countries looking to enhance women’s economic empowerment through law reform. Some of these examples of best practices, drawing from the case studies discussed in this paper, are included in Annex I to this paper.

As discussed in Section IV, the IMF can assist member countries by helping them in addressing gender gaps in accordance with its mandate, including by advising on key legal reforms aimed at removing barriers to women’s economic empowerment. This support can be provided to member countries through the IMF’s key functions (surveillance, financial assistance of members and capacity development). In the context of surveillance, this can be done particularly when relevant gender-related reforms are considered macro-critical because they have the potential to significantly influence present or prospective balance of payments and domestic stability. While the IMF has already focused on a number of aspects of gender-related reforms that are macro-critical, there is scope to expand this work further including to address legal barriers to women’s economic empowerment more systematically. Focusing on countries where these reforms are most macro-critical, advising members on these areas in accordance with its mandate and collaborating closely with other relevant international organization and institutions that are also involved in these issues would be key for the IMF in moving to the next stage of engagement on gender issues with its member countries. The IMF is already preparing for this by developing a strategy to mainstream gender work at the Fund¹¹⁶ in accordance with its mandate.¹¹⁷

¹¹⁶ This is consistent with the IMF’s commitment to support the UN’s Sustainable Development Goals by weaving lessons from policy-oriented research on a number of issues into its operational work. Specifically, the Fund committed to tackling income and gender inequality and promoting economic and financial inclusion by promoting job creation, enhancing the redistributive role of fiscal policy in an efficient manner, and boosting access to financial services while preserving financial stability. See <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/16/46/Sustainable-Development-Goals>

¹¹⁷ The proposed strategy aims to integrate gender into the Fund’s surveillance, lending, and capacity development. This proposal is expected to be submitted for consideration to the IMF’s Executive Board in Spring 2022.

Annex I. Key Lessons from Selected Country Case Studies—Legal Reform Aimed to Improve Women’s Economic Empowerment

The table below highlights key lessons in legal reform aimed to improve women’s economic empowerment, focusing on examples from the case studies discussed in this paper.¹¹⁸

Category of Law	Key Aspects	Key Lessons in Legal Reform	Examples of Laws
Constitutional Law	Equality/ Anti-discrimination	<ul style="list-style-type: none"> • Enshrine notions of gender equality/ equality of opportunity for women in the Constitution and/or other relevant laws. • Consider the use of gender-neutral language in the Constitution and/or other relevant laws. • Enact laws to prevent gender-based discrimination/promote gender equality in all aspects. 	<ul style="list-style-type: none"> - <i>Iceland, Act on Equal Status and Equal Rights Irrespective of Gender, 2021</i> - <i>Peru, Law of Equal Opportunities, 2007</i> - <i>The Philippines, Magna Carta of Women 2008</i> - <i>Spain, Law of Effective Equality 2007</i> - <i>UK, Equality Act 2010</i>
	Citizenship/ Identification/ Mobility	<ul style="list-style-type: none"> • Provide women with equal rights of citizenship as men. • Ensure women have access to identification, citizenship and travel documents. • Provide women with the right to pass on citizenship to children. • Remove any legal impediments to women’s ability to travel alone/without a male escort. 	<ul style="list-style-type: none"> - <i>Tunisian Code of Nationality, 1956, and Family law, 1990</i>
	Political Participation and Representation	<ul style="list-style-type: none"> • Guarantee women the right to vote in elections and other relevant decision-making processes. • Enable women to participate and be represented in political and other decision-making processes 	<ul style="list-style-type: none"> - <i>Rwanda Constitution 2003</i> - <i>Spain, Law of Effective Equality 2007</i> - <i>Iceland, law on public limited companies 1995, and private</i>

¹¹⁸ Please note that the examples referred to in this table are not an exhaustive list of all of the laws aimed at eliminating legal impediments to women’s economic empowerment in the relevant countries. Rather, we have cited laws the authors considered the most relevant ones when they were in effect, even if subsequently amended or repealed.

		<p>(e.g. the right to stand for elections).</p> <ul style="list-style-type: none"> Carve out representation quotas for women in various political and other decision-making bodies (i.e. parliament, national and local committees, company boards). 	<p><i>limited companies 1994</i></p> <ul style="list-style-type: none"> <i>US 19th Amendment to the Constitution</i>
	Gender Budgeting	<ul style="list-style-type: none"> Require gender-budgeting and other gender-based considerations at the national, state, and local level. 	<ul style="list-style-type: none"> <i>Rwanda, Organic Law on State Finances and Property Law 2013</i> <i>Philippines, Gender and Development Budget Policy</i> <i>Iceland, Public Finance Act 2015</i>
	Procedural Rights	<ul style="list-style-type: none"> Provide women with rights to access justice, including to bring a legal case, apply for legal aid, provide testimony, obtain a fair trial etc. 	<ul style="list-style-type: none"> <i>Namibia, Married Persons Equality Act</i> -
Family Law	Marriage Rights	<ul style="list-style-type: none"> Enact legal reforms to increase the age of marriage for women (if it is lower than age of marriage for men). Guarantee equal rights for men and women upon marriage. 	<ul style="list-style-type: none"> <i>Namibia, Married Persons Equality Act 1996</i> <i>Tunisia, Code of Personal Status 1956</i>
	Household Rights	<ul style="list-style-type: none"> Ensure that there are no legal impediments to a women's role in the household Provide women with right to access financial services. 	<ul style="list-style-type: none"> <i>Namibia, Married Persons Equality Act 1996</i>
	Divorce/ Widower Rights	<ul style="list-style-type: none"> Provide women with the right to divorce, including access to courts. Provide for appropriate valuation of non-monetary contributions in marital property regimes. Guarantee rights for widowed women (i.e. ownership of property). 	<ul style="list-style-type: none"> <i>US Economic Equity Act (various iterations)</i> <i>Tunisia, Code of Personal Status 1956</i>
	Custody Rights for Children	<ul style="list-style-type: none"> Allow women to have rights of custody over children. 	<ul style="list-style-type: none"> <i>Tunisia, Code of Personal Status 1956</i> <i>UK, Infant Custody Act 1873</i>

		<ul style="list-style-type: none"> • Mandate child support and provide for enforcement procedures. 	<ul style="list-style-type: none"> - <i>US Economic Equity Act</i>
Property Law	Ownership, Management and Control of Land and other Assets	<ul style="list-style-type: none"> • Remove legal impediments which allow men to take ownership/control of women's property and assets upon marriage. • Provide women with rights to own, acquire, manage and dispose of property and other assets. • Allow women to enter into contracts. • Strengthen rights for women in rural areas, including with respect to land. 	<ul style="list-style-type: none"> - <i>UK, Married Women's Property Act 1870</i> - <i>Rwanda, Laws No. 08/2005 and Law No. 43/2013 on land rights</i>
	Inheritance Rights; Succession	<ul style="list-style-type: none"> • Ensure that women have the same rights as men in relation to inheritance of property and other assets, including right to manage and dispose of these inherited assets. • Ensure that laws provide for equal succession between male and female children. 	<ul style="list-style-type: none"> - <i>The Philippines Civil Code</i> - <i>Rwanda, Matrimonial Regimes, Liberties and Succession, 1999</i>
	Wages/Pay	<ul style="list-style-type: none"> • Guarantee equal pay for equal work. • Strengthen transparency of job criteria and wages. • Require companies to assess and address gender-related pay gaps. 	<ul style="list-style-type: none"> - <i>Iceland, Equal Pay Act 1961, and Equal Pay Standards 2018</i> - <i>US Equal Pay Act of 1963</i> - <i>Peru, Law on Equal Pay, 2017</i>
Labor Laws	Education	<ul style="list-style-type: none"> • Ensure the right of education for girls. • Increase the legal age for girls to stay in school (if lower than for boys). • Remove other legal barriers to education for girls. • Prevent gender discrimination in education. 	<ul style="list-style-type: none"> - <i>US Title IX of the Education Amendments Act, 1972</i> - <i>US Gender Equity in Education Act, 1994</i>

Working Conditions	<ul style="list-style-type: none"> • Remove any legal impediments which may prevent women from carrying out traditionally male jobs. • Ensure appropriate working conditions for women, including pregnant and breastfeeding mothers (e.g. lactation rooms). • Strengthen rights of domestic female workers. 	<ul style="list-style-type: none"> - <i>Rwanda, Labor Code and other relevant labor laws</i> - <i>France, Code du Travail</i> - <i>Relevant EU directives and regulations</i> - <i>The Philippines, Domestic Workers Act 2012</i>
Maternity Leave and Conditions	<ul style="list-style-type: none"> • Enhance maternity rights and strengthen maternity benefit schemes. • Provide paternity rights and benefits for men. • Guarantee jobs for women returning after maternity leave. • Provide for appropriate working conditions (see above). 	<ul style="list-style-type: none"> - <i>Namibia, Labor Act 2007</i> - <i>The Philippines, Maternity Leave and Paternity Leave Acts</i> - <i>Iceland, Parental Leave Laws</i>
Anti-discrimination	<ul style="list-style-type: none"> • Strengthen measures to prevent gender-based discrimination and protection from gender and sexual harassment at work. • Ensure rights for pregnant women, including protection against discrimination. • Ensure non-discrimination in hiring practices. 	<ul style="list-style-type: none"> - <i>US Title VII, Civil Rights Act of 1964 and Pregnancy Discrimination Act of 1978</i> - <i>The Philippines, Anti-Sexual Harassment Law 2019</i>

Annex II. Detailed Country Case Studies¹¹⁹

1. Iceland

Gender equality has long been a priority for the Icelandic government. Although originally rooted in the concept of human rights, the government has also expressly recognized that gender equality is “prudent economic policy.”¹²⁰ Research and experience has borne out that gender equality promotes women’s empowerment, which in turn increases their productivity, for the greater good of all of society. Having topped the World Economic Forum’s Global Gender Gap Index for the last twelve years, Iceland is well-known for its achievements in gender equality. However, this status was not reached overnight. It is the product of political activism and collective efforts to enact legislation that had real “teeth” to what might otherwise be lofty goals.

Women over the age of 40 gained the right to vote in parliamentary elections in 1915. True progress in terms of women’s political participation did not come until the 1970s. A significant event in Icelandic history was the Women’s Strike of 1975, inspired by the feminist movement at the time. It was estimated that 90 percent of the women in Iceland participated by not going to work and doing no housework, and 25,000 women gathered for a mass demonstration in Reykjavik to emphasize the importance of women’s paid and unpaid contributions to the economy. In 1980, the country elected the first female President, Vigdis Finnbogadottir, who served four terms. She was the first democratically elected female head of state in the world and remains an important role model. Around the same time, the Women’s Alliance, a feminist political party, was founded, with the objectives of increasing women’s participation in parliament as well as advancing women’s interests in legislation. When the Women’s Alliance began, only 5 percent of members of parliament were women; as of the September 2021 election, that percentage has risen to 47.6 percent, the highest percentage of women lawmakers in Europe.¹²¹

The legal framework for women’s rights, particularly as it relates to their participation in the economy, initially evolved slowly, with more rapid progress in the last dozen years. In 1976, the first Gender Equality Act was enacted, which outlawed gender discrimination in schools and the workplace. Twenty years later, in 1995, the principle of equal rights of men and women was formally enshrined in the Constitution.¹²²

As is not uncommon, the presence of equal rights legislation on the books does not necessarily translate into equality in practice. Legal reform is also needed to incentivize employers to treat women equally and support women in the workforce. In Iceland, it was not until the Gender Equality Act was amended in 2008, that this legislation began to produce concrete results. The

¹¹⁹ Annex III includes the case studies of France, Spain and the UK as discussed in Section II(B) of the main paper on Inherited Laws.

¹²⁰ Ministry for Foreign Affairs & Icelandic International Development Agency (2013), at p.1.

¹²¹ World Economic Forum (2021), at p. 215; Andie Sophie Fontaine, Iceland’s Coalition Government Set to Retain Power after Election, Euronews, September 27, 2021.

¹²² Article 65 of the Constitution, Constitutional Law Act, No. 97/1995.

key change was establishing actual targets to be met, namely, introducing a minimum quota of 40 percent female participation in local and national government committees, councils and boards.¹²³ Other important amendments were banning derogatory images of women in advertising, and gender mainstreaming, which is integrating gender issues into all aspects of governmental programs and policies.

The economic crisis in 2008 spurred Iceland to become even more aggressive in addressing gender inequality. The dominance of men in the Icelandic banking sector which had collapsed, led to rethinking about gender roles in the workforce and gender balance in corporate boardrooms.¹²⁴ In 2010, amendments to the Acts on Public Limited Companies and Private Limited Companies established gender quotas for company boards. Companies with more than 50 employees had to have women on their boards, and there were more than three board members, the percentage could not be less than 40.¹²⁵ As a result of these legal reforms which created an incentive for companies to promote women, today, 45.9 percent of board members of listed companies are women.¹²⁶ In 2011, a similar law on gender quotas on pension boards was passed.

An increase in domestic violence during the 2008 financial crisis also spurred the enactment of legislation related to the exploitation of women. In 2009, soliciting, pimping, advertising or otherwise benefiting from prostitution was made illegal. In 2010, parliament approved a ban on strip clubs.¹²⁷ In 2011, parliament approved a strengthened law against domestic violence, which permitted local authorities to remove a perpetrator from his household and impose restraining orders in domestic violence situations.¹²⁸

Another legislative pillar that supports women in the workforce is parental leave. Three months of maternity leave for women has been on the books since 1980, and fathers were granted two weeks of paternity leave in 1998. Significant change occurred in 2000, when leave was extended to nine months, with working parents paid 80 percent of their average salaries. The leave was divided such that each parent was allocated three months of leave that could not be transferred to the other parent; and three additional months to share as they saw fit.¹²⁹ The fixed allocation for fathers helped ensure that they are involved with care of their child from an early age, as well as allow women to better maintain their own careers. At the end of 2019, parental leave was extended to one year, with five non-transferrable months for each parent, and two months shared between them.¹³⁰

¹²³ Article 15, Act on the Equal Status and Equal Rights for Women and Men, No. 10/2008.

¹²⁴ Center for Gender Equality Iceland (2012), at pp. 8-9.

¹²⁵ Act No. 2/1995 respecting Public Limited Companies and Act No. 138/1994 respecting Private Limited Companies.

¹²⁶ World Economic Forum (2021), at p. 216.

¹²⁷ Act No. 85/2007.

¹²⁸ Act No. 85/2011; Directorate of Equality (2019).

¹²⁹ Focus Consultancy (2008), at p. 8.

¹³⁰ Iceland Review (2019).

One area in which gender inequality is particularly stubborn, even in high income countries, is the matter of equal pay. The Equal Pay Act had been part of Iceland's legislative framework since 1961, but in 2007, trade unions, employers' associations, and the Ministry of Welfare realized that more had to be done to address the persistent wage gap. Following the 2008 recession, these groups worked closely together to design a mechanism to close the gap, namely the Equal Pay Standard. This standard took many years to develop and became available for companies to use on a voluntary basis in 2015.

In 2016, the Reform Party made gender equality their primary election issue, and when it became part of the 2017 coalition government, a bill was passed to make the Equal Pay Standard mandatory.¹³¹ Implementation of the standard is phased based on business size, but should be complete for all businesses with more than 25 employees by the end of 2021.

A key change brought about by establishing the Equal Pay Standard has been to shift the burden from the employee to prove that she was discriminated against, to the employer to prove that their pay practices are fair. Employers must have a transparent system for classifying each position in the company, what work is entailed, and assign a value to this work. In other words, the salary is based on the position, not the person. An easy principle to understand, but the challenge is in enforcement. Thus, the legislation provides that a certification body will conduct an audit of the company's wage management system in order to confirm that it meets the national standard before issuing a formal certificate of compliance.¹³² According to the Prime Minister's report on equality issues from 2018-2019, a total of 160 companies with 71,000 employees have obtained the certification. The gender pay gap has declined from 16.3 percent in 2008 to 11.54 percent in 2021.¹³³ During approximately the same span of time, women's labor force participation has increased from 71 percent in 2006, to 84.3 percent in 2021.¹³⁴ Thus, not only are Icelandic women participating in the workforce in steadily increasing numbers, but their pay equity with men is improving as well.

Central to Iceland's achievements in gender equality has been the institutional framework supporting this goal. Since 2009, there has been a ministerial committee on gender equality, led by the Prime Minister, which was responsible for the government's action plan on gender equality, gender mainstreaming, and gender-sensitive review of government bills. Today, the Department of Equality has a prominent position in the Prime Minister's Office. There are also several independent institutions that support implementation of the Act on Equal Status and Equal Rights Irrespective of Gender (which replaced the Gender Equality Act of 2008), including (i) a national bureau in charge of administering the Act, known as the Directorate of Equality; (ii) the Gender Equality Complaints Committee, which examines and rules on cases with regard to whether the Act has been violated; and (iii) the Gender Equality Council, a national forum for engaging on gender issues, involving representatives from labor, employer, women's and civil society organizations. Lastly, the importance of national female political leadership cannot be overestimated, including the world's first female President and two female

¹³¹ Wagner (2018), at pp. 18 - 20.

¹³² *Id.* at pp. 25 - 26.

¹³³ World Economic Forum (2021), at p. 216.

¹³⁴ World Economic Forum (2006), at p. 73; World Economic Forum (2021) at p. 215.

Prime Ministers in the modern era – Johanna Sigurdardottir (2009-2012) and the current Prime Minister, Katrin Jakobsdottir.

2. Peru

Peru scores highly in 2021 World Bank Index on Women, Business and the Law, with a rating of 95 out of 100 points with respect to gender equality in the law, making it the highest-achieving Latin American country in the Index. Particularly over the last two decades, Peru has had a strong record of removing legal barriers for women and adopting laws that enhance gender equality; all under the umbrella of a comprehensive national policy of gender equality.

Peru ratified CEDAW in 1982 and has paid close attention to the findings of the CEDAW committee in its periodic reviews conducted on Peru ever since. In 1995, Peru also joined the Beijing Declaration and Platform for Action. As a consequence, in 1996, Peru created its ministry for women affairs, referred to as the Ministry of Women and Vulnerable Populations (*Ministerio de la Mujer y Poblaciones Vulnerables*, MIMP). Since 2015, the Ministry has established a Directorate for the Promotion and Development of the Economic Autonomy of Women, which has a function to formulate, implement, monitor, and evaluate the norms, policies, strategies and programs related to the promotion, protection of economic rights and strengthening of the economic autonomy of the women.

Moreover, Peru has ratified a large number of relevant ILO conventions, such as the Equal Remuneration Convention (No. 100), the Discrimination (Employment and Occupation) Convention (No. 111), the Workers with Families Convention (No. 156), the Maternity Protection Convention (No. 183), and most recently, the Domestic Workers Convention (No. 189) in 2019. The latter explicitly recognizes that domestic work continues to be undervalued and invisible and is primarily carried out by women and girls.¹³⁵

The 1993 Constitution of Peru provides for the non-discrimination of a person based on their sex and equality under law (art. 2 para. 2), as well as equality of opportunity regarding labor (art. 26). Customary law is invalidated in case of conflict with those fundamental rights (art. 149). – Constitutional change has been attributed with an increase in the female labor force participation.¹³⁶

Peru has also made efforts to increase female representation in political decision-making processes, including by introducing a gender quota in the list of candidates for congress in 1997, and more recently introducing parity and gender alternation on lists of Candidates for general elections.¹³⁷

Peru does not have a uniform labor code but many dispersed regulations on work, particularly with a distinction between laws for the public and the private sectors. Significant legal reforms

¹³⁵ Domestic Workers Convention, ILO Convention No. 189 (2011).

¹³⁶ Gonzales et al. (2015a), at p. 20.

¹³⁷ Law No. 26859 (1997), article 116 and Law No. 31030 (2020)

regarding gender equality were enacted in the late 1990s. Property law reforms, specifically targeted at empowering women, regulated the formalization of land titles along with the right of women to inherit property, which led to a higher level of joint property ownership by spouses and improved women's bargaining power in households.¹³⁸

Laws included the provision of maternity leave of at least 90 days prior to and after birth,¹³⁹ providing a maternity allowance,¹⁴⁰ prohibiting termination solely based on pregnancy¹⁴¹ and discrimination in hiring,¹⁴² allowing breastfeeding and lactation rooms,¹⁴³ temporarily reassigning tasks for health reasons during pregnancy¹⁴⁴ and guaranteeing the right to return to the same workplace after maternity leave.¹⁴⁵ A number of these laws only apply to women in the formal work sector and who contribute to social security schemes. However, in the early 2000s, some laws were adopted to provide more protections for women, for example against sexual harassment.¹⁴⁶ A law for domestic workers establishes minimum standards of work in sectors such as agroindustry, clothing and domestic work, which are traditionally dominated by women.¹⁴⁷

The enactment of the Law of Equal Opportunities between Women and Men (*Ley de Igualdad de Oportunidades entre Mujeres y Hombres*) in 2007 gave a strong impetus to the agenda of gender equality.¹⁴⁸ This law sets the framework for implementing policies, programs and actions to advance women's rights to productive work in harmony with family responsibilities, and obliges the Peruvian state to take concrete measures at the national, regional and local level, including mechanisms for monitoring and evaluation of decision-making processes, implementation of public policies, and accountability. This resulted in further legal reforms and comprehensive government planning in the following years, for instance the drawing up of the National Plan of Gender Equality that for the first time established clear concepts of gender equality.¹⁴⁹ From 2007 on, childcare services and nursing rooms in public administration entities,¹⁵⁰ as well as paid paternity leave were introduced.¹⁵¹ A new law established the right to identification of all

¹³⁸ Wiig (2013).

¹³⁹ Law No. 26644 (1996), amended and extended by Law No. 27402 (2001) and Law No. 30367 (2015).

¹⁴⁰ Law No. 26790 (1997); Supreme Decree No. 009-97-SA (1997).

¹⁴¹ Supreme Decree No. 003-97-TR (1997); and today, Law No. 30367 (2015).

¹⁴² Law No. 26772 (1997); Supreme Decree No. 002-98-TR (1998).

¹⁴³ Law No. 27591 (2001).

¹⁴⁴ Law No. 28048 (2003).

¹⁴⁵ Supreme Decree No. 009-2004-TR (2004).

¹⁴⁶ Law No. 27942 (2003), as amended by Law No. 29430 (2009); Supreme Decree No. 010-2003-MIMDES (2003).

¹⁴⁷ Law No. 27986 (2003); Supreme Decree No. 004-2009-TR (2009).

¹⁴⁸ Law No. 28983 (2007).

¹⁴⁹ *Plan Nacional de Igualdad de Género 2012-2017*, Supreme Decree No. 004-2012-MIMP (2012).

¹⁵⁰ Supreme Decree No. 002-2007-MIMDES (2007); Law No. 29896 (2012).

¹⁵¹ Law No. 29409 (2010), as amended by Law No. 30807 (2018).

Peruvians and included birth registration and the issuance of birth certificates free of charge.¹⁵² This has significantly raised the number of registered females, particularly in rural areas.¹⁵³ In 2010, procedures for labor court trials were modified to allow for oral hearings and fast-track processes.¹⁵⁴

In 2011, a new law required the executive branch of the government to account for unpaid work in national accounting, thereby acknowledging the high productivity of largely women that are not paid for their work in households.¹⁵⁵ However, there has not been progress in adopting measurements to quantify such unpaid work.¹⁵⁶

In 2017 and 2018, an important Law on Equal Pay and related Regulations were passed, which provides an oversight mechanism for equal pay which goes to the extent of requiring the National Superintendence of Labor Inspection (SUNAFIL) to carry out periodic inspections of the public and private employers who are required to maintain a job description record that adequately justifies eventual salary differences.¹⁵⁷ The SUNAFIL's inspection work has been further strengthened in recent years to ensure the implementation of anti-discriminatory principles in remuneration for men and women.

Other recent legal activity includes a law for the prevention and sanction of sexual harassment in public spaces, lifting certain such acts to criminal offenses.¹⁵⁸ After expiration of the 2012-2017 National Plan, Peru drew up a consecutive plan in 2019, the National Policy on Gender Equality, that aims to increase awareness of the structural causes to inequality.¹⁵⁹ Related to this, a 2020 Multisectoral Strategic Plan for Gender Equality has been established with the key objective of promoting economic autonomy for women and addressing discrimination, including by building up institutional frameworks to take into account gender considerations in the implementation of policies, programs and projects.¹⁶⁰

In 2021, the Public Sector Budget Law was approved, which allocated fiscal resources to finance the justice system linked to the reduction of violence against women and the financing of rural and indigenous women's entrepreneurship.¹⁶¹

These laws and supporting jurisprudence in cases that have been determined by the Constitutional Court have had a measurable impact on the adoption of legal norms; however,

¹⁵² Law No. 29462 (2009).

¹⁵³ Defensoría del Pueblo (2019), at pp. 24 et seqq.

¹⁵⁴ Law No. 29497 (2010).

¹⁵⁵ Law No. 29700 (2011).

¹⁵⁶ DEMUS (2010), at pp. 255-256.

¹⁵⁷ Law No. 30709 (2017); Supreme Decree No. DS N° 002-2018-TR (2018). 7

¹⁵⁸ Law No. 30314 (2015); Legislative Decree No. 1410 (2019).

¹⁵⁹ *Política Nacional de Igualdad de Género*, Supreme Decree No. 008-2019-MIMP (2019).

¹⁶⁰ Supreme Decree No. 002-2020-MIMP of March 4, 2020

¹⁶¹ Law No. 31365 of November 29, 2021

challenges remain. Implementation of these laws often lacks coordination, comprehensiveness, information and budget streamlining.¹⁶² With respect to gender budgeting, Peru did in fact recently experience a backward step. Under a law adopted in 2007, public entities were required to take into account gender gaps as criteria for determining the allocation of budgets, though there was no fixed percentage.¹⁶³ However, this law was amended to remove this requirement to conduct a gender analysis.¹⁶⁴

Specific legal impediments to women's equality persist in the area of family law. Women cannot remarry in the same way as men, as the law imposes a mandatory waiting period after death of or divorce from the husband.¹⁶⁵ While this provision aims to avoid uncertainties relating to paternity for children who may be born after the death of the spouse (given that there is a presumption of fatherhood of the husband during marriage) it could still be considered discriminatory based on sex as there is no equivalent provision on a "waiting period" for men if the wife dies or the couple get divorced.¹⁶⁶ Furthermore, family laws do not account for unpaid work performed before and after divorce with regards to property division, nor provide for compensation of contributions to joint life projects, and do not grant alimony in cohabiting unions other than marriage.¹⁶⁷

Although recognized in the newest national plan, so far, there have been no measures to tackle the sociocultural patterns and structural causes of inequality.¹⁶⁸ In the 2021 Gender Gap Report of the World Economic Forum, Peru ranks 62nd. Peru has a higher wage gap between women and men compared to the average in Latin America, although equal remuneration is legally mandated.¹⁶⁹ Women earn about 70.7% of what men earn (75.3% for women with higher education),¹⁷⁰ which is largely attributed to the fact that women are more often confined to lower-paid segments of the labor market.¹⁷¹ The female labor force participation rate stands at 74.1% compared to 88.1% with men; about 30% of legislators, seniors and managers in companies, and 7% of CEOs are women.¹⁷² This is related to the fact that women continue to assume the largest share of unpaid work, amounting to an average of 39 hours per week, as compared to 16 hours that men spend on average for unpaid work, which also means that women generally work about 9 hours more than men per week in total, when including their paid work.¹⁷³ The demand for

¹⁶² Defensoría del Pueblo (2019), at pp. 91 et seqq.

¹⁶³ Law No. 29083 (2007), introducing Article 47(4) into Law No. 28411 (2004) (General Act on the National Budget System).

¹⁶⁴ Legislative Decree No. 1440 (2018).

¹⁶⁵ Article 243 (3) Peruvian Civil Code.

¹⁶⁶ DEMUS (2010), at p. 153.

¹⁶⁷ Property regime in Articles 295 to 331 Peruvian Civil Code.

¹⁶⁸ Defensoría del Pueblo (2019), at pp. 29 et seqq.

¹⁶⁹ World Economic Forum (2021).

¹⁷⁰ Instituto Nacional de Estadística e Informática (2018), at p. 85.

¹⁷¹ Ñopo (2012), at p. 50.

¹⁷² World Economic Forum (2021), at p. 319; Vargas (2019).

¹⁷³ Instituto Nacional de Estadística e Informática (2018), at p. 37.

female labor participation and its rate have grown, but incentives fall behind of these developments.

3. The Philippines

The Philippines stands out as one of the countries with the lowest gender gap in Asia and throughout the world. Until the 2020 Global Gender Gap report of the World Economic Forum, the Philippines always ranked among the top 10 countries with the narrowest gap between men and women. Only recently has it dropped to the 17th rank, which is due to a recent decline in women in political positions, particularly in the congress and the cabinet. Despite this recent drop, it has a high level of female labor force participation and economic opportunity.¹⁷⁴ It has closed 78.4% of the gender gap relating to economic participation and opportunity with women outnumbering men in senior and leadership roles and in professional and technical professions. It shows the largest proportion of firms with female participation in ownership in the ASEAN countries and ranks fifteenth globally with regards to closing the wage gap.¹⁷⁵ At the same time, gender bias is deeply ingrained in the Philippine culture; traditional gender roles as to reproductive responsibilities make it harder for women to enter the labor force.¹⁷⁶ Women spend an average of 4.5 to 6.5 hours a day on unpaid domestic and care work, which is three to six times longer than men.¹⁷⁷ Male dominated industry sectors negatively affect the working environment and opportunities for advancement of women's careers within these sectors and expose them to a higher risk of sexual harassment.¹⁷⁸

The high level of female labor force participation can be attributed to supportive legal reforms over the past several decades. In 1986, President Corazon C. Aquino became the first woman to hold this office. She advanced gender mainstreaming by incorporating women's needs into overall development planning.¹⁷⁹ She oversaw the legal reforms which resulted in the adoption of the 1987 Constitution that stipulates equality of women and men and the protection of working women. This has led to the institutionalization of women's issues and to more concrete legislation towards eliminating impediments to women, especially towards their economic empowerment which has been a key priority in development planning. As a result, since 1995, the Gender and Development (GAD) Budget Policy requires all government agencies to utilize 5% of their budgets for activities that address the needs of women.

The Philippines has ratified CEDAW, adopted the Beijing Declaration and Platform for Action (BPfA) as well as the ILO standards related to fundamental principles and rights at work. Women have the right to own land, to enter into contracts and to access credit, loans, and

¹⁷⁴ CNN Philippines (2019).

¹⁷⁵ David et al. (2018), at p. 38; World Economic Forum (2021), at pp. 38; though for a much more negative reading of the numbers, see Asian Development Bank (2013).

¹⁷⁶ Santiago (2008), at pp. 33 et seqq.

¹⁷⁷ Philippine Commission on Women (2019), at p. 27.

¹⁷⁸ David et al. (2018), at p. 41; Asian Development Bank (2013), at p. 9 et seq.

¹⁷⁹ Valdeavilla (1995), at p. 94.

resources.¹⁸⁰ Women can own property jointly with their spouses and they do not need their husbands' consent to work. Equal remuneration for both sexes is mandatory, and the discrimination of female workers when hiring, promoting or terminating is prohibited.¹⁸¹ Women have the same rights to inheritance as men.¹⁸² They can equally file legal proceedings in court and their testimony carries the same weight.¹⁸³

The Philippines has adopted and continuously renewed various development plans and framework plans for women that specify the rights, needs and support required for women at work and in general.¹⁸⁴ Particularly the Magna Carta of Women of 2008 represents a comprehensive action plan that sets out the obligations of the state to promote and protect women's rights and equality. Although the policy goals and provisions in this plan are formulated broadly and do not confer any immediate legal effect, they underscore the commitment of the government.

In 2011, the Philippines lifted the ban on night work for women. In 2013, a law was enacted to protect domestic workers, reflecting the ILO Domestic Workers Convention No. 189.¹⁸⁵ Regulations for domestic workers are gender-neutral on paper, but traditionally women still largely hold household employment positions. This reform shows an improvement not just in terms of removing impediments to equality but also enhances the protection of women in vulnerable positions.¹⁸⁶

The Philippines further adopted legislation to provide for paternity and maternity leave in 1996 and 1997 respectively.¹⁸⁷ This law was recently updated and maternity leave extended from 60 to 105 days.¹⁸⁸ In addition, the government is required to provide universal childcare, down to the level of all municipalities.¹⁸⁹ In 2019, the Anti-Sexual Harassment Law was amended to strengthen law enforcement and protection against sexual offenses.¹⁹⁰

¹⁸⁰ These rights are part of the bill of rights in the Constitution that does not discriminate against women. Further, equality was strengthened e.g. by Republic Act No. 6657 of 1988 that gave rural women access to land, as well as the 1992 Women in Development Act and the 1997 Social Reform and Poverty Alleviation Act that gave women equal access to agricultural credit programs.

¹⁸¹ Provisions in Philippine Labor Code.

¹⁸² Articles 979 et seqq. Philippine Civil Code.

¹⁸³ See on earlier legislation history, Marcucci (2001), at pp. 17 et seq.

¹⁸⁴ *Philippine Development Plan for Women, 1989-1992; Philippine Plan for Gender-Responsive Development, 1995-2025; Framework Plan for Women, 2001-2004; Magna Carta of Women, 2008* (Republic Act No. 9710); *Women's Empowerment, Development and Gender Equality* (Women's EDGE) 2013-2016; *National Action Plan on Women, Peace and Security* (NAPWPS) 2017-2022; *Gender Equality and Women's Empowerment Plan 2019-2025*.

¹⁸⁵ Kasambahay Law or Domestic Workers Act, Republic Act No. 10361 (2012).

¹⁸⁶ Asian Development Bank (2013), pp. 46-51.

¹⁸⁷ Maternity Leave Act, Republic Act No. 8282; Paternity Leave Act, Republic Act No. 8187.

¹⁸⁸ Expanded Maternity Leave Law, Republic Act No. 11210.

¹⁸⁹ Barangay Day Care Center Law, Republic Act No. 6972.

¹⁹⁰ Bawal Bastos or the Safe Streets, Public Spaces and Workplace Act, Republic Act No. 11313. Further laws include Solo Parent Leave Act (RA 8972); Responsible Parenthood and Reproductive Health Act (RA 10354); Leave for Victims of Violence against Women and their Children; Special Leave for Women (RA 9710); Expanded

Despite these reforms, there is still not an equal rate of economic participation. The female labor force participation rate in 2019 was 46% as compared to 74% of male participation.¹⁹¹ Two thirds of Philippine women are employed in the informal (non-agricultural) sector, where access to social protection measures is limited. This type of employment also usually implies lower earnings, lower productivity and poorer conditions.¹⁹²

Family law maintains discriminatory elements. Although a woman can jointly own marital property with her husband, the husband's decision will prevail in court if there is a dispute.¹⁹³ The 1977 Code of Muslim Personal Laws (CMPL) applies for the Muslim population (about 5.6% of the total population of the Philippines¹⁹⁴). It provides for family laws that restrict women significantly more in several ways, including setting a lower age of marriage and restricting the rights to work, own assets, or inherit property.¹⁹⁵ This law coexists along the laws of general application but according to its Article 3.1, in case of conflict, CMPL provisions prevail. Its adoption conceded legal plurality to the Muslim minority following clashes with the Christian majority.

A current legislative priority of the Philippine Commission on Women –a government agency that advises government and lawmakers– is the introduction of a divorce law because the Philippines is the only country (apart from the Vatican) without a generally applicable divorce law. Another law on penalizing child marriage is underway.¹⁹⁶

Beyond legislative activities, the implementation and enforcement of the laws and measures sometimes lack political will or resources. For instance, complaint mechanisms are dispersed and difficult to navigate. Labor inspectorates require more adequate training on the interpretation of regulations and on their official support.¹⁹⁷

Although the legal framework has increased women empowerment and gender fairness, further legal reform and policy adoption continue to face political, cultural and social constraints.

The significant progress in the area of gender equality in the Philippines has been pushed by women NGOs –a force that continues to exist and grow. There is a great number of organizations and strong alliances among them to promote legislative and executive action on behalf of women's equal rights.¹⁹⁸ These organizations gained traction nationally and alongside the

Breastfeeding Promotion Act (RA 10028) including Lactation Station/Lactation Break; and Anti-Sexual Harassment Law (RA 7877).

¹⁹¹ Modeled ILO estimates.

¹⁹² Philippine Commission on Women (2019), at p. 27.

¹⁹³ Articles 96 and 124 Family Code, Executive Order No. 209 (1987).

¹⁹⁴ World Population Review.

¹⁹⁵ OECD (2019b).

¹⁹⁶ Philippine Commission on Women (2019), at p. 80.

¹⁹⁷ Asian Development Bank (2013), at p. 53; David et al. (2018), at pp. 7-8.

¹⁹⁸ Valdeavilla (1995).

international efforts to promote gender equality. For instance, when the United Nations introduced gender issues into the global agenda, cooperation with and participation of NGOs became institutionalized and consequently ever more respected within the country. Financial support from international sources helped Philippine NGOs to provide systematic and comprehensive data and analyses in order to inform policy and legal reforms.¹⁹⁹

4. Rwanda

Rwanda is listed among the top 10 countries in the world for closing the gender gap in the World Economic Forum's Global Gender Gap Index. Rwanda is also the second highest-ranking country in the same index for sub-Saharan Africa. Rwanda's progress in gender equality is owed in part to conscious legal reforms which have been aimed at fostering gender equality and strengthening protection against gender-based crimes.²⁰⁰

Rwanda has ratified most international and regional treaties and conventions which promote gender rights, such as The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), various gender related UN Resolutions and Declarations, the African Union's Protocol to the African Charter on Human and Peoples Rights, the African Union Solemn Declaration on Gender Equality in Africa, the African Union Gender Policy, among others.

The *Rwandan Constitution*, which was adopted in 2003 (and replaced the 1991 Constitution), enshrines upfront in its preamble, that the people of Rwanda are committed to building a state based on the principle of equality between men and women. The devastating effects of the 1994 genocide fundamentally altered Rwanda's demographic configuration resulting in women representing 70% of Rwanda's total population. Therefore, it became necessary to enhance women's role in the public sphere (as further discussed below).²⁰¹

In addition to the Constitution, gender rights are established in the Penal Code, Civil Code and various other laws, including the property laws, labor laws, as well increased protection of women in various criminal laws. These include the following:

- **Participation in political decision-making processes:** Most notably, the Constitution requires that women should occupy at least 30 percent of positions in national legislative bodies. Accordingly, the Constitution also designates that 24 of the 80 seats in the Chamber of Deputies (Lower House of Parliament) comprise women, and that at least 30 percent of elected and appointed Senators must be women.²⁰² As a result, Rwanda is now among the top four countries in the world for political empowerment,

¹⁹⁹ Sobritchea (2005), at pp. 75 et seq.

²⁰⁰ World Economic Forum (2021).

²⁰¹ The Women's Commission for Refugee Women and Children noted that soon after the Genocide, the government estimated that 70% of Rwanda's population were women. See Women's Commission for Refugee Women and Children (1997).

²⁰² See Articles 10, 75 and 80 of Rwandan Constitution.

with over 50% of women holding positions as parliamentarians and ministers.²⁰³ With increased female participation in politics, women parliamentarians have been able to successfully push for key legal reforms aimed at strengthening gender equality in Rwanda.²⁰⁴

- **Property rights:** These are guaranteed for women under the Constitution, Civil Code and relevant land legislation. This includes the Matrimonial Regimes, Liberties and Successions *Law No.22/1999* which governs marital property and inheritance rights; *Organic Law No. 08/2005* on the use and management of land in Rwanda which prohibits any discrimination based on sex or origin in matters relating to ownership or possession of property; *Law No. 43/2013* which prohibits all forms of discrimination in relation to access to land and the enjoyment of real property rights; and *Law No. 27/2016* governing matrimonial regimes, donations and successions, which provides for equal treatment of legitimate male and female children in succession.²⁰⁵
- **Labor laws:** Various iterations of labor laws over the years have provided for and strengthened equal opportunities and pay for men and women. *Law No. 51/2001* which establishes the Labor Code, provides for equal working conditions and equal salary for all employees irrespective of their sex. *Law No. 120/2009* prohibits employment of pregnant or breastfeeding women in conditions which may be harmful to their lives or those of their babies and provides maternity rights. *Law No. 3/2016* establishes and governs the maternity leave benefits scheme and guarantees security of employment and pay for women on maternity leave. *Labor Law No. 66/2018* on regulating labor provides for working conditions for pregnant and breastfeeding women, such as the requirement to protect such women by removing health risks at work and entitled breaks for breastfeeding. Consequently, at 84% Rwanda has one of the higher rates of female participation in the labor force compared to the global average of around 47 %.²⁰⁶
- **Gender-budgeting:** Gender issues have also been factored into national budget considerations. Namely, the Organic Law on State Finances and Property *Law No. 12/2013* makes gender balance in public financial management a fundamental principle. Under this law, it is mandatory to include a gender budget statement as one of the annexes to the national budget framework paper submitted to Parliament, and all public entities are required to submit activity reports to specify how plans for gender balance have been implemented.
- **Protection against gender-based violence:** Finally, there are also laws in place to protect against gender-based violence such as *Law No. 59/2008* which criminalizes and

²⁰³ *Id.*

²⁰⁴ However, before its civil war in the early 1990s and the genocide in 1994, Rwandan women never held more than 18% of seats in the country's parliament. See UNICEF (2007).

²⁰⁵ UN, Food and Agriculture Organization (FAO), Gender and Land Rights Database.

²⁰⁶ International Labor Organization (ILO), ILOSTAT database.

penalizes several forms of gender-based violence. In line with Article 10 of this Law, ***The Prime Minister's Order (No. 001/03 of 2012)*** sets out the modalities through which government institutions should prevent gender-based violence. These include for example, the need to put in place programs to prevent and fight gender-based violence, a requirement for Rwanda's National Police and Defense Forces to have 'Gender-Desks' as well as an emphasis on education, training and awareness raising programs.

In addition to the legal framework, Rwanda has implemented several strategies and established institutional mechanisms to promote gender equality. A ***National Gender Policy*** formulated in 2010 addresses gender issues in various sectoral policies and programs, including in the areas of (i) education for girls (ii) women in agriculture (iii) gender-based violence and (iv) sexual and reproductive health. This builds on other existing policies such as the Ministry of Education's 2008 ***Girls Education Policy*** and aligns with Rwanda's ***Vision 2020***, which considers gender equality as a cross-cutting issue.²⁰⁷ Furthermore, Rwanda has established strong institutional mechanisms to promote and protect gender rights, including a Ministry in Charge of Gender and Family Promotion (MIGEPROF), a Gender Monitoring Office (established by ***Law No. 51/2007***) and a National Women's Council (NWC) (established by ***Law No. 27/23 of 2003***).²⁰⁸ The combined effect of these legal reforms accompanied by strategic implementation plans and relevant institutional mechanisms has enabled Rwanda to put in place a progressive framework for gender equality and seen Rwanda achieve notable progress in this regard.

5. Tunisia

In March 1956, Tunisia gained independence from France. In the same year, the Code of Personal Status (CPS) was introduced by the Tunisian government, which enhanced the status of women both in the public and private sphere. These reforms included (i) consent to marriage; (ii) the right to initiate divorce; (iii) the abolishment of polygamy; (iv) the right to alimony; (v) the right to custody in case of divorce; and (v) the right to adopt. In 1990, additional reforms were made to family laws, guaranteeing women the right to pass citizenship to their children, receive alimony in case of divorce, and obtain custody of children upon the death of their husband. Women also earned their right to vote in 1957. Two years later, the 1959 Constitution was adopted. It guaranteed all citizens equality under the law, including rights to property ownership, mobility, and political participation. It is also important to note that there exist no legal restrictions for women to open a bank account or establish a business.

In addition, new labor laws were introduced in 1966, guaranteeing men and women equal rights to employment.²⁰⁹ It also gave women the right to paid maternity leave, paid postnatal leave (an extension of maternity leave for health reasons), pregnancy rights, breastfeeding rights, paid leave in case of sickness due to pregnancy, and protection from work discrimination due to pregnancy or while being away on maternity leave. The labor law restricts pregnant women and

²⁰⁷ Vision 2020 is a developmental road map for Rwanda, which was adopted in 2000.

²⁰⁸ The Gender Monitoring Office is charged with overseeing the monitoring and evaluation of the gender policy's implementation and reporting on progress achieved, while the NWC ensures representation of women's interests across all forums.

²⁰⁹ Labor Code, Law No. 66-27 (1996).

those returning from maternity leave (for a period of at least 16 weeks pre- and post-delivery) from working certain hours and prohibits pregnant women from working under radiation exposure. However, it also prohibits all women (in general) from working in certain fields, such as mining. In an effort to increase the rate of literacy and economic opportunity for men and women, compulsory education law was introduced in 1991 for all children up to the age of 16. Literacy rate for females has thus increased from 35.76 percent in 1984 to 72.22 percent in 2014,²¹⁰ resulting in more women competing and participating in the economy.

Fast forward to the 2010-2011 Arab Spring, gender equality became central to the movement, most remarkably as it relates to elections and the drafting of the constitution. The transitional government instituted a quota to include women on party lists for the October 2011 National Constituent Assembly election.²¹¹ Though the quota percentage was not specified, political parties did include women in their lists. This further allowed women's civil society groups as well as female politicians to play an important role in drafting the 2014 Constitution.

The 2014 Constitution is the first constitution in Tunisia's history whereby gender parity and representation are specified. The Constitution guarantees equal treatment and duties under the law for all citizens (Article 21). It also "commits to protect women's accrued rights and work to develop those rights"; guarantees equal opportunities for men and women in all domains; works at attaining gender parity in elected assemblies; and aims at eradicating violence against women (Article 46). In terms of labor, it specifically states that "work is a right for every citizen, male and female" and that all citizens have the right to decent working conditions and fair wage (Article 40). It also guarantees civil and political rights (election, voting, candidacy) for all citizens in accordance with the law and seeks to "guarantee women's representation in elected bodies," empowering women in the political sphere (Article 34).

In 2016, Tunisia's parliament²¹² approved an amendment to Article 49 ensuring that women have equal representation in local politics (both in municipal and regional elections). This amendment requires for municipal election lists across Tunisia to have equal number of both men and women (horizontal parity) and for men and women to alternate within the list (vertical parity). Despite progress, Tunisia's law still exclusively grants the status of "head of household" to men. This allows for men to receive tax deductions for dependent parents and children.

Although Tunisia ranks #126 according to the 2021 Global Gender Gap Index,²¹³ and more progress needs to be done, the country's efforts to achieve gender equality is proven in the data.²¹⁴ Tunisia's Women, Business and the Law Index Score has increased from 48.8 in 1971 to 67.5 in 2021. The percentage of females in the labor force ages 15 to 64 has increased from 23.9 percent in 1990 to 26.9 percent in 2019. In 2018, women made up 47 per cent of the local council positions in Tunisia and 29.6 per cent of positions on the head of party lists.

²¹⁰ UNESCO Institute for Statistics.

²¹¹ International Institute for Democracy and Electoral Assistance, Gender Quotas Database, Tunisia Country View.

²¹² UN Women (2016).

²¹³ World Economic Forum (2021).

²¹⁴ World Bank Data on Tunisia.

6. United States of America

The United States has had many laws which prevented women from equally participating in society, reflecting a tradition of patriarchy. During the colonial era, most colonies based their laws on English common law, which did not view women as legally separate from their husband. This meant that women were prohibited from having a job, voting or owning property. These traditional beliefs continued to be reflected in the law even after independence. The U.S. Declaration of Independence signed in 1776 does not say all people are created equal, rather it states that all men are created equal. By 1777, all states had passed laws prohibiting women from voting. In 1866, the 14th Amendment confirmed that women should not be allowed to vote. Early American case law reinforced the unequal treatment of women under federal law. In 1872, the U.S. Supreme Court ruled that states had the right to exclude married women from practicing law.²¹⁵ In 1875, the U.S. Supreme court held that women were a special category of non-voting citizens.²¹⁶ It was not until 1900 that every state had a law granting married women control over their property or earnings. In addition, women were not allowed to vote until 1920 when the 19th Amendment to the U.S. Constitution was ratified.

The civil rights movement created a cultural shift, which made it easier to pursue gender equality. Due to social unrest and protests demanding change, several federal laws were adopted by the United States Congress to incentivize women's participation in the economy. In addition, unequal laws were challenged in federal and state courts. As a result, legal reforms were slowly implemented over time, starting with the Equal Pay Act of 1963. This law provides for equal pay for equal work regardless of gender. This was followed by Title VII of the Civil Rights Act of 1964, which prohibited sex discrimination in employment and in the sale, rental and financing of dwellings and other housing-related transaction. To complement Title VII, the Equal Employment Opportunity Commission was also established in 1965 to enforce the employment rights provided under Title VII. In addition, President Lyndon Johnson issued Executive Order 11246 in 1965 which prohibited sex discrimination by federal government contractors and required such contractors to have affirmative action plans for hiring women.²¹⁷ This order has been amended throughout the years and it is still in effect. Thus, federal contractors, who are about twenty percent of the United States workforce, cannot discriminate on the basis of sex. As a result of these laws, many argue that women benefited the most from the civil rights movement.²¹⁸ In 1950 women only made up 30% of the U.S. workforce and this increased to 47% by 2017.²¹⁹

During the women's rights movement of the 1970s, several activists pushed for changes to help more women enter the workforce. As a result, the US Government realized that to increase the number of women in the workforce, they needed to be empowered and supported to receive the appropriate training. Accordingly, Title IX of the Education Amendments Act of 1972 was

²¹⁵ *Bradwell v. Illinois*, 83 U.S. 130 (1872).

²¹⁶ *Minor v. Happersett*, 88 U.S. 162 (1875).

²¹⁷ 30 FR 12319, 12935, 3 CFR, 1964–1965 Comp., p. 339.

²¹⁸ Lytle (2014).

²¹⁹ Menasce Horowitz et al. (2017).

enacted. This law prohibits gender discrimination in any educational program or activity receiving federal financial assistance. This law was groundbreaking because most schools in the US, even private universities and colleges, receive some federal funding. The impact of this law was far reaching. Before this law was enacted, many colleges and universities refused to admit women. As a result of this law, now more women than men are receiving tertiary education in the United States. In addition, Title IX made it illegal for schools to dictate which subjects women could enroll in. Also, it provided protection for pregnant students and students with children. Furthermore, under Title IX schools have a legal obligation to prevent and address any reported sexual harassment.

Realizing that the rampant discrimination against women in the workplace sometimes stems from the fact that women are able to bear children or have children, many women brought civil suits claiming discrimination in the workplace. In 1971, the United States Supreme court found that it was illegal for private employers to refuse to hire a woman with young children while hiring men with young children.²²⁰ This was the first case under Title VII to reach the court and it continued to apply and enforce this law prohibiting sex discrimination. Also in 1971, the United States Supreme court held that it is unconstitutional for the state of Idaho to establish an automatic preference for males as administrators of will.²²¹ These was also a landmark case because it was the first time the court struck down a law for treating men and women differently. It extended the Equal Protection Clause of the Fourteenth Amendment to prohibit discrimination on the basis of sex where there is no rational basis for the discrimination. In 1974, the United States Supreme Court found that it was illegal to force pregnant women to take maternity leave based on the assumption that they are incapacitated due to their physical condition.²²² In 1976, the United Supreme court found that women had a right to receive unemployment benefits during the last three months of pregnancy. These cases culminated in the passage of the United States Pregnancy Discrimination Act of 1978, which was passed as an amendment to Title VII. It prohibits gender discrimination based on pregnancy, childbirth or related medical conditions in employment.

Laws regarding family and property law that did not treat women equally were also challenged to bring about change. In 1981, the U.S. Supreme court held that a husband could not unilaterally control marital property.²²³

Despite the significant progress made by passing the legislation above, female labor-force participation in the US did not significantly increase after these laws were passed because women were still facing overt discrimination when seeking employment. As more women entered congress, they realized that they needed to pass additional laws to incentivize the integration of women into the workforce.²²⁴ As a result, the United States enacted the Economic

²²⁰ Phillips v. Martin Marietta Corporation, 400, U.S. 542 (1971).

²²¹ Reed v. Reed, 404 U.S. 71 (1971).

²²² Cleveland Board of Education v. LaFleur, 414 U.S. 632 (1974).

²²³ Kirchberg v. Feenstra, 450 U.S. 455 (1981).

²²⁴ Seith (2013).

Equity Act, which was introduced in successive iterations from 1981 to 1996.²²⁵ Essentially, this is an omnibus bill that addresses many areas affecting women's economic lives. It acts as an umbrella for several bills which were specifically designed to combat innate and overt discrimination and achieve economic empowerment for women. This act reformed pension and retirement, tax, insurance, inheritance, dependent care, education, healthcare, banking, and employment laws. Also, it created more protections for divorced and widowed women. This comprehensive legislative package made amendments to existing laws and created new laws to address gender inequality. This reform package: established a right to pension benefits by former spouses of military personnel; amended the tax code to provide a dependent care tax credit; eliminated interspousal gift and estate taxes; created child support enforcement procedures; prohibited discrimination in insurance because of race, color, religion, sex or national origin; and eliminated gender-based distinctions in US Code provisions relating to military service, promotion, appointment, separation and retirement.

Furthermore, US lawmakers also introduced the Family Medical Act in 1993²²⁶ to help employees balance their work and family responsibilities. Specifically, it allows employees to take up to 12 weeks of unpaid leave each year for any of the following reasons: the birth and care of the newborn child of an employee; placement with the employee of a child for adoption or foster care; to care for an immediate family member (spouse, child, or parent) with a serious health condition; or to take medical leave when the employee is unable to work because of a serious health condition. This law applies to all public agencies, all public and private elementary and secondary schools, and companies with 50 or more employees.

In 1994, the U.S. Congress passed the Gender Equity in Education Act, which provides for training in gender equity to promote math and science to girls, counsel pregnant teens and prevent sexual harassment.

In 2009, the Lilly Ledbetter Fair Pay Act was passed to better allow individuals to file charges of alleged pay discrimination. Under the 1963 Equal Pay Act, women had difficulties enforcing their right to equal pay due to provisions on the statute of limitations. The new law eliminated these restrictions on the time period for filing complaints.

Recently, the U.S. Congress passed the National Defense Authorization Act in December 2019, which includes provisions providing for paid parental leave for federal employees to alleviate the burden that working parents face. It will give federal workers up to 12 weeks of paid parental leave following the birth, adoption or fostering of a child. This law will become effective in October 2020. The law is significant because the federal government is the largest employer in the US. Federal lawmakers hope that private companies will follow their lead and implement paid parental leave, so that this benefit can become universal.

Collectively, these laws prohibit using gender as a basis to discriminate against women in the workforce. It is important to note that the laws and cases highlighted above were implemented at the federal level. There are also federal rules and regulations implementing these laws. In

²²⁵ *Id.* at p. 2.

²²⁶ Pub.L. 103-3 (1993).

addition, there are similar laws enacted at the state level. All of these laws combined helped to create a cultural shift within the U.S. that empowered women to not only enter the workforce but stay in the workforce and have successful careers.

Annex III. Legal Reforms in Spain, the United Kingdom, and France to Support Gender Equality

As noted in Section II.B of this paper, there are some former colonies that still maintain gender-biased codes inherited from the British, French and Spanish legal systems. Although these European nations have successfully removed these legal impediments, similar reforms have not been implemented in some former colonies. In this Annex, we discuss how these European legal reforms removed such impediments to gender equality to illustrate how this can be done.

1. Spain

The Spanish empire ruled over a wide range of countries during the colonial period from 1492 to 1968. Beginning with Christopher Columbus' arrival in the Caribbean in 1492, Spain became the colonial power of most of Central America and the Caribbean, as well as half of South America. However, this power was heavily contested throughout the 19th century and many Latin American countries gained independence in that time. The last Spanish colonies were relinquished in the 20th century, including the Philippines, Spanish Morocco and Spanish Guinea.²²⁷

With colonization, the Spanish brought along their Castilian legal system, which was influenced by Roman and canonical precepts, and centered around patriarchy. This meant that married women and their property were subject to the husband's authority. Women could not marry or take legal steps without male consent. On the other hand, widows and adult single women did enjoy a high degree of legal independence under the colonial regime. Women also had property rights over their dowry, income and personal goods, as well as the right to inherit assets.²²⁸

Today, Spain ranks ninth in the EU's Gender Equality Index, with the most progress in female representation in political and corporate bodies and the highest scores in access to health services for women.²²⁹ Spain ranks fourteenth in the 2021 Global Gender Gap Index of the World Economic Forum. Spain has achieved the second highest score in the World Bank's Women, Business and the Law Report.

Legal reforms centering on improving gender equality were able to be enacted following the death of the dictator Francisco Franco in 1975 and Spain's entry into the European Community in 1986. Women's rights were sidelined during the dictatorship from 1936 to 1975, which promoted laws enforcing patriarchy. For instance, during the Franco regime, the 1888 Civil Code was reinstated that deprived women of any legal independence regarding work, mobility or family.²³⁰ Women had to obey their husbands' orders, take residence at the place of their choosing, and get their permission to work. Husbands legally represented their wives in court,

²²⁷ Oxford Reference, Timeline: Spanish empire (2012).

²²⁸ Korth and Flusche (1987).

²²⁹ EIGE (2019).

²³⁰ La Vanguardia (2019).

managed their property, and approved their acquisitions and inheritances.²³¹ After Franco's death, these discriminatory laws were quickly removed and a new *Constitution* was adopted in 1978 that included provisions prohibiting gender discrimination (Articles 14, 35 and 9.2).²³² The Spanish Institute for Women's Affairs was created in 1983, followed by equivalent institutions in the autonomous regions.²³³ Over time, demand and policy action have grown to support gender equality with legal reforms to fight inequality and gender gaps more integrally.²³⁴ This has been influenced by developments in international and EU law.

In the ambit of *civil rights*, legal reforms included the enactment of a law on protection measures against sexual violence in 2004.²³⁵ A law on the promotion of personal autonomy and attention for persons in situations of dependency increased the state responsibility to provide care for dependent people and thus to alleviate the care burden mostly carried by women.²³⁶ The Law on Effective Equality of 2007 was a significant legal reform, as it expressly prohibits discrimination on the basis of sex and established concrete strategies to achieve equality.²³⁷ This law is applicable in all areas, especially in political, civil, labor, socio-economic and cultural contexts. It introduced principles such as the specific prohibition to discriminate based on sex, maternity or pregnancy and the concept of indirect discrimination,²³⁸ as well as affirmative action, including a quota requiring 40% female representation in political candidate lists, decision-making bodies and company boards. As a result, Spain has had a considerable female representation in parliament and cabinet.²³⁹ On the private side, listed companies must address their efforts to have a balanced company board in their annual reports,²⁴⁰ and all companies with more than 50 workers must carry out equality plans.²⁴¹

²³¹ Civil Code of 1889; Labor Code of 1938.

²³² Spanish Constitution of 1978: A general prohibition of discrimination on grounds of sex is established in Article 14. Article 35 expressly refers to the right to an equal salary without discrimination on the grounds of sex. Although it does not refer specifically to discrimination based on sex, Article 9.2 establishes the obligation of the public authorities to eliminate the obstacles that impede effective equality of individuals and the groups to which they belong. In this way, Article 9.2 recognizes positive action.

²³³ Benítez (2016).

²³⁴ La Vanguardia (2019).

²³⁵ Organic Law 1/2004.

²³⁶ Law 39/2006.

²³⁷ Organic Law 3/2007.

²³⁸ Supported also by Article 17 of the Workers' Statute (*Estatuto de los Trabajadores*), and its subpara. 4 establishing a preference for female candidates if they are equally suitable as the male candidate; Royal Legislative Decree 2/2015.

²³⁹ Article 14.4, Additional Provision 1 of Organic Law 3/2007; this also applies to members of the governing bodies of the general state administration and of the public entities linked to or dependent on it (Article 52).

²⁴⁰ Article 540.4.c of Royal Legislative Decree 1/2010.

²⁴¹ Royal Decree-Law 6/2019.

With respect to *employment law*, significant reforms have been made to the Workers' Statute to enhance gender equality and maternity protections. Since 2015, it provides for equal pay.²⁴² The dismissal or non-renewal of a fixed-term contract without cause due to pregnancy or pregnancy related leave will be considered null and void, including if such decisions are taken during a probationary period, regardless of whether the employer was aware of the pregnancy.²⁴³ Maternity leave is granted for 16 weeks, with all rights of employment guaranteed during this period.²⁴⁴ In 2019, paternity leave was extended to twelve weeks.²⁴⁵ Further parental leave provisions exist that are individually distributed among both parents and non-transferable. After a ruling by the European Court of Justice, 'breastfeeding leave' was transformed into 'leave for the care of the infant who is breastfed', so that employers would not perceive this as only applicable to and beneficial for women, as it now can be taken either parent.²⁴⁶

The General Law of Social Security provides for a so-called 'maternity supplement', where a mothers' final pension is increased, e.g. by 5%, if she has two children, 10% for three children, and 15% for four or more.²⁴⁷ This provision has been criticized for not applying to fathers and therefore perpetuating gender roles.²⁴⁸

Spain's efforts to improve gender equality have been negatively impacted by the economic crisis starting in 2008 and the ensuing austerity policies, budgetary constraints and cuts in welfare expenditures.²⁴⁹ The female labor force participation rate is currently at 61% compared to 73% for men. While progress resumed after the crisis, the economic fallout of the Covid-19 pandemic could yet again have a regressive effect on gender equality. The uneven concentration of women and men in different sectors of the labor market remains an issue; with women being overrepresented in sectors such as retail, tourism, and service industries, that were hit hardest by lockdowns and social distancing measures. Women also disproportionately carry the burden of unpaid work, spending an average of two hours per day more than men in unpaid household work.²⁵⁰

2. United Kingdom

Through much of the 19th century, women in the U.K. held an inferior position to men in society and had limited legal rights. Notably, women could not vote in elections, education for women was not considered necessary, and they had limited rights within the household having to relinquish all property rights to their husbands upon marriage and had limited custody rights over

²⁴² Article 28 of the Workers' Statute.

²⁴³ Article 55.5 of the Workers' Statute.

²⁴⁴ Article 48.4 of the Workers' Statute.

²⁴⁵ Royal Decree-Law 6/2019.

²⁴⁶ European Commission (2019), at p. 13.

²⁴⁷ Article 60, Royal Legislative Decree 8/2015.

²⁴⁸ European Commission (2019), at p. 13.

²⁴⁹ Benítez (2016); Ballester Pastor (2012).

²⁵⁰ IMF (2020b), at pp. 21-22.

their children. Over the 19th century, the woman's suffrage movement played an important role in advocating for change in women's social status and legal rights. Furthermore, during the First World War, social circumstances drastically changed, which resulted in women having to take on traditionally male jobs to support the war efforts. This resulted in a series of key legal reforms which were enacted primarily during the late 19th century/ early 20th century to remove legal impediments and strengthen women's rights. These include legal reforms in the following areas:²⁵¹

- **Civil rights:** The *Representation of the People's Act* was a key piece of legislation enacted in 1918 to deal with the aftermath of the First World War. The Act abolished property qualifications for men to pave way for voting by soldiers returning from the war, and for the first time, permitted women over 30 who met the minimum property qualifications to vote in the elections. In the same year, *Parliament (Qualification of Women) Act 1918* was passed, which stated that women would not be disqualified by sex or marriage from sitting or voting as members of the House of Commons. In 1928, the *Representation of the People's (Equal Franchise) Act* was enacted which extended voting rights to women over the age of 21. The 1929 elections were the first time in the UK's history where women were allowed to vote in full.²⁵²
- **Protection against gender-based discrimination:** The *Sex Discrimination (Removal) Act* was enacted in 1919 to give women access to certain professions, such as legal practice and accounting. The *1975 Sex Discrimination Act* made it illegal to discriminate against women in work, education and training. In *1970 Equal Pay Act* was enacted to provide for equal treatment between men and women with regard to the terms and conditions of employment and the *Equal Pay (Amendment) Act 1983* was amended to allow women to be paid the same as men for work of equal value. These laws have since been repealed and combined under the *2010 Equality Act*, which combines previous equality and anti-discrimination legislation into a single legislation. The Government Equalities Office in the UK is responsible for policies related to women and for implementing the 2010 Equality Act.
- **Property rights:** Before 1870, married women were required to relinquish all their property and earnings to their husbands under the principle of coverture.²⁵³ The *Married Women's Property Act* enacted in 1870 allowed for married women to hold their earnings independent of their husbands, inherit small sums and hold property inherited from close family. This law was subsequently extended in 1882 to give married women complete independence and control over their own possessions and earnings. In 1922, the *Law of Property Act* was passed permitting men and women to inherit property equally and the *Law of Property (Amendment) Act 1926* permitted women to hold and dispose of this property on the same terms as men.

²⁵¹ The United Kingdom is comprised of four constituent countries (England and Wales, Northern Ireland and Scotland). The application of some of these laws (especially newer laws) across all constituent countries can vary or similar provisions introduced across separate laws.

²⁵² See UK Parliament, Women and the Vote.

²⁵³ Coverture was an English common law doctrine whereby, upon marriage, a woman's legal rights and obligations were subsumed by those of her husband.

- **Family law:** In the early 1800s, women had no rights over their children if their marriage broke down. The *Custody of Infants Act of 1839* permitted a mother to petition for custody of her children up to the age of seven. The *Infant Custody Act of 1873* determined that custody should be based on the needs of the child (rather than parent rights) and allowed women to petition for custody of their children below the age of 16.²⁵⁴
- **Employment laws:** In 1986, *Statutory Maternity Pay Regulations* were introduced to provide women with statutory maternity leave (maternity pay period) of about 18 weeks at the time. Additional measures to strengthen women’s maternity rights and working conditions had been introduced via relevant *European Union Directives* and include rights such as paid time off for prenatal appointments and imposes requirements on employers to protect pregnant women and breastfeeding mothers from harm in the workplace. The relevant EU laws also guarantees women a minimum period of maternity leave, a right to return to the same job and protection from dismissal or any other unfavorable treatment because of pregnancy or maternity. More recently in 2015, shared parental leave came into force allowing fathers to take paid leave following the birth or adoption of a child and allowing more mothers the choice to return to work sooner. The application of some of these laws may be subject to change following the UK’s move out of the EU.

According to the World Economic Forum’s Global Gender Gap Index 2021, the UK is ranked 23rd out of 156 countries. Despite these legal rights, there are still ongoing challenges to gender equality within the UK. Notably, the UK is ranked 55th on the index in terms of Women’s Economic Participation and Opportunity, as a result of ongoing issues related to wage inequality.

3. France

France has implemented several policy reforms that directly address gender inequality, including the 2014 “Law on Real Gender Equality,” that is a comprehensive law embracing all fields that touch on gender equality. In addition, other legislation and policies have provided support to women to enable them to participate in the workforce, including legalizing contraception and family allowances for early childcare. Even though achieving measurable progress, gender reforms in the country were slow and gradual, France today ranks 16th in the world in terms of gender parity²⁵⁵ and its commitment toward women’s economic empowerment is evident in its policies.

In 1789, the French National Constituent Assembly issued the *Déclaration des droits de l’homme et du citoyen* (Declaration of the Rights of Man and the Citizen), providing *civil rights* for men. Clause 1 stated that “Men are born and remain free and equal in rights,” effectively denying women equality under the law. As a result, women demanded the right to liberty, citizenship, equality, property, security, education, and full political participation. They also advocated for reforms regarding inheritance and family laws. Even though women did not gain these rights during the revolution and their political movements were largely suppressed, the

²⁵⁴ See UK Parliament, custody rights and domestic violence.

²⁵⁵ World Economic Forum (2021).

emergence of this first-wave of feminism set the stage for the fight for gender equality from that point forward.²⁵⁶ In 1804, the Napoleonic Code was issued stating that “the husband owed protection to the wife, the wife owed obedience to her husband,”²⁵⁷ setting back women’s effort in achieving equal rights by paving the way for the enactment of several laws which regulated women to an inferior social and economic status.

During the modern era, these laws were slowly repealed. Women obtained the right to legally seek divorce (first became legal in 1792, abolished in 1816, and reinstated in 1884), receive higher education in 1880, married women were given control of their income and open bank accounts without the consent of their husbands in 1886. However, it was not until 1938 when the inferior status of women mandated under the Napoleonic Code was partially repealed as women were no longer required by law to obey their husbands, though they still needed their husbands’ permission to work.²⁵⁸

During World War II, a major shift in household dynamics arose. Women were more present in public life, both as a result of necessity and as choice. Due to a societal shift in traditional gender roles, women were given the right to administer communal *property* and represent their husbands in their absence. In 1944, women in France achieved suffrage, and women’s participation in the 1945 election resulted in the appointment of 33 women delegates in the preliminary assembly charged with the task of drafting the 1958 Constitution. A year later, the Preamble of the 1946 Constitution contained clauses guaranteeing “women equal rights with men in all domains” and special protection for mothers.²⁵⁹ In 1965, women acquired the right to work and open a bank account in their own name without their husbands’ consent, therefore allowing them to manage their own assets independently.²⁶⁰ In 1967, the National Assembly enacted a law permitting the sale of oral contraceptives (“Neuwirth Law”), thereby giving women greater ability to control when they had children, including balancing childbirth and childrearing with career goals.

With respect to *employment law* and parental leave, women first acquired the right to eight weeks of unpaid maternity leave without breach of unemployment contract in 1909, which was extended to 16 weeks over time.²⁶¹ In 2002, a national paternity leave policy was passed into law, providing for leave of 11 consecutive days off (Social Security Code, Article 331-3; Labor Code, Article 1225-35).²⁶² In July 2021, this number of days for parental leave will be increased to twenty-four days. Employees receive 100 percent of their wages during maternity and paternity leave (Social Security Code, Article 331-3-5, 331-3-8, R323-4). In order to improve the sharing of parental responsibilities, particularly with fathers in traditional households, the Real Gender

²⁵⁶ Garbaye (2015).

²⁵⁷ Article 213 of the 1804 Code Napoleon.

²⁵⁸ Dauphin (2016).

²⁵⁹ Sections 3 and 11, Preamble to the Constitution of 27 October 1946.

²⁶⁰ C. Duchon, *Women’s Rights and Women’s Lives in France 1944-1968*, London: Routledge (1994).

²⁶¹ Capital (2020).

²⁶² République Française, Service Public, Congé de paternité et d’accueil de l’enfant d’un salarié du secteur privé.

Equality Act introduced the option to extend the duration of parental leave by an additional six months if the leave is taken by the second parent.²⁶³

Over time, employment law has been continuously reformed to ensure women's equal inclusion in the public sphere, as well as expand their rights in the private sphere. Today, France's labor law prohibits discrimination in employment based on gender, lifts restrictions on women's employment in industrial undertakings at night, grants paid maternal and paternity leave, and protects employees against workplace harassment (*Code du Travail*). Women are also able to be the head of the household (*Code Civil, Art. 213*). In terms of achieving political parity, the 1999 Constitutional amendment promotes "equal access by women and men to elective offices and posts as well as to position of professional and social responsibility."²⁶⁴

Nationally mandated *gender quotas* have also been adopted in several policy domains; including, political representation, territorial collectivities, and several civil society institutions (Law No. 88-227, article 9; Electoral Code Articles 191, 294 295, 299, 300, and 303).²⁶⁵ For instance, for congressional elections, political parties must present the same number of candidates for each sex and non-compliance with this rule results in financial penalties. In 2008, the Constitution was amended to extend the parity clause to "social and professional responsibilities". This paved the way for the enactment in 2011 of the Cope-Zimmerman Law that imposed gender quotas on corporate boards. The law required that by 2014, 20 percent of the membership of boards of publicly listed companies (as well as unlisted companies with more than 500 workers and average revenues or total assets of a certain level), be women; and that women's representation increase to 40 percent by 2017.²⁶⁶ Recent statistics show that the share of women on the boards of listed companies is 45 percent.²⁶⁷

In 2000, France introduced a gender mainstreaming and budget initiative (*Jaune Budgétaire no. 137, Men's and Women's Equality*). This initiative introduces an appendix to the budget statement that identifies the funds allocated by each ministry towards women's rights programs and gender equality. Hence, each ministry is required by law to develop its own gender equality guidelines and indicators and report on their progress accordingly.²⁶⁸ In August 2013, the French government introduced two ministerial circulars to ensure gender mainstreaming in the public policy process. The first circular mandates gender mainstreaming in the assessment of each new law introduced. The second circular mandates, from 2013 onwards, at least "20% of each gender into senior management positions of the civil service, 30% in 2015 and at least 40% in 2018."²⁶⁹ Nearly a year later, the French government passed into law the "Act for Real Equality between

²⁶³ European Parliament (2015), p. 22.

²⁶⁴ Article 1, Constitution of 4 October 1958, as amended.

²⁶⁵ European Parliament (2015).

²⁶⁶ European Parliament (2015), p. 12.

²⁶⁷ World Economic Forum (2021), p. 194.

²⁶⁸ Council of Europe (2005), at p. 29.

²⁶⁹ European Parliament (2015), at p. 9.

Women and Men,” which promoted an “integrated and transversal approach to gender equality.”²⁷⁰ It specifically addressed professional equality; the fight against specific vulnerabilities for women; protection of women from violence; the image of women in the media; and political, social and professional parity.

France has a rich history that shows the importance of striving to remove legal impediments to achieve women’s empowerment and gender equality. Due to the legal reforms described above and the major shift during World War II in household dynamics, women account for 48 percent of the labor force and 34 percent of employment share in senior and middle management.²⁷¹ However, while women’s rate of employment is high, it is also characterized by a high rate of part-time employment, especially in low-skilled/low-paid economic sectors and gender occupational segregation is strong.²⁷²

In 2016, men in France out-earned women by 28.5 percent.²⁷³ To combat the *gender pay gap*, the French government passed a law in 2018, requiring companies employing at least 50 employees to provide an accurate estimate of the gender pay gap in their organizations using specific data based on an annual reference period chosen by the employer. This includes individual wage increase disparity (not related to promotion); gap in the percentage of promotions; percentage of female employees with a pay increase within the year following their return from maternity leave (if pay increases has occurred in the period during which the leave was taken) ; and number of employees of the under-represented gender among the top 10 highest salaries. Companies are also required to implement corrective measures to address any gender-related pay disparities and the failure to do so may result in financial penalties.

Though more work needs to be done, as a result of this continued commitment, France currently ranks 16th in the world according to the 2021 Global Gender Index.²⁷⁴

²⁷⁰ Loi No. 2014-873 pour l’égalité réelle entre les femmes et les hommes; EIGE, Country Specific Information on Gender Mainstreaming, France.

²⁷¹ World Bank Data.

²⁷² European Parliament (2015) at p. 13-15

²⁷³ Gouvernement Francais, Plan National De Relance Et De Résilience 2021 at p.41.

²⁷⁴ World Economic Forum (2021).

Annex IV. The IMF's Contributions in Assisting Members to Address Gender Inequality Consistent with its Mandate

The IMF is an international organization established by treaty, the IMF's Articles of Agreement.²⁷⁵ It was established at the Bretton Woods Conference of the United Nations in New Hampshire in July 1944 along with the International Bank for Reconstruction and Development (IBRD—World Bank Group) and has been in operation since December 27, 1945. It was established with 29 original members and currently has 190 members.

The IMF was intended to be a pillar of the international monetary and economic system that would promote stability and growth to avoid a repetition of the issues faced during the inter-war period (1918-1939), such as high inflation, speculative foreign exchange markets, restrictions to international trade and payments, widely fluctuating exchange rate movements, sharp drop in economic activity, etc.²⁷⁶

All international organizations must act in accordance with their mandate, as set forth in their respective organizational documents. The IMF's mandate is set forth in Article I of the Articles of Agreement. This provision endows the IMF with the following purposes:

- i. “To promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.
- ii. To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.
- iii. To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.
- iv. To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade.
- v. To give confidence to members by making the general resources of the Fund temporarily available to members under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.
- vi. In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members.”

As noted at the end of Article I, “the Fund shall be guided in all its policies and decisions by the purposes set forth in the Article.”

²⁷⁵ [Articles of Agreement](#) of the International Monetary Fund (hereinafter, ‘the Articles’).

²⁷⁶ For more information, see Steil (2013).

The Fund carries out its mandate and functions under the Articles of Agreement through its three key functions: surveillance, financial assistance to members, and capacity development (which includes technical assistance and training). The following is an overview of the IMF's contributions in assisting members address gender inequality issues in accordance with its role and mandate:

1. Fund surveillance

Under Article IV of the IMF's Articles of Agreement, surveillance is both bilateral (i.e., the IMF assesses members' compliance with their obligations under Article IV, Section 1 of the Articles) and multilateral surveillance (pursuant to which the IMF oversees the international monetary system to ensure its effective operation under Article IV, Section 3 of the Articles). Bilateral surveillance is conducted mainly through Article IV Consultations, which take place, normally on an annual basis, with all members.²⁷⁷

a. Bilateral Surveillance

The Articles of Agreement provide that the IMF shall oversee member's compliance with their obligations under Article IV, Section 1. Specifically, Article IV(1)(i) provides that each member shall "endeavor to direct its economic and financial policies toward the objective of fostering orderly *economic growth* with reasonable price *stability*." Members are required to collaborate with the Fund and other members to assure orderly exchange arrangements and to promote a stable system of exchange rates (i.e., "systemic stability").

The IMF's authority to advise on gender issues stems also from its primary policy on surveillance, namely the 2012 Integrated Surveillance Decision (ISD).²⁷⁸ The ISD recognizes that systemic stability is most effectively achieved by each member adopting policies that promote its own balance of payments stability and domestic stability. Bilateral surveillance covers the assessment of exchange rate policies, as well as monetary, fiscal, and financial sector policies. This can include related to gender outcomes/women's economic empowerment (e.g., fiscal policies are often part of the toolkit for addressing key gender gaps). Other policies, including when related to gender/women's economic empowerment, will also be examined if they significantly influence present or prospective balance of payments or domestic stability, which includes policies supportive of inclusive growth.²⁷⁹

In light of this, the IMF has provided advice on policies to close gender gaps and foster women's economic empowerment in a number of Article IV consultations, including the following:

²⁷⁷ IMF (2015a).

²⁷⁸ Decision on Bilateral and Multilateral Surveillance, IMF Decision No. 15203-(12/72), July 18, 2012; see also IMF (2012), and IMF (2013a), Annex 7.

²⁷⁹ IMF (2013a).

- i. In the 2015 Article IV Consultation for India, the IMF recommended investing in transport to ease the transition from informal to formal employment of women.²⁸⁰
- ii. In the 2015 Article IV Consultation for Mali, the IMF emphasized the economic benefits of investing in girls' education.
- iii. In the 2015 Article IV Consultation for Germany, the IMF highlighted the need for high quality and affordable childcare and called for tax reforms to avoid penalizing secondary earners (usually women).
- iv. In the 2015 Article IV Consultation for Mauritius, the IMF examined ways of expanding women's access to finance.
- v. In the 2017 Article IV Consultation for Rwanda, the IMF recommended increasing access to quality health and education services that would help improve female labor force participation.
- vi. In the 2017 Article IV Consultation for Morocco, the IMF emphasized the potential for gender budgeting.
- vii. In the 2019 Article IV Consultation for Malaysia, the IMF recommended prioritizing female labor force participation and productivity by improving education, accelerating the innovation and technology adoption, and encouraging a move up the value chain.
- viii. In the 2019 Article IV Consultation for Japan, the IMF noted that social security and tax reforms should reform disincentives to full-time and regular work to help address gender inequality.
- ix. In the 2019 Article IV Consultation for Morocco, the IMF emphasized the need for further efforts to improve female education and increase access to affordable childcare.

b. Multilateral Surveillance

Pursuant to the Articles, the IMF oversees the international monetary system in order to ensure its effective operation (Article IV, Section 3(a)). The Articles recognize that the essential purpose of the international monetary system is to provide a framework that facilitates the exchange of goods, services and capital among countries and sustains sound economic growth. The Fund focuses on issues that may affect the effective operation of the international monetary system, including (a) global economic and financial developments and the outlook for the global economy, including risks to global economic and financial stability, and (b) the spillovers arising from policies of individual members that may significantly influence the effective operation of the international monetary system, for example by undermining global economic and financial stability. The principal objective is to help create the underlying environment that is necessary for financial and economic stability.

While coverage of gender issues in multilateral surveillance has so far been limited, the Fund has increasingly taken up gender issues in its flagship reports, e.g., the World Economic Outlook, for example, given that women were among the ones hit hardest by the economic fallout of the pandemic. In addition, gender issues in one member have so far not expressly been

²⁸⁰ See also the IMF Country Report No. 16/76, which describes the macroeconomic impacts of gender inequality and informality in India.

acknowledged as generating spillover effects of the type covered in the Fund's multilateral surveillance. Nevertheless, global interconnectedness continues to evolve in its complexity, changing the nature of exposure to spillovers within and across regions and increasing the scope for new spillovers that may significantly influence the effective operation of the international monetary system.

2. Financial assistance to members

In accordance with Article I(v) of the Articles of Agreement, the Fund can provide temporary financing to members from its general resources to help them address their balance of payments problems under adequate safeguards to Fund's resources. More specifically, Article V, Section 3(a) provides that the Fund shall adopt policies on the use of its general resources that will assist members to solve their balance of payments problems in a manner consistent with the Articles of Agreement. Furthermore, under Article V, Section 2(b), the Fund can also provide financial services to members, upon request, provided these are consistent with the Fund's purposes.

In light of the above, the IMF has two main sources from which financial assistance is provided to its members:

- a. the General Resources Account (GRA) - available to all IMF members as set forth in Article I(v) and Article V, Section 3(a) of the Articles of Agreement; and
- b. the Poverty Reduction and Growth Trust (PRGT) - available to PRGT-eligible members (low-income countries), which was established under the authority of Article V, Section 2(b) of the Articles of Agreement.

The IMF's financial assistance in the GRA helps members to resolve their balance of payment problems without undue recourse to measures destructive of national or international prosperity; rebuild their international reserves; stabilize their currencies; continue paying for imports; and restore conditions to achieve medium-term external viability while fostering strong and sustainable economic growth. The IMF provides financing to members through "Fund arrangements" (such as the Stand-By Arrangement) or by approving outright "purchases or disbursements" (e.g., emergency assistance through the Rapid Credit Facility or Rapid Financing Instrument).

The Articles allow the IMF to adopt policies on the use of its general resources, including policies on stand-by or similar arrangements, and other policies for special balance of payment problems that will assist members to solve their balance of payment problems in a manner consistent with the Articles and under adequate safeguards for the temporary use of the general resources of the Fund (Art. Sect. V(3)(a)). Thus, the IMF has developed policies to this end, including policies on program design and conditionality. For instance, in the GRA, the Extended Fund Facility is intended, in part, to assist economies that require substantial structural reforms

because they are characterized by slow growth and an inherently weak balance of payment position which prevents the pursuit of an active development policy.²⁸¹

With respect to the PRGT, it was designed to provide loans on concessional terms to low-income members to promote stable and sustainable positions and poverty reduction through growth.²⁸² Thus, members receiving PRGT financing are required to design programs aimed at supporting economic growth, job creation and poverty reduction. The Fund's general policies on program design and conditionality applicable to financing to members in the general resources account, also apply to the PRGT financing.

When measures or variables are critical to achieving program goals, then such measures or variables are set forth as “conditionality”.²⁸³ The degree to which the Fund may set conditions related to economic growth and stability depends on the member's balance of payment need, their particular circumstances, and the relevant Fund facility or instrument under which resources are provided. Under the IMF's legal framework, there are different forms of program conditionality, including structural conditionality. In turn, structural conditionality can be of two types:

- i. **prior actions:** measures whose upfront implementation is considered critical for the successful implementation of the Fund-supported program, and that need to be completed before the scheduled date of the IMF Executive Board's discussion to approve an arrangement or complete a review; and
- ii. **structural benchmarks:** measures that constitute clear markers in the assessment of progress in implementation of critical structural reforms aimed at meeting the goals of the member's program or monitoring its implementation.

Accordingly, if closing gender gaps or removing specific impediments to women's economic empowerment is considered by the IMF as critical to achieve the goals of a member's economic adjustment program or to monitor the implementation of such program, then these issues can be addressed through conditionality. The IMF has assisted its members in addressing gender issues through conditionality in several cases including the following:

- i. In Egypt, there was a structural benchmark in the 2016 Extended Arrangement under the Extended Credit Facility requiring the authorities to spend EGP 250 million to improve the availability of public nurseries and other facilities that can enhance the ability of women to actively seek jobs.
- ii. In Niger, there was a structural benchmark in the 2016 Extended Arrangement under the Extended Credit Facility requiring the authorities to update the 2008 national policy on gender to address gender equality issues.

²⁸¹ Extended Fund Facility, IMF Decision No. 4377-(74/114), as amended March 14, 2012, at para. I (ii)(b).

²⁸² Poverty Reduction and Growth Trust, IMF Decision No. 14593-(10/41), as amended December 4, 2018, at para. I of the Annex.

²⁸³ Guidelines on Conditionality, IMF Decision No. 12864-(02/102), September 25, 2002, as amended, at para. 7(a).

- iii. In Pakistan, there was a structural benchmark in the 2019 Extended Arrangement under the Extended Fund Facility requiring the authorities to launch a financial inclusion strategy for women and update the benefit structure of an educational program to narrow the educational gender gap.
- iv. In São Tomé and Príncipe, there was a structural benchmark in the 2019 Extended Arrangement under the Extended Credit Facility requiring the authorities to submit a national strategy on women’s economic empowerment and financial inclusion.

In addition, the Fund has also supported other structural reforms aimed at improving women’s economic empowerment outside program conditionality but related to the relevant members’ own agenda on structural reforms they were planning or already implementing. A few examples of these types of commitments undertaken by members that do not constitute program conditionality are provided below:

- i. In Jordan, the 2016 Extended Arrangement under the Extended Fund Facility included a commitment by the authorities to promote gender equality by facilitating access to publicly subsidized nurseries for low-income people, improving public transportation safety for women, and more effective regulation of home-based employment activities.
- ii. In Argentina, the 2018 Stand-by Arrangement included a commitment by the authorities to increase public childcare in order to increase female labor force participation. Specifically, the draft federal budget for 2019 includes a 12 percent expansion of public childcare.

3. Capacity Development

Pursuant to Article V, Section 2(b) of the Articles, the IMF has discretion to provide technical and financial services consistent with its purposes and upon request. This includes providing capacity development (CD) (which includes technical assistance— and training) to member countries to help strengthen institutional capacity to design and implement effective macroeconomic, financial, and structural policies.

The IMF provides CD to members in areas of its core mandate and expertise. Sometimes, the IMF provides CD also in the area of law reform with the aim to assist members to reform their legal frameworks to foster economic and financial stability and growth. CD is voluntary for both the IMF and the member. The IMF’s Executive Board approves CD to non-members. The IMF’s management approves CD to members. The IMF provides support mainly to members’ authorities through TA advice, and training, to strengthen human and institutional capacity resources, and to design appropriate macroeconomic, financial, and structural policies. The IMF uses its own resources to provide CD, but also administers donor’s resources and sets up administered accounts for CD.²⁸⁴

²⁸⁴ For more information on the IMF’s mandate, see also IMF (2010a) and IMF (2010b).

Accordingly, the IMF has the ability to provide CD to members on structural measures that aim at fostering women's economic empowerment and helping to close the gender gap for better macroeconomic and financial stability outcomes. In this regard, one of the most important areas of focus for IMF CD has been assisting countries with "gender budgeting". This is an approach to fiscal policy and public financial management instruments that promotes gender equality and the empowerment of women and girls by ensuring that adequate resources are allocated toward these goals. Specifically, the IMF has provided advice on gender budgeting in over 60 countries, including Albania, Austria, Cambodia, Ethiopia, Niger, and Ukraine.

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