



4. Data Notes

Women, Business and the Law highlights legal gender differences worldwide. Specifically, the report examines laws and regulations that affect women's ability to be entrepreneurs and employees. Legislation can affect women's economic potential directly and indirectly. Thus, the indicators covered in the report capture both laws that directly differentiate between men and women and laws that indirectly have a greater impact on women's ability to earn an income, start a business or get a job. The *Women, Business and the Law* project worked with contributors in each of the economies covered to determine the sources of gender differentiation in the law. Data from the surveys were checked for accuracy by referencing primary legal sources to revise or expand the information collected. The data was collected over a two-year period that ended in April 2015.

With regard to women's rights, different economies reflect different cultural norms and values in their legislation. Though there has been progress toward gender parity, restrictions that limit women's prospects as entrepreneurs and employees remain. This report provides objective, easily comparable data to inform dialogue and research about women's economic rights and opportunities.

Covering 173 economies, *Women, Business and the Law* provides comparable data on the following seven areas:

- **Accessing institutions** explores women's legal ability to interact with public authorities and the private sector in the same ways as men.
- **Using property** analyzes women's ability to access and use property based on their ability to own, manage, control and inherit it.
- **Getting a job** assesses restrictions on women's ability to work, such as prohibitions on working at night or in certain occupations. This indicator also covers laws on work-related maternity, paternity and parental benefits, retirement age, equal remuneration for work of equal value and nondiscrimination in hiring.
- **Providing incentives to work** examines personal income tax credits and deductions available to women relative to men and the provision of childcare and education services.

- **Building credit** identifies the minimum loan thresholds of private credit bureaus and public credit registries and tracks bureaus and registries that collect information from microfinance institutions, utilities and retailers.
- **Going to court** considers the ease and affordability of accessing justice by examining small claims courts, women's ability to testify in court and the incidence of women judges on constitutional courts.
- **Protecting women from violence** examines the existence of legislation on domestic violence, sexual harassment, marital rape, age of marriage and protection orders.

Since the publication of *Women, Business and the Law 2014* there have been methodological changes in the seven indicators, both in the number of questions covered and in the way the previously existing questions were analyzed. The principal methodological changes are summarized at the end of this chapter and new questions are footnoted throughout the text.

Economy coverage and characteristics

The economies covered in this report are listed in table 4.1.

This report is global in scope. It builds on the experience of the *Doing Business* project in developing objective indicators of impediments to entrepreneurship and employment by applying specific analysis to conditions for women. *Doing Business* analyzes regulations in 189 economies that apply to a business throughout its life cycle, including start-up and operations, trading across borders, paying taxes and resolving insolvency. As in the *Doing Business* project, *Women, Business and the Law* uses formal laws as a starting point for analysis.

The report's indicators were constructed using responses from expert country practitioners in family, labor and criminal law: including lawyers, judges, academics and members of civil society organizations working on gender issues. The data were collected through several rounds of interaction with these respondents, including standardized questionnaires, conference calls, written correspondence and visits by the team.

Besides filling out written questionnaires, *Women, Business and the Law* respondents provide references to the relevant

TABLE 4.1 ECONOMIES COVERED BY *WOMEN, BUSINESS AND THE LAW 2016*

Region	Number of economies	Economies by region
East Asia & Pacific	18	Brunei Darussalam; Cambodia; China; Fiji; Hong Kong SAR, China; Indonesia; Lao PDR; Malaysia; Mongolia; Myanmar; Papua New Guinea; Philippines; Singapore; Taiwan, China; Thailand; Timor-Leste; Tonga; Vietnam
Europe & Central Asia	23	Albania; Armenia; Azerbaijan; Belarus; Bosnia and Herzegovina; Bulgaria; Croatia; Georgia; Kazakhstan; Kosovo; Kyrgyz Republic; Latvia; Lithuania; Macedonia, FYR; Moldova; Montenegro; Romania; Russian Federation; Serbia; Tajikistan; Turkey; Ukraine; Uzbekistan
OECD high income	32	Australia; Austria; Belgium; Canada; Chile; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Iceland; Ireland; Israel; Italy; Japan; Korea, Rep.; Luxembourg; Netherlands; New Zealand; Norway; Poland; Portugal; Slovak Republic; Slovenia; Spain; Sweden; Switzerland; United Kingdom; United States
Latin America & Caribbean	32	Antigua and Barbuda; Argentina; Bahamas, The; Barbados; Belize; Bolivia; Brazil; Colombia; Costa Rica; Dominica; Dominican Republic; Ecuador; El Salvador; Grenada; Guatemala; Guyana; Haiti; Honduras; Jamaica; Mexico; Nicaragua; Panama; Paraguay; Peru; Puerto Rico (U.S.); St. Kitts and Nevis; St. Lucia; St. Vincent and the Grenadines; Suriname; Trinidad and Tobago; Uruguay; Venezuela, RB
Middle East & North Africa	19	Algeria; Bahrain; Djibouti; Egypt, Arab Rep.; Iran, Islamic Rep.; Iraq; Jordan; Kuwait; Lebanon; Malta; Morocco; Oman; Qatar; Saudi Arabia; Syrian Arab Republic; Tunisia; United Arab Emirates; West Bank and Gaza; Yemen, Rep.
South Asia	8	Afghanistan; Bangladesh; Bhutan; India; Maldives; Nepal; Pakistan; Sri Lanka
Sub-Saharan Africa	41	Angola; Benin; Botswana; Burkina Faso; Burundi; Cameroon; Chad; Congo, Dem. Rep.; Congo, Rep.; Côte d'Ivoire; Equatorial Guinea; Ethiopia; Gabon; Ghana; Guinea; Kenya; Lesotho; Liberia; Madagascar; Malawi; Mali; Mauritania; Mauritius; Mozambique; Namibia; Niger; Nigeria; Rwanda; São Tomé and Príncipe; Seychelles; Sierra Leone; Senegal; South Africa; South Sudan; Sudan; Swaziland; Tanzania; Togo; Uganda; Zambia; Zimbabwe

laws and regulations. The *Women, Business and the Law* team collects the texts of relevant laws and regulations and checks questionnaire responses for accuracy. Questionnaire responses are verified against codified sources of national law, including constitutions, marriage and family codes, labor laws, passport procedures, citizenship rules, inheritance statutes, tax regulations, land laws, gender equality laws, civil procedure rules, electoral laws, social security codes, criminal laws and laws on violence against women. *Doing Business 2016* surveys were also used to develop some of the questions in the building credit indicator.

Women, Business and the Law requires each legal data point to have a citable legal source, and to ensure transparency of the data the source is provided for every data point on the project website (wbl.worldbank.org). The website also provides more detailed data on each economy, with links to the legal sources used.

The report team welcomes feedback on the methodology and construction of the indicators with the hope of improving both its coverage and scope. Feedback on all aspects of the report can be offered through the project website.

The *Women, Business and the Law* methodology has several useful characteristics:

- It is transparent and uses factual information derived directly from laws and regulations.
- Because the assumptions used when collecting the data are standardized, comparisons are valid across economies.
- The data identify both potential obstacles to women in business and legislative sources that can be changed as a result of the new information.

While *Women, Business and the Law* focuses on written laws, there is often a large gap between law on the books and actual practice. Thus, women do not always have access to the equality they are legally entitled to. What this project attempts to do, however, is to identify areas where there is still formal legal differentiation and clarify how these legal differences affect women.

The following 142 questions were asked about the seven main topics for 173 economies, producing a total of 24,566 data points. Each question is followed by information on how the answers were standardized and made comparable across all economies. Any assumptions are also listed.

ECONOMY CHARACTERISTICS

Gross national income per capita

Women, Business and the Law 2016 reports 2014 income per capita as published in the World Bank's World Development Indicators 2015. For cost indicators expressed as a percentage of income per capita, 2014 gross national income (GNI) Atlas method in current U.S. dollars is used as a denominator. GNI data based on the Atlas method were not available for Austria; Bahrain; Barbados; Belize; Brunei Darussalam; Czech Republic; Djibouti; Finland; the Islamic Republic of Iran; Jamaica; Kuwait; Luxembourg; Malta; New Zealand; Oman; Papua New Guinea; Puerto Rico (U.S.); Saudi Arabia; Slovak Republic; Slovenia; Spain; Suriname; Switzerland; the Syrian Arab Republic; Taiwan, China; Trinidad and Tobago; Tunisia; West Bank and Gaza; and the Republic of Yemen. In these cases GDP or GNP per capita data and growth rates from other sources, such as the International Monetary Fund's World Economic Outlook database and the Economist Intelligence Unit were used.

Region and income group

Women, Business and the Law uses the World Bank regional and income group classifications, available at <http://data.worldbank.org/about/country-and-lending-groups>. Regional averages presented in figures and tables in the *Women, Business and the Law* report include economies from all income groups (low, lower middle, upper middle and high income), though high income OECD economies are assigned the "regional" classification OECD high income.

Female population and labor force participation rate

Women, Business and the Law 2016 reports midyear 2014 female population data as published in the World Bank's World Development Indicators 2015. That publication was also used to obtain data on the female labor force participation rate, as percentage of the female population age 15–64.

Accessing institutions

Assumptions

It is assumed that the woman

- Resides in the main business city of the economy being examined.
- Has reached the legal age of majority and is capable of making decisions as an adult; if there is no legal age of majority, the woman is assumed to be 30 years old.
- Is sane, competent, in good health and has no criminal record.
- Is a lawful citizen of the economy examined.
- Where the question assumes the woman or man is married, the marriage is monogamous and registered with the authorities.
- Where the question assumes the woman or man is unmarried, she or he has never been married.
- Where the answer differs according to the legal system applicable to the woman in question (as may be the case in economies where there is legal plurality), the answer used will be the one that applies to the majority of the population.

Answers to the questions are based on codified law and not how that law is applied in practice. Therefore, customary law is not taken into account unless it has been codified. Questions on the status of customary law within the legal system refer to its existence and position within the hierarchy of legislation but

do not assess its content. Reciprocal restrictions that govern the conduct of both spouses are not covered; this indicator measures only restrictions that govern the conduct of the wife, but not the husband.

Constitutional rights

This subtopic analyzes constitutional provisions that are relevant for gender equality. In economies that do not have a unified written constitution but do have basic laws or similar documents that have been recognized as having the same legal force as a constitution, for example a supreme court decision, or economies that have enacted a charter of fundamental rights, these documents are used as the basis for the questions. For economies without a written constitution, these questions do not apply.

The seven questions for this subtopic are:

1. Does the constitution contain a clause on nondiscrimination?
 - For the answer to be "Yes," the constitution must use either the word discrimination or the word nondiscrimination.
 - The answer is also "Yes" even when there is a "claw-back" provision granting exceptions to the nondiscrimination clause for certain areas of the law, such as inheritance, family and customary law.
 - The answer is "No" if
 - there is no nondiscrimination provision, or

- the nondiscrimination language is present in the preamble but not in an article of the constitution, or
 - there is a provision that merely stipulates that the sexes are equal, or the sexes have equal rights and obligations—this is considered to be an equality clause, or
 - there is merely a provision stipulating that people are equal before the law, but no provision is dedicated to nondiscrimination, or
 - there is merely language negating privileges based on categories, such as “There shall be no privileges based on birth, sex, class or religion,” or
 - the constitution refers to an international treaty that addresses discrimination but does not have its own nondiscrimination provision, or
 - the constitution does not ban discrimination but empowers the legislative branch to enact laws fostering nondiscrimination.
2. If there is a nondiscrimination clause in the constitution, does it mention gender?
- The answer is “Yes” if
 - the constitution explicitly states that gender or sex is a protected category for nondiscrimination, or
 - the nondiscrimination clause does not explicitly mention gender or sex but specifies that male and female citizens are equal without discrimination.
 - The answer is also “Yes” if there is a clawback provision granting exceptions to the nondiscrimination clause for certain areas of the law, such as inheritance, family and customary law.
 - The answer is “N/A” if there is no nondiscrimination provision.
 - The answer is “No” if
 - there is no nondiscrimination provision, or
 - there is a nondiscrimination provision that does not specify gender or sex as protected categories, or
 - the nondiscrimination language that includes sex is present in the preamble but not in an article of the constitution, or
 - there is merely a provision stipulating that the sexes are equal or the sexes have equal rights and obligations—this is considered to be an equality clause, or
 - there is merely a stipulation that the sexes are equal before the law but there is no provision dedicated to nondiscrimination, or
 - there is merely language negating privileges based on sex, or
 - there is merely a provision entitling both sexes to fundamental rights without use of the word discrimination, although a phrase such as “without regard to sex” or “whatever his sex” is used.
3. Does the constitution contain a clause on equality?
- The answer is “Yes” if there is an equal protection or a general equality provision in the constitution, and the provision applies generally to “all citizens” and does not specify women as a protected category.
 - The answer is “No” if there is no equal protection or general equality provision in the constitution.
- 4a. Is customary law recognized as a valid source of law under the constitution?
- The answer is “Yes” if
 - the constitution explicitly recognizes customary law or customary law courts, or
 - the constitution refers to methods by which customary law will be aligned with constitutional principles, or by which customary law is to be determined, or the constitution refers to requirements that customary chiefs be consulted before enactment of legislation, or
 - the constitution allows laws that applied before the constitution comes into force to continue to have the force of law, if the country had a robust system of customary law in place at the time.
 - The answer is “No” if
 - there is no explicit constitutional recognition of customary sources or systems of law, or
 - the constitution recognizes customary law to be applied only in certain limited territorial areas.
 - This question does not include customary contractual terms or other forms of implied usage.
- 4b. If customary law is recognized as a valid source of law under the constitution, is it invalid if it violates constitutional provisions on nondiscrimination or equality?
- The answer is “Yes” if
 - the constitution provides that customary law is considered invalid if it violates other provisions of constitutional law, or

- the constitution makes reference to methods by which customary law will be aligned with constitutional principles on nondiscrimination or equality, or
- the constitution establishes that customary laws or rights are guaranteed equally to men and women.
- The answer is “No” if customary law takes precedence over constitutional nondiscrimination or equality provisions or the constitution is silent with regard to a hierarchy of laws or provisions.
- The answer is “N/A” if there are no constitutional provisions on nondiscrimination or equality, or the constitution does not explicitly state that customary law is considered a valid source of law.

5a. Is personal law recognized as a valid source of law under the constitution?

- The answer is “Yes” if
 - the constitution explicitly recognizes personal or religious law, or
 - the constitution makes reference to methods by which personal law will be aligned with constitutional principles or by which personal law is to be determined, or provides for a religious council or other body to advise on the passage of personal laws, or recognizes religious systems of law or religious sources of law, or
 - the constitution allows laws that applied before the constitution came into force to remain valid, if the country had a robust system of personal law in place at the time.
- The answer is “No” if there is no explicit constitutional recognition of religious sources or systems of law.

5b. If personal law is recognized as a valid source of law under the constitution, is it invalid if it violates constitutional provisions on nondiscrimination or equality?

- The answer is “Yes” if the constitution provides that personal or religious law is considered invalid if it violates other provisions of constitutional law.
- The answer is “No” if
 - personal or religious law takes precedence over constitutional provisions on nondiscrimination or equality, or
 - religious law is declared to be the basis of all legislation, and the constitution either contains a supremacy clause or is silent with regard to a hierarchy of laws or provisions.

- The answer is “N/A” if there are no constitutional provisions on nondiscrimination or equality, or if personal or religious laws are not considered valid sources of law under the constitution.

Quotas

This subtopic focuses on the existence of quotas for corporate boards, parliaments and local governments. The five questions capture mandatory quotas concerning the number of seats reserved for women or the proportion of women on candidate lists that parties submit for elections. In hybrid quota systems where both candidate list and reserved seat mechanisms are used to determine the women’s quota, the more dominant system that ultimately establishes the quota is counted. In cases of cumulative quota systems where the final quota is determined by adding together a reserved seat and a candidate list system, both are counted.

6. What are the quotas for women on corporate boards?

- Proportions are entered in percentage terms, e.g., 40%.
- If the quota is an absolute number and does not depend on the size of the corporate board, the answer is > 0 .
- “No quota” means there is no quota in place.
- Percentages are entered if there are quotas for private sector companies, even if they apply only to certain companies, such as those of a certain size or those listed on a stock market.
- The answer is “N/A” if quotas exist only for public sector or government-owned companies.
- The question does not cover voluntary or recommended quotas.

7. What are the quotas for women representatives in parliament?

- Quotas reflect reserved seats and proportions are entered in percentage terms, e.g., 40%.
- “No quota” means there is no quota in place.
- The question does not cover voluntary or recommended quotas.
- If the parliament has two chambers and the law specifies a quota for one but not the other, the answer reflects the quota only for the chamber that has a quota.
- If both parliamentary chambers have quotas, only the quota for the lower chamber, e.g., the national or people’s assembly, is counted.

8. What are the quotas for women representatives in local government?
- This question aims to capture seat quotas for the municipal level.
 - Where the main business city is both a municipal and a federal entity, it is treated as a municipality.
 - Where municipal gender quotas vary, the quota for the municipality that includes the main business city will be reflected.
 - Proportions are entered in percentage terms, e.g., 40%.
 - “No quota” means there is no quota in place.
 - The question does not cover voluntary or recommended quotas.
9. What are the quotas for women representatives on candidate lists in national elections?¹
- If there is a quota for candidate lists, the percentage will be indicated.
 - If the quota refers not to a percentage but to where women must be placed on the list (e.g., every third candidate must be a woman), this information is converted to a percentage format (in this example, 33%).
 - If the quota is an absolute number, the answer is > 0.
 - If the quota varies depending on the length of the candidate list or the number of seats contested, the highest quota is recorded.
 - “No quota” means there is no quota for candidate lists.
 - The question does not apply to quotas for internal party elections.
 - If the parliament has two chambers, and the law specifies a quota for one but not the other, the answer reflects the quota only for the chamber that has the quota. If both parliamentary chambers have quotas, only the quota for the lower chamber, e.g., the national or people’s assembly, is counted.
10. What are the quotas for women representatives on candidate lists in local elections?²
- This question aims to capture quotas for the municipal level.
 - Where the main business city is both a municipal and a federal entity, it is treated as a municipality.
 - If there is a quota for candidate lists, the percentage will be indicated.
 - If the quota refers not to a percentage but to where women must be placed on the list (e.g., every third candidate must be a woman), this information is converted to a percentage format (in this example, 33%).
 - If the quota varies depending on the length of the candidate list or the number of seats contested, the highest quota is recorded.
 - If the quota is an absolute number, the answer is > 0.
 - “No quota” means there is no quota for candidate lists.
 - This question does not apply to quotas for internal party elections.
- Rights of married and unmarried women*
- This subtopic addresses whether a woman can engage in certain legal transactions in the same way as a man. It also addresses whether the marital status of the woman makes a difference. Married and unmarried men and women may not be able to do things in the same way when, for instance, women must have permission or an additional signature in order to complete certain transactions, or when they must provide documentation not required of men, such as a marriage license or a proof of name change. Differences related to property transactions are taken into account only for the using property indicator. Accessing institutions does not count this type of difference.
- This subtopic has 22 questions covering 11 transactions that are either legal or relate to women’s freedom of movement.
- In the data tables, the 22 questions for accessing institutions are condensed into 11 questions with two possible answers each, one for married and one for unmarried women:
- 11a.** Can an unmarried woman apply for a passport in the same way as an unmarried man?
- The answer is “Yes” if, upon reaching the legal age of majority, all civil acts can be completed and there are no differences in the way an unmarried woman or man obtains a passport.
 - The answer is “No” if
 - an adult unmarried woman needs the permission or signature of a guardian to apply for a passport, or
 - the passport application of an adult unmarried woman requires a reference to her father’s name or any other male relative or guardian.

11b. Can a married woman apply for a passport in the same way as a married man?

- The answer is “Yes” if upon reaching the legal age of majority, all civil acts can be completed and there are no differences in the way a married woman or man obtains a passport.
- The answer is “No” if
 - an adult married woman needs the permission or signature of her husband in order to apply for a passport, or
 - documentation is required from a married woman that is not required from a married man, e.g., a marriage certificate, or a married woman’s application requires reference to her husband’s name.

12a. Can an unmarried woman obtain a national ID card in the same way as an unmarried man?

- The answer is “Yes” if there are no inequalities in the process for obtaining a national identity card.
- The answer is “No” if
 - an unmarried woman requires additional signatures, such as those of her father or guardian, which are not required from an unmarried man, or
 - an unmarried woman must indicate the name of her father or guardian, but an unmarried man is not required to do so, or
 - identity cards are optional for a woman, but required for a man.
- The answer is “N/A” if there is no national identity card.

12b. Can a married woman obtain a national ID card in the same way as a married man?

- The answer is “Yes” if there are no inequalities in the process for obtaining a national identity card. If married men must provide a marriage certificate or birth certificate as proof of name, whereas married women must provide a marriage certificate, the answer is still “Yes.”
- The answer is “No” if
 - a married woman must provide a marriage certificate, but a married man need not, or
 - a married woman, but not a married man, must provide additional signatures, such as those of the husband, father or guardian, or
 - a married woman must indicate the name of her spouse, but a married man is not so required, or

- identity cards are optional for women, but required for men, or
- the identity card of a married woman displays the name of her spouse, but the identity card of a married man does not.
- The answer is “N/A” if there is no national identity card.

13a. Can an unmarried woman travel outside the country in the same way as an unmarried man?

- The answer is “Yes” if there are no restrictions on an unmarried woman travelling alone internationally.
- The answer is “No” if an unmarried woman has to have permission or additional documentation to leave the country; however, this permission must be different from what is required to get a passport, which is covered in a separate question.

13b. Can a married woman travel outside the country in the same way as a married man?

- The answer is “Yes” if there are no restrictions on a married woman travelling alone internationally.
- The answer is “No” if
 - permission or additional documentation is required for a married woman to leave the country; however, this permission must be different from that required to get a passport, which is covered in a separate question, or
 - the law requires a married woman to accompany her husband out of the country if he so wishes.

14a. Can an unmarried woman travel outside her home in the same way as an unmarried man?

- The answer is “Yes” if there are no restrictions on an unmarried woman travelling alone domestically.
- The answer is “No” if
 - permission, additional documentation or the presence of a guardian is required for her to travel domestically, or
 - an unmarried woman must justify her reasons to her father or guardian for leaving the home.

14b. Can a married woman travel outside her home in the same way as a married man?

- The answer is “Yes” if there are no restrictions on a married woman travelling alone domestically.

- The answer is “No” if
 - permission, additional documentation or the presence of her husband or a guardian is required for a married woman to travel domestically, or
 - a married woman must justify her reasons to her husband for leaving the home, or
 - leaving the home without a valid reason is considered disobedience with consequences under the law, for example, loss of her right to financial maintenance.
- 15a.** Can an unmarried woman get a job or pursue a trade or profession in the same way as an unmarried man?
- The answer is “Yes” if
 - no permission is needed for an unmarried woman to get a job or practice a trade or profession, or
 - there is no restriction in family or civil law on an unmarried woman’s ability to work.
 - The answer is “No” if permission or additional documentation is required, or if a guardian can prevent an unmarried woman from working.
- 15b.** Can a married woman get a job or pursue a trade or profession in the same way as a married man?
- The answer is “Yes” if
 - no permission is needed for a married woman to get a job or practice a trade or profession, or
 - there is no restriction in family or civil law on a married woman’s ability to work.
 - The answer is “No” if
 - the husband can prevent his wife from getting or keeping a job or pursuing a trade or profession, or
 - permission or additional documentation is required for a married woman to get a job, or
 - a married man can go to court to get his wife’s employer to fire her from her job or force her to leave her profession, or
 - it is considered a form of disobedience with legal ramifications for a wife to engage in employment contrary to her husband’s wishes or the interests of the family.
- 16a.** Can an unmarried woman sign a contract in the same way as an unmarried man?
- The answer is “Yes” if full legal capacity is obtained upon the age of majority and there are no restrictions on an unmarried woman signing legally binding contracts.
- The answer is “No” if an unmarried woman has limited legal capacity to sign a binding contract.
- 16b.** Can a married woman sign a contract in the same way as a married man?
- The answer is “Yes” if full legal capacity is obtained upon the age of majority and there are no restrictions on a married woman signing legally binding contracts.
 - The answer is “No” if a married woman has limited legal capacity to enter into contracts or needs the signature, consent or permission of her husband to legally bind herself.
 - This question does not concern restrictions on married women signing contracts specifically related to marital property governed by the default marital property regime; these are covered under the using property indicator.
- 17a.** Can an unmarried woman register a business in the same way as an unmarried man?
- The answer is “Yes” if a woman obtains full legal capacity upon reaching the age of majority and there are no restrictions on an unmarried woman registering a business.
 - The answer is “No” if
 - an unmarried woman has limited legal capacity to register a business; this would include situations in which a woman may not bind herself to a legal document, or
 - the registration process requires additional information or documentation for unmarried women not required of unmarried men.
 - The answer is also “No” for member states of regional bodies, such as the *Organisation pour l’Harmonisation en Afrique du Droit des Affaires* (OHADA) for which supranational law applies (e.g., *OHADA Acte Uniforme Révisé sur le Droit Commercial Général*) when domestic law contravenes these supranational rules and limits the legal capacity of women.
- 17b.** Can a married woman register a business in the same way as a married man?
- The answer is “Yes” if full legal capacity is obtained upon the age of majority and there are no restrictions on a married woman registering a business.
 - The answer is “No” if a married woman
 - has limited legal capacity to register a business, as when she may not legally bind herself to a contract, or

- needs her husband's permission, signature or consent to register a business, or
 - must provide information or documentation at any stage of the registration process, and the requirement does not apply to a married man.
 - The answer is also "No" for member states of regional bodies, such as the *Organisation pour l'Harmonisation en Afrique du Droit des Affaires* (OHADA) for which supranational law applies (e.g., OHADA *Acte Uniforme Révisé sur le Droit Commercial Général*) when domestic law contravenes these supranational rules and limits the legal capacity of women.
- 18a.** Can an unmarried woman open a bank account in the same way as an unmarried man?
- The answer is "Yes" if there are no restrictions on an unmarried woman opening a bank account. Only provisions from the body of family law are systematically reviewed; any that exist in other types of law, such as banking regulations, are not included here.
 - The answer is "No" if specific provisions limit the ability of an unmarried woman to open a bank account, such as required permissions or additional documentation.
- 18b.** Can a married woman open a bank account in the same way as a married man?
- The answer is "Yes" if
 - there are no restrictions on a married woman opening a bank account—only provisions from the body of family law are systematically reviewed, or
 - the law explicitly states that a married woman may open a bank account, or that both spouses may open bank accounts in their own names.
 - The answer is "No" if
 - specific legal provisions limit the ability of a married woman to open a bank account, such as those stating that a married woman who is separately employed from her husband may open a bank account in her own name, because that implies that a woman without a separate income stream may not do so, or
 - specific provisions limit the capacity of a married woman and prevent her from opening a bank account in her own name, such as required permissions or additional documentation.
- 19a.** Can an unmarried woman choose where to live in the same way as an unmarried man?
- The answer is "Yes" if there are no restrictions on an unmarried woman choosing where to live.
 - The answer is "No" if there are explicit restrictions on an unmarried woman choosing her place of residence.
- 19b.** Can a married woman choose where to live in the same way as a married man?
- The answer is "Yes" if there are no explicit restrictions on a married woman choosing where her family may live.
 - The answer is "No" if the husband chooses the family residence or marital home or has more weight in determining where the family will live.
- 20a.** Can an unmarried woman confer citizenship on her children in the same way as an unmarried man?
- The answer is "Yes" if
 - both the mother and the father can convey citizenship to the child in the same manner, regardless of where the child is born, or
 - there are additional procedures that must be completed by men but not by women (e.g., proof of paternity).
 - The answer is "No" if
 - only the father can convey citizenship to the child, wherever that child may have been born, or
 - additional procedures are required when citizenship is conveyed by the mother.
 - Where a citizenship law and the constitution conflict on the passage of citizenship, the answer is coded according to whichever came later in time.
- 20b.** Can a married woman confer citizenship on her children in the same way as a married man?
- The answer is "Yes" if
 - both the married mother and father may convey citizenship to their children in the same manner, wherever the children are born, or
 - there are additional procedures that must be completed by men but not by women (e.g., proof of paternity).
 - The answer is "No" if only the married father can convey citizenship to the child, wherever that child may have been born, or if additional requirements exist when citizenship is conveyed by the mother.

- Where a citizenship law and the constitution conflict on the passage of citizenship, the answer is coded according to whichever came later in time.

21a. Can an unmarried woman be “head of household” or “head of family” in the same way as an unmarried man?

- The answer is “Yes” if the definition of head of household is codified, and there are no explicit restrictions on an unmarried woman becoming “head of household” or “head of family.”
- The answer is “No” if there is an explicit restriction on an unmarried woman becoming “head of household” or “head of family;” e.g., a provision stating that only men can be designated “head of household” or “head of family” or that men “lead the family.”
- The answer is “N/A” if the definition of head of household is not codified.

21b. Can a married woman be “head of household” or “head of family” in the same way as a married man?

- The answer is “Yes” if the definition of head of household is codified, and there are no explicit restrictions on a married woman becoming “head of household” or “head of family.”
- The answer is “No” if
 - there is an explicit restriction on a married woman becoming “head of household” or “head of family,” e.g., a provision stating that only husbands can be so designated or that husbands “lead the family” or “represent the family,” or
 - a male is designated as the default family member who receives the family book or equivalent document that is necessary for access to services.
- The answer is “N/A” if the definition of head of household is not codified.

Division of responsibility within marriage

The three questions in this subtopic address potential legal inequalities that apply to married women:

22. Can a woman convey citizenship to a non-national spouse in the same way as a man?

- This question compares the ability of an adult married woman to legally convey her citizenship to her non-national husband with the ability of an adult married man to do the same for his non-national wife.
- The answer is “Yes” if
 - marriage to a national male or female equally confers some preference in naturalization to the non-national spouse, or

- neither spouse may convey citizenship to the other; citizenship must be obtained through the general naturalization procedures with no preference of any sort given to the spouse of a national.

• The answer is “No” if

- a national husband can convey citizenship to his non-national wife, but a national wife may not do so for her non-national husband, or
- the ability to convey citizenship to a spouse is procedurally differentiated by gender, e.g., a woman married to a national receives automatic citizenship rights upon her marriage, but a man married to a national must wait a specific number of years to become a citizen.

23. Are married women required by law to obey their husbands?

• The answer is “Yes” if

- there is an explicit provision stating that a married woman must obey her husband, or
- a provision states that disobedience toward her husband has legal ramifications for the wife, such as loss of maintenance.

• The answer is “No” if there is no provision that a married woman must obey her husband.

24. Do married couples jointly share legal responsibility for financially maintaining the family’s expenses?

• The answer is “Yes” if

- there is an explicit provision stating that spouses have joint or shared legal responsibility for financially maintaining their family, even if husbands are primarily responsible, or
- spouses have equal rights and responsibilities within marriage, or
- the law is silent on the matter.

• The answer is “No” if there are provisions stating that husbands are solely responsible for the financial support of the family.

Using property

Assumptions

It is assumed that the woman

- Resides in the economy’s main business city.
- Has reached the legal age of majority and is capable of making decisions as an adult; if there is no legal age of majority, the woman is assumed to be 30 years old.

- Is sane, competent, in good health and has no criminal record.
- Is a lawful citizen of the economy being examined.
- Where the question assumes that the woman or man is unmarried, she or he has never been married.
- Where the question assumes that the woman or man is married, the marriage is monogamous and registered with the authorities.
- Where the question assumes that the woman or man is married, the marital property regime under which she or he is married is assumed to be the default marital property regime, and it is also assumed that the marital property regime will not change during the course of the marriage.
- Where the answer differs according to the legal system that applies to the woman—as may occur in economies where legal plurality exists—the answer used will be the one that applies to the majority of the population.

The answers to these questions are based on the law as codified in the main business city and not the practice of that law. Therefore, customary law is not taken into account unless it has been codified. Social or cultural norms are also not taken into account.

The questions for the using property indicator are designed to determine what management and control of marital property looks like in the default marital property regime in each economy covered. For all questions relating to the ability of married women to carry out activities independently of their husbands, the key concern is reciprocity. Unequal treatment is counted only where a married man can carry out the activity, and his wife is not able to do so equally.

Marital property regime

The main areas of differentiation between women and men in exercising property rights lie in the rights granted under various marital property regimes: Some of these grant spouses equal treatment in property ownership. Other regimes grant husbands administrative control over jointly owned marital property. Still others grant husbands administrative control over their wives' property. The marital property regime also determines property ownership and administrative rights when a marriage is dissolved.

Women, Business and the Law identifies the main characteristics of the default marital property regime by asking two questions:

25. What is the default marital property regime?
- **The default marital property regime** is the set of rules that apply to the ownership and management of property within marriage and when the marriage

ends, when there is no prenuptial agreement. Default marital property regimes are classified as follows:

- **Separation of property:** All assets and income acquired by the spouses both before they marry and during the marriage remain the separate property of the acquiring spouse. At the time of divorce or the death of one of the spouses, each spouse retains ownership of all assets and income brought to the marriage or acquired during marriage by that person and any value that has accrued to that property.
- **Partial community of property:** Assets acquired before marriage are regarded as the separate property of the acquiring spouse, and assets and income acquired after marriage, with a few exceptions specified by law, are regarded as joint property of the couple. This regime also applies to cases where assets acquired before marriage and assets acquired during marriage are regarded as the separate property of the acquiring spouse but the accrued value of the property acquired by any of the spouses is considered joint property. At the time of dissolution of the marriage by divorce or death, the joint property or its accrued value is divided equally between the spouses.
- **Full community of property:** All assets and income whether brought into the marriage and acquired during the marriage, with a few exceptions specified by law, become the joint property of the couple. If the marriage is dissolved, all joint property is divided equally between the spouses.
- **Deferred full or partial community of property:** The rules of full or partial community of property apply at the time the marriage is dissolved; until then, separation of property applies.
- **Other:** This occurs in economies where the default property regime does not fit any of the four descriptions above.
- **There is no default marital property regime:** This alternative applies in economies where the law requires the spouses to opt into the marital property regime of their choice—with legal alternatives provided—before or at the time of marriage. In economies where there is no default marital property regime, the most common regime is used instead.

26. Who legally administers marital property?

The answer to this question assumes that the default marital property regime applies and is classified as follows:

- **Original owner:** Each spouse retains administrative power over the assets he or she brings into or acquires during the marriage and their accrued value. No consent is needed from the other spouse for

transactions in separate property. This administrative scheme is usually found in separation of property regimes and can also be found in deferred full or partial community regimes. It does not cover special provisions concerning the marital home.

- **Separate with spousal consent:** Each spouse administers his or her separate property but for major transactions needs spousal consent. This administrative scheme is mostly found in separation of property regimes but can also be found in deferred full or partial community and in partial community regimes.
- **Both must agree:** Both spouses have equal rights in administration and transaction of joint property; they perform all acts of administration together and, if one of the spouses has been delegated administrative rights by the other, spousal consent is implied. This administrative scheme is mostly seen in full and partial community property regimes.
- **Husband:** The husband has administrative rights over all property, including any separate property of the wife. This scheme is found only in partial community regimes.
- **Other:** This alternative applies wherever the administrative scheme does not fit into any of the previous categories. It includes, for example, cases in which in principle the law provides for both spouses to administer marital property but if they disagree, either the husband is given the power to ultimately decide, or other members of the family have a say in how the property is administered. Where there is disagreement on how to administer marital property, a court may decide.

Protecting a wife's interests

This subtopic focuses on two areas: (1) legal provisions that limit transactions concerning major assets; and (2) legal recognition of married women's nonremunerated contributions. The related questions are:

27. If the husband administers property, is spousal consent required for major transactions?
- This question is designed to measure whether the law sets limits to the administrative rights granted to the husband over property to prevent deterioration that may be detrimental to the wife.
 - The answer is "Yes" where the law requires the wife to give consent to any major transaction in property the husband administers, such as selling or pledging the property as collateral.
 - The answer is "No" where there is no legal requirement for the wife to consent to transactions performed by the husband in the property he administers.
 - The answer is "N/A" where the husband does not solely administer marital property.
28. Are there special provisions for major transactions concerning the marital home?
- This question is designed to measure specific legal protections concerning the marital home, regardless of the default marital property regime.
 - The answer is "Yes" where the law has provisions related to administration of the marital home, such as a requirement that both spouses agree to any major transaction involving the home, including selling or pledging it as collateral, or that the court will intervene when the spouses disagree. Such provisions are particularly relevant where separation or deferred full or partial community are the default regimes.
 - The answer is "No" if the general rules on transactions related to property within marriage are followed.
29. Does the law provide for valuation of nonmonetary contributions?
- This question is designed to measure if, at the time a marriage is dissolved, the division of property benefits both spouses. The process of dividing property upon divorce is examined to identify whether caring for minor children, taking care of the family home, or any other nonmonetized contribution from the stay-at-home spouse, usually the wife, is taken into consideration.
 - The answer is "Yes"
 - where an explicit legal recognition of such contributions is found and the law provides for equal or equitable division of the property based on the nonmonetary contributions, or
 - when the default marital property regime is full community, partial community or deferred full or partial community, because these regimes implicitly recognize nonmonetary contributions at the time of property division and benefit both spouses regardless of which of them actually purchased it or holds title to it.
 - The answer is "No" where
 - the default marital property regime is separation of property or other, and there is no explicit legal provision providing for equal or equitable division of property based on nonmonetary contributions.

Property rights

This subtopic deals with the following two legal transactions:

- 30a.** Do unmarried men and unmarried women have equal ownership rights to property?
- Ownership rights as used here covers the ability to manage, control, administer, access, encumber, receive, dispose of and transfer property.
 - The answer is “Yes” when there is no specific legal restriction related to property applied to single women or men based on gender.
 - The answer is “No” when legal restrictions on property ownership are applied to single women or men, based on gender.
- 30b.** Do married men and married women have equal ownership rights to property?
- Ownership rights as used here covers the ability to manage, control, administer, access, encumber, receive, dispose of and transfer property. The answer to this question is based on whether husbands and wives married under the default property regime have equal ownership rights over property.
 - The answer is “Yes” when there is no specific restriction or difference in legal treatment applied to married women or men based on gender.
 - The answer is “No” when there are gender differences in the legal treatment of spousal property, for example, if husbands are granted administrative control over marital property.

Inheritance rights

This subtopic focuses on the law that applies where there is no will. In economies where codified law applies only to individuals who have affirmatively renounced customary law, the presumption is that an affirmative renunciation has been made.

- 31.** Do sons and daughters have equal rights to inherit assets from their parents?
- This question examines whether there are gender-based differences in the rules of intestate succession (there is no will) for transfer of property from parents to children.
 - The answer is “Yes” when the law recognizes children as heirs to property without any restrictions based on gender.
 - The answer is “No” when there are gender-based differences in the recognition of children as heirs to property.

- 32.** Do female and male surviving spouses have equal rights to inherit assets?
- For purposes of this question, it is assumed that the deceased spouse left no children or any heirs other than the surviving spouse.
 - This question examines whether both spouses have equal rank and rights to inherit assets when there is no will.
 - The answer is “Yes” when surviving spouses of either gender have the same legal rights.
 - The answer is “No” where there are gender-based differences in inheritance.

Going to court

Assumptions

It is assumed that the woman

- Resides in the economy’s main business city.
- Has reached the legal age of majority and is capable of making decisions as an adult.
- Is sane, competent, in good health and has no criminal record.
- Where the answer differs according to the legal system that applies to the woman—as may be the case in economies where legal plurality exists—the answer used will be the one that applies to the majority of the population.

The answers are based on codified law and not whether it is applied in practice. Therefore, customary law is not taken into account unless it has been codified.

This topic assesses both indirect and direct differentiation in the law with relation to women’s access to the judicial system. For the first subtopic on equality of access, three questions examine the existence of courts to adjudicate matters of customary or personal law and assess the value of a woman’s testimony in court relative to a man’s.

Equality of access

- 33.** Does the law recognize customary courts?
- The answer is “Yes” if the constitution or another law establishes or recognizes the authority of a judicial body (e.g., a court or tribunal) that is competent to exclusively hear cases and apply customary law, codified or not.
 - The answer is “No” if the constitution or another law establishes or recognizes the authority of a judicial body that applies customary law, codified or not, in addition to laws other than customary law.

- 34.** Does the law recognize personal law courts?
- The answer is “Yes” if the constitution or another law establishes or recognizes the authority of a judicial body (e.g., court or tribunal) that is competent to exclusively hear cases and apply personal law, codified or not.
 - The answer is “No” if the constitution or another law establishes or recognizes the authority of a judicial body that is competent to hear cases and apply personal law, codified or not, in addition to laws other than personal law.
- 35.** Does a woman’s testimony carry the same evidentiary weight in court as a man’s?
- This question covers all types of court cases.
 - The answer is “No” if the law explicitly differentiates between the evidentiary value of a woman’s testimony and that of a man.
 - The answer is “Yes” if the law does not differentiate between the evidentiary value of a woman’s testimony and that of a man.

Judicial representation

For this subtopic, three questions look at women’s representation on constitutional courts and other court-like institutions that are mandated to review legislative and executive acts and interpret the constitution.

- 36.** How many justices are on the constitutional court?
- For the purposes of this question, constitutional courts and court-like institutions mandated with the determination of constitutionality of laws and regulations are examined.
 - When a specific number of justices is set by law, the data reflect that number of justices.
 - When the number of justices set by law is a minimum, a maximum or a range, the data reflect the actual number of justices.
 - When a separate chamber of the highest court carries out constitutional review, the question reflects the composition of that chamber.
- 37.** Of those, how many are women?
- This question reflects how many members of constitutional courts or court-like institutions mandated with the determination of constitutionality of laws and regulations are women.

- 38.** Is the Chief Justice a woman?
- This question reflects if the Chief Justice of the constitutional court or the court-like body mandated with the determination of constitutionality of laws and regulations is a woman.

Efficiency of procedure

For this subtopic, questions examine the existence of small claims courts and the threshold for claims that they can adjudicate.

- 39.** Is there a small claims court or a fast-track procedure for small claims?
- Small claims courts hear only civil cases between private litigants involving relatively small amounts of money; though the names of such courts vary by jurisdiction, common features generally include relaxed rules of civil procedure, the appearance of adversaries without legal representation, the use of plain language and relaxed evidentiary rules. Fast-track and simplified procedural rules for small claims operate similarly but the cases are tried in courts of more general jurisdiction.
 - The answer is “Yes” if
 - there is either a small claims court or a fast-track procedure for civil claims of small value, and there is a maximum value of cases that may be heard in a small claims court or fast-track procedure, or
 - the small claims court or fast-track procedure has jurisdiction to hear at least general civil cases.
 - The answer is “No” if
 - there is a small claims court or fast-track procedure but it is competent only to hear commercial claims, not all civil claims, or
 - only a few types of civil disputes are within the jurisdiction of the small-claims court (e.g., rent disputes only).
- 40.** If yes, what is the maximum amount for a small claim?
- This indicates the highest amount for claims that can be heard in a small claims court; when different amounts apply to civil and commercial cases, the amount that applies to civil cases is used.
 - The answer is “N/A” if the economy in question has no small claims courts or fast-track procedures for civil claims of small value.
 - The answer is presented as a percentage of income per capita.

Providing incentives to work

Taxes and the provision of certain public services can make it either easier or more difficult for women to participate in the labor force. Questions on this topic are:

Personal income tax

41. Are childcare payments tax deductible?

- The answer is “Yes” if childcare expenses are listed as deductible items in the personal income tax code; for this purpose, childcare expenses cover, e.g., fees for kindergartens or crèches, daycare centers, after-school centers, in-home care and child-minding arrangements.
- The answer is “No” if the childcare allowance granted by the government is not taxable.

42a. Are there tax deductions or credits specific to men?

- This question is designed to determine whether the tax code differentiates between men and women on deductions and credits and covers instances where tax-specific deductions and credits can only be claimed by male heads of household.
- The answer is “Yes” if
 - the personal income tax code specifies that a tax deduction or credit applies only to male taxpayers, or
 - the code provides for a tax deduction or credit that can only go to the head of household, and only men can legally be the head of household.

42b. Are there tax deductions or credits specific to women?

- The answer is “Yes” if the personal income tax code provides for a tax credit or deduction that can only be claimed by female taxpayers.

Childcare and education

43. Does the government support or provide childcare services?

- For purposes of this question, childcare for children too young for primary education may take such forms as kindergartens or crèches, preschools, daycare centers, after-school centers, in-home care and child-minding arrangements.
- The answer is “Yes” if
 - public authorities fund childcare facilities and services (public or private), or
 - public authorities subsidize the use of private childcare facilities and services, as well as the hiring of child-minders.

44. Does the government provide free and compulsory primary education?

- The answer is “Yes” if elementary education is mandated by the Constitution or another law and is publicly funded.

Financial support and care

45. Does the government provide a child allowance to parents?³

- This question covers financial support granted by the government to parents for children not yet old enough for primary school. Support may take such forms as vouchers or preschool fee waivers and transfers. Payments are granted while mothers work. The payments are not tax benefits and do not require attendance at preschool.
- The answer is “Yes”
 - if allowance is granted up to a certain age and is not associated with maternity, paternity, or parental leave, or
 - even if the allowance is granted to only one of the parents.
- The answer is “No” if the allowance is granted to a specific class of people (e.g., parents of children with disabilities).

46. Must employers provide leave to care for sick relatives?⁴

- Family care leave is granted to the employee specifically for the purpose of caring for a sick relative and does not include maternity, paternity or parental leave.
- The answer is “Yes” if
 - the leave is to take care of a sick parent, child or other relative, or
 - the law specifies that the employer has an obligation to grant an employee leave to take care of a sick relative, or
 - the leave is granted in exceptional circumstances related to family matters.
- The answer is “No” if the law
 - gives the employer the option to grant such leave, or
 - provides that such leave is subject to collective bargaining agreements or any other agreement, including the employer’s consent, or
 - allows an employee to work part-time or have a flexible work schedule to care for a sick relative.

Building credit

Registries and bureaus

The background information for these questions comes from the depth-of-credit-information index that is part of the *Doing Business 2016* getting credit indicator. That index covers rules affecting the scope, accessibility and quality of credit information available through private credit bureaus and public credit registries. Credit bureaus and registries are only considered if their coverage extends to at least 5% of the adult population within an economy. Four questions related to areas that could affect women's ability to build credit were examined:

47. What is the minimum loan amount covered in the private credit bureau or public credit registry?

- This number reflects the lowest minimum loan amount of any credit bureau or registry in the economy in question.
- If a credit bureau or registry collects data on loans worth less than 1% of income per capita, it is treated as if it collects data on loans of any value; thus an answer of zero here means either that there is no minimum loan amount in at least one credit bureau or registry, or that at least one credit bureau or registry collects data on loans worth less than 1% of income per capita;
- The answer is "N/A" if there is no credit bureau or registry in the economy.
- The answer is presented as a percentage of income per capita.

48a. Do retailers provide information to private credit bureaus or public credit registries?

- For purposes of this question, it is sufficient that any private credit bureau or public credit registry in the economy in question collects information from any retailer.
- The answer is "N/A" if there is no private credit bureau or public credit registry.

48b. Do utility companies provide information to private credit bureaus or public credit registries?

- For purposes of this question, it is sufficient that any private credit bureau or public credit registry in the economy in question collects information from a utility company.
- The answer is "N/A" if there is no private credit bureau or public credit registry.

48c. Do microfinance institutions provide information to private credit bureaus or public credit registries?

- High-income economies are not included in this sample because microfinance institutions are far more prevalent in developing economies. Also, because traditional bank financing is generally widely available to women in high-income economies, microfinance is less critical to women's quest for capital.
- For purposes of this question, it is sufficient that any private credit bureau or public credit registry in the economy in question collects information from microfinance institutions.
- The answer is "N/A" if
 - the economy in question is high-income, or
 - there is no private credit bureau or public credit registry.

Discrimination

49a. Does the law prohibit discrimination by creditors on the basis of gender in access to credit?⁵

- The answer is "Yes" if
 - the law prohibits discrimination on the basis of gender or sex, or provides for equal access for both sexes when conducting financial transactions, such as applying for credit or loans, or
 - the law prohibits discrimination on the basis of gender or sex when conducting entrepreneurial activities or receiving financial assistance, or
 - the law prohibits discrimination on the basis of gender or sex when accessing goods and services, and the definition of services in law, regulation or government-published explanations/promotional material covers financial services, or
 - banking and financial services are not listed as services exempt from nondiscrimination laws.
- The answer is "No" if the law does not prohibit such discrimination.

49b. Does the law prohibit discrimination by creditors on the basis of marital status in access to credit?⁶

- The answer is "Yes" if
 - the law specifically prohibits discrimination on the basis of marital status or provides for equal access irrespective of marital status when conducting financial transactions, such as applying for credit or loans, or

- the law prohibits discrimination on the basis of marital status when conducting entrepreneurial activities or receiving financial assistance, or
- the law prohibits discrimination on the basis of marital status when accessing goods and services, and the definition of services in law, regulation or government-published explanations/promotional material covers financial services, or
- banking and financial services are not listed as services exempt from nondiscrimination law.
- The answer is “No” if the law does not prohibit such discrimination.

Getting a job

Assumptions

It is assumed that the woman

- Resides in the economy’s main business city.
- Has reached the legal age of majority and is capable of making decisions as an adult.
- Is a lawful citizen of the economy being examined.
- For purposes of determining the retirement and pensionable age, that she is currently 40 years old and started working at age 25.
- For purposes of determining maternity or parental leave, that she gave birth to her first child without complications on or after January 1, 2014, at age 30, and her child is in good health.
- Is sane, competent, in good health and has no criminal record.
- Has been working long enough to accrue all benefits, including any maternity, parental or retirement benefits.
- Will be nursing until the child is one year old.
- For purposes of determining the retirement and pensionable age, that she has raised only one child.
- Is working as a cashier in the food retail sector in a supermarket or grocery store of at least 60 employees.

It is assumed that the man

- Resides in the country’s main business city.
- Has reached the legal age of majority and is capable of making decisions as an adult.
- Is a lawful citizen of the economy being examined.
- For purposes of determining the retirement and pensionable age, that he is currently 40 years old and started working at age 25.

- For purposes of determining paternity leave or parental leave, has a first child who was born on or after January 1, 2014, without complications, was 30 years old when his child was born, and the child is in good health.
- Is sane, competent, in good health and has no criminal record.
- Has been working long enough to accrue all benefits, including any paternity, parental or retirement benefits.
- Is working as a cashier in the food retail sector in a supermarket or grocery store of at least 60 employees.
- Has completed infant care training courses, which sometimes serve as a prerequisite for extended paternity leave.

In general, the answers to the questions in the getting a job indicator are based on written law and not collective bargaining agreements; however, the latter are taken into account when two conditions are met:

- They cover more than 50% of the work force in the food retail sector.
- They apply to individuals who were not party to the original collective bargaining agreement.

Parental benefits

The subtopic on parental benefits contains 19 questions on maternity, paternity and parental benefits. Maternity covers benefits that apply only to the mother, and paternity covers benefits that apply only to the father. Parental covers benefits that apply to both, even if the distribution of benefits between the two parents is unequal.

50a. Does the law mandate paid or unpaid maternity leave?

- Maternity leave may be paid or unpaid, as long as the government explicitly mandates the right to some form of maternity leave.
- Maternity leave is defined as leave available only to the mother; it does not cover parental leave that is available to both parents.
- Provisions for circumstantial leave by which an employee is entitled to a certain number of days of paid leave (usually fewer than five days) upon the birth of a child are considered paternity leave; even if the law is gender-neutral, such leave is not considered maternity leave if the law covers maternity leave elsewhere.

50b. Does the law mandate paid or unpaid paternity leave?

- Paternity leave may be paid or unpaid as long as the government explicitly mandates the right to some form of paternity leave.

- Paternity leave is defined as leave available only to the father; it does not include leave available to both parents.
- Provisions for circumstantial leave in which an employee is entitled to a certain number of days of paid or unpaid leave (usually fewer than five days) upon the birth of a child are considered paternity leave; even if the law is gender-neutral, such leave is not considered maternity leave as long as maternity leave is covered elsewhere by the law. For example, if the labor code provides that a worker may take a “one-day leave for the birth of a child” as an unpaid justified absence, the term “worker” is gender-neutral, and maternity leave is covered in another article of the code, the one-day unpaid justified absence is considered paternity leave.

50c. Does the law mandate paid or unpaid parental leave?

- Parental leave may be paid or unpaid as long as the government explicitly mandates the right to some form of parental leave shared between mother and father; parental leave may also be an individual entitlement.
- Allowances for a fixed number of days per year applied to family emergencies or child-related responsibilities are not considered parental leave; the leave must be contiguous with the birth of the child and with maternity or paternity leave.

51a. What is the length of paid maternity leave?

- This is the mandatory minimum number of calendar days of maternity leave that legally must be paid by the government, the employer or both.
- Maternity leave is defined as leave available only to the mother; it does not cover parental leave that is available to both parents.
- If paid leave not contiguous with the birth of a child is provided, it is not considered paid maternity leave because it can be taken at any point after the child is born.

51b. What is the length of paid paternity leave?

- This is the mandatory minimum number of calendar days of paternity leave that legally must be paid by the government, the employer or both.
- Paternity leave is defined as leave available only to the father; it does not include leave available to both parents.
- If a father can take paid paternity leave only if the mother does not take her maternity leave, the

assumption is that the mother takes her full entitlement to maternity leave.

51c. What is the length of paid parental leave?

- This is the mandatory minimum number of calendar days of parental leave which by law must be paid by the government, the employer or both.
- If parental leave is an individual rather than a family entitlement, the assumption is that only one parent takes the full entitlement.
- If the law mandates that the length of parental leave is not a specified amount of time but is rather worded “until the child reaches a [certain] age,” postnatal maternity leave days are subtracted from the number of parental leave days.
- Parental leave is counted only if it is contiguous with maternity and paternity leave.
- It is assumed that the mother and the father both take the full maternity and paternity leave available to them before taking parental leave.
- If there are several parental leave schemes that the parents or family can choose from, it is assumed that parents select the scheme that pays the most.

52a. Who pays maternity leave benefits?

- This question covers whether maternity leave benefits are funded by the government, the employer or both; if only the employer funds the benefits, the employer bears the entire cost and pays the employee directly.
- Employer contributions to government funds (such as social security) that pay maternity benefits are not considered employer payment of maternity benefits.
- If the law provides that the government must reimburse the employer for all maternity leave benefits paid to employees, the answer is “government 100%.” If the government only reimburses a portion of the benefits, the answer is “government and employer.”
- If the answer is “N/A,” no paid maternity leave is available.

52b. Who pays paternity leave benefits?

- This question covers whether paternity leave benefits are funded by the government, the employer or both; if only the employer funds paternity leave benefits, the employer bears the entire cost and pays the employee directly.
- Employer contributions to government funds (such as social security) that pay paternity benefits are not considered employer payments of paternity benefits.

- If the law provides that the government must reimburse the employer for paternity leave benefits paid to employees, it is considered a government payment of the portion reimbursed.
- If the answer is “N/A,” no paid paternity leave is available.

52c. Who pays parental leave benefits?

- This question covers whether parental leave benefits are funded by the government, the employer or both; if the employer alone funds parental leave benefits, the employer bears the entire cost and pays the employee directly.
- Employer contributions to government funds, such as social security, that pay parental benefits are not considered employer payments of parental benefits.
- If the law provides that the government must reimburse the employer for parental leave benefits paid to employees, the government is considered to be paying the portion reimbursed.
- If the answer is “N/A,” no paid parental leave is available.

53a. What percentage of wages is paid during maternity leave?

- This is the total percentage of wages covered by all sources during paid maternity leave; when different percentages of wages are covered at different stages of maternity leave, a weighted average is calculated; weights are proportional to the duration of each stage.
- If the law sets a maximum amount of maternity benefits that can be paid or does not stipulate an exact percentage, it is assumed that the woman earns the equivalent of the average value-added per worker. The average value-added per worker is the ratio of an economy’s GNI per capita to the working-age population as a percentage of the total population.
- If the answer is “N/A,” no paid maternity leave is available.

53b. What percentage of wages is paid during paternity leave?

- This is the total percentage of wages covered by all sources during paid paternity leave; when different percentages of wages are covered at different stages of paternity leave, a weighted average is calculated; weights are proportional to the duration of each stage.
- If the law sets a maximum amount of paternity benefits that can be paid or does not stipulate an exact

percentage, it is assumed that the man earns the equivalent of the average value-added per worker. The average value-added per worker is the ratio of an economy’s GNI per capita to the working-age population as a percentage of the total population.

- If the answer is “N/A,” no paid paternity leave is available.

53c. What percentage of wages is paid during parental leave?

- This is the total percentage of wages covered by all sources during paid parental leave.
- The answer is “Partially paid” if the total percentage of wages paid is less than 100%.
- If the answer is “N/A,” no paid parental leave is available.

54a. What is the length of unpaid maternity leave?

- This is the mandatory minimum number of calendar days of unpaid maternity leave that an employer must allow an employee to take, whether or not she elects to take it. Parental leave that is optional for both parents is not covered here.
- If leave is provided but is not contiguous with the birth, the leave is not considered unpaid maternity leave because it can be taken at any point after the child is born.
- Unpaid maternity leave is in addition to any paid maternity leave available.

54b. What is the length of unpaid paternity leave?

- This is the mandatory minimum number of calendar days of unpaid paternity leave that an employer must allow an employee to take; parental leave that is optional for both parents is not included here.
- If a father can take unpaid paternity leave only if the mother does not take her maternity leave, it is assumed that the mother takes her full entitlement of maternity leave.
- Unpaid paternity leave is in addition to any paid paternity leave available.

54c. What is the length of unpaid parental leave?

- This is the number of calendar days of unpaid parental leave that an employer must allow an employee to take.
- Unpaid parental leave is in addition to any paid parental leave available.

- If unpaid parental leave is an individual rather than a family entitlement, the assumption is that only one parent takes it.

55a. How many days of unpaid parental leave must be taken by the mother?

- The question captures whether there is a minimum number of calendar days of unpaid parental leave that can be taken only by the mother and therefore cannot be shared with the father.
- If the answer is “N/A,” no unpaid parental leave is available.

55b. How many days of unpaid parental leave must be taken by the father?

- The question captures whether there is a minimum number of calendar days of unpaid parental leave that can be taken only by the father and therefore cannot be shared with the mother.
- If the answer is “N/A,” no unpaid parental leave is available.

56a. How many days of paid parental leave must be taken by the mother?

- The question captures whether there is a minimum number of calendar days of paid parental leave that can be taken only by the mother and therefore cannot be shared with the father.
- If the answer is “N/A,” no paid parental leave is available.

56b. How many days of paid parental leave must be taken by the father?

- The question captures whether there is a minimum number of calendar days of paid parental leave that can be taken only by the father and therefore cannot be shared with the mother.
- If the answer is “N/A,” no paid parental leave is available.

Workplace protections

For this subtopic seven questions examine women’s legal rights in the workplace:

57. Does the law mandate equal remuneration for work of equal value?

- This question captures whether employers are legally obliged to pay equal remuneration to male and female employees who do work of equal value.

- “Remuneration” refers to the ordinary, basic or minimum wage or salary and any additional emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment.

- “Work of equal value” refers not only to the same or similar jobs but also to different jobs of the same value.

58. Does the law mandate nondiscrimination based on gender in hiring?

- This question is designed to determine whether the law specifically prevents or penalizes gender-based discrimination in the hiring process; the law may prohibit discrimination in employment on the basis of gender but be silent about whether job applicants are protected from discrimination.
- Hiring refers to the process of employing a person for wages and making a selection by presenting a candidate with a job offer.
- Job advertisements, selection criteria and recruitment, although equally important, are not considered “hiring” for purposes of this question.

59. Is it prohibited for prospective employers to ask about family status?

- This question is designed to determine whether an employer is allowed to inquire about the family status of a prospective employee during a job interview; the law may prohibit discrimination based on this information but be silent about whether employers are allowed to ask for it in the first place.
- Family status refers to both whether the applicant is married and has children.
- The answer is “Yes” if the employer may not ask whether the applicant is married or has children.
- If the law prohibits employers from asking prospective employees personal information, it is assumed that family status constitutes personal information.

60. Is dismissal of pregnant workers prohibited?

- This question is designed to determine whether pregnancy can serve as grounds for dismissal.
- The answer is “Yes” if the law explicitly prohibits or penalizes the dismissal of pregnant women.

61. Are mothers guaranteed an equivalent position after maternity leave?

- The question takes into account paid and unpaid maternity leave and captures whether the employer has

a legal obligation to reinstate the returning employee in an equivalent or better position and salary than the employee had pre-leave.

- Where the maternity leave regime explicitly states that the employee may not be indefinitely replaced, the answer is assumed to be “Yes.”
- Where the maternity leave regime explicitly establishes a suspension of the employee’s contract, the answer is assumed to be “Yes.”
- In economies that also have parental leave and the law guarantees return after the leave to the same or an equivalent position paid at the same rate but is silent on guaranteeing the same position after maternity leave, the answer is “Yes.”
- The answer is “N/A” if no paid or unpaid maternity leave is available.

62. Are employers required to provide break time for nursing mothers?

- The answer is “Yes” if the law specifically requires firms and employers to provide break time for nursing mothers who breastfeed at work; such a requirement may depend on the size of the firm or the proportion of women it employs.

63. Are parents entitled to flexible/part-time schedules?

- The answer is “Yes” if the law offers employees who have minor children easier access to flexible work schedule arrangements or part-time work than employees who are not parents of minor children.

Retirement and pensions

For this subtopic there are six questions on retirement and pensions. The following assumptions are specific to this subtopic:

- If retirement is governed not by age but by number of years worked or number of years in which contributions have been made, or if transitional provisions increase or decrease the retirement age over a period of years, it is assumed that the worker is currently 40 years old and started working at age 25.
- Answers are rounded to the nearest year.

64a. What is the age at which a man can retire and receive full benefits?

- It is assumed that the retiree has completed all the necessary qualifications to retire and receive full benefits.
- If there is no national law on retirement benefits, the answer is “N/A.”

64b. What is the age at which a woman can retire and receive full benefits?

- It is assumed that the retiree has completed all the necessary qualifications to retire and receive full benefits.
- If there is no national law on retirement benefits, the answer is “N/A.”

65a. What is the age at which a man can retire and receive partial benefits?

- This is the age at which a man can retire but not with full pension benefits, either because he did not accumulate enough work experience or contributions, or because he has not reached the age that would qualify him for a full pension.
- If there is no specified age at which a man can retire and receive partial benefits, the answer is the same as the age at which a man can retire and receive full benefits (see 64a).
- If there is no national law on retirement benefits, the answer is “N/A.”

65b. What is the age at which a woman can retire and receive partial benefits?

- This is the age at which a woman can retire but not with full pension benefits, either because she did not accumulate enough work experience or contributions, or because she did not reach the age that would qualify her for full pension.
- If there is no specified age at which a woman can retire and receive partial benefits, the answer is the same as the age at which she can retire and receive full benefits (see 64b).
- If there is no national law on retirement benefits, the answer is “N/A.”

66a. What is the mandatory retirement age for men?

- This is the age at which a man must cease employment or loses the right to continue working for his employer. Even if the law allows employers and employees to contract for work beyond that age, retirement is still considered mandatory because the employer can legally oblige the employee to retire.
- “N/A” means there is no age at which a man is required to retire.

66b. What is the mandatory retirement age for women?

- This is the age at which a woman must cease employment or loses the right to continue working for her employer. Even if the law allows employers and

employees to contract for work beyond that age, retirement is still considered mandatory because the employer can legally oblige the employee to retire.

- “N/A” means there is no age at which a woman is required to retire.

Working hours and industry restrictions

The 12 questions for this subtopic cover working hour and job-specific restrictions on women. Restrictions specific to pregnant women or nursing mothers are not covered here. For purposes of this section, it is assumed that the woman gave all necessary permissions, including written consent. The assumption that the woman is employed in the food retail sector does not apply here; restrictions for all industries are counted.

67. Can nonpregnant and nonnursing women work the same night hours as men?

- This question is designed to determine whether nonpregnant and nonnursing women—but not men—are prohibited from working at night. Night-hour restrictions on women in specified industries are captured in later questions.
- The answer is “Yes” if there are no restrictions on women working at night. If the law conditions women’s ability to work at night on employer compliance with safety measures (such as providing transportation to and from work), the answer is also “Yes.”
- The answer is “No” if the law
 - broadly prohibits women from working at night, or
 - broadly prohibits women from working at night but provides for exceptions, such as in cases of force majeure.
- Where the law indicates that a given ministry or minister may promulgate regulations restricting women’s work at night, this is considered a restriction.

68. Can nonpregnant and nonnursing women do the same jobs as men?

- This question is designed to determine if there are specific jobs that women explicitly or implicitly cannot perform except in limited circumstances.
- Both partial and full restrictions on women’s work are counted as restrictions. For example, if women are only allowed to work in certain jobs within the mining industry, e.g., as health care professionals within mines but not as miners, this is a restriction.
- Explicit restrictions on women doing certain jobs, such as mining, are examined, as are implicit restrictions stating that women cannot work in “hazardous”

or “arduous” conditions, or in jobs deemed morally or socially inappropriate.

- Where the law indicates that a given ministry or minister may promulgate regulations restricting women’s work in particular industries, this is considered a restriction.

Questions 69a to 71c disaggregate the information collected in question 68 to determine in which job categories women face restrictions.

Implicit restrictions

69a. Can nonpregnant and nonnursing women work in jobs deemed hazardous in the same way as men?

- The answer is “Yes” if there are no laws that prohibit women from working in a broad and subjective category of jobs deemed “hazardous.”
- The answer is “No” if the employer can determine whether particular jobs are too hazardous for women but not for men. In such cases, the law explicitly uses the term “hazardous” or its synonyms to describe a broad category of jobs that women—but not men—are prohibited from doing. Work of a hazardous nature includes, for example, jobs that could have a harmful effect on or increased risk to women’s lives or health, given women’s psycho-physical qualities, or jobs not deemed to have a harmful effect on or increased risk to men’s life or health given men’s psycho-physical qualities.
- Where the law indicates that a given minister or ministry may promulgate regulations restricting women’s work in hazardous jobs, the answer is “No.”

69b. Can nonpregnant and nonnursing women work in jobs deemed morally or socially inappropriate⁷ in the same way as men?

- The answer is “Yes” if there are no laws that prohibit women from working in a broad and subjective category of jobs deemed morally or socially inappropriate.
- The answer is “No” if the employer can determine whether particular jobs are morally inappropriate or socially harmful for women but not for men. In such cases, the law explicitly uses the term “morally inappropriate” or its synonyms to describe a broad category of jobs that women—but not men—are prohibited from doing. Work that is morally inappropriate includes, for example, employment that is considered not in accordance with the “moral development” only of women.
- Where the law indicates that a given minister or ministry may promulgate regulations restricting women’s

work in morally or socially inappropriate jobs, the answer is “No.”

69c. Can nonpregnant and nonnursing women work in jobs deemed arduous in the same way as men?

- The answer is “Yes” if there are no laws that prohibit women from working in a broad and subjective category of jobs deemed arduous.
- The answer is “No” if the employer can determine whether particular jobs are too arduous for women but not for men. In such cases, the law explicitly uses the term “arduous” or its synonyms to describe a broad category of jobs that women—but not men—are prohibited from doing. Work of an arduous nature includes jobs that involve particularly hard manual labor or jobs that are considered to exceed women’s capabilities.
- Where the law indicates that a given minister or ministry may promulgate regulations restricting women’s work in arduous jobs, the answer is “No.”

Explicit restrictions on occupations and sectors

70a. Can nonpregnant and nonnursing women work in mining in the same way as men?

- The answer is “Yes” if there are no restrictions on women working in the mining industry.
- The answer is “No” if there are full or partial restrictions on women working in the mining industry.

70b. Can nonpregnant and nonnursing women work in factories in the same way as men?

- The answer is “Yes” if there are no restrictions on women working in factories.
- The answer is “No” if there are full or partial restrictions on women working in factories.

70c. Can nonpregnant and nonnursing women work in construction in the same way as men?

- The answer is “Yes” if there are no restrictions on women working in construction.
- The answer is “No” if there are full or partial restrictions on women working in construction.

70d. Can nonpregnant and nonnursing women work in the same occupations as men?⁸

- The answer is “Yes” if there are no restrictions on women working in specific occupations or sectors other than mining, construction and factory work.

- The answer is “No” if there are restrictions on women working in specific occupations or sectors other than mining, construction and factory work.

Explicit restrictions on job-related tasks

71a. Can nonpregnant and nonnursing women work in metalworking in the same way as men?

- The answer is “Yes” if there are no restrictions on women working in metal work.
- The answer is “No” if there are full or partial restrictions on women working in metal work.

71b. Can nonpregnant and nonnursing women engage in jobs requiring lifting weights above a threshold in the same way as men?

- The answer is “Yes” if there are no restrictions on women engaging in jobs with a minimum weight-lifting requirement, or if there are no differences between the amount of weight men and women can lift.
- The answer is “No” if there are full or partial restrictions on women engaging in such jobs.
- The answer is also “No” if women cannot perform work requiring heavy lifting, for example, if the law prohibits women from working in jobs that involve the loading and unloading of goods.

71c. Can nonpregnant and nonnursing women do the same job-related tasks as men?⁹

- Job-related tasks refers to specified actions women are prohibited from doing, materials or substances women are prohibited from working with, or particular settings women are prohibited from working in. For purposes of this question, metalwork and lifting weights above a set threshold are not included because they are captured separately in previous questions.
- The answer is “Yes” if there are no restrictions on women doing the same job-related tasks as men.
- The answer is “No” if there are restrictions on women doing particular job-related tasks but not on men doing them.

Protecting women from violence

The indicator on protecting women from violence examines the existence and scope of laws covering domestic violence, sexual harassment, marital rape, age of marriage and protection orders.

Assumptions

It is assumed that the woman

- Resides in the main business city of the economy being examined.
- Has reached the legal age of majority and is capable of making decisions as an adult. If there is no legal age of majority, the woman is assumed to be 30 years old.
- Is sane, competent, in good health, has no criminal record and is a lawful citizen of the economy where she resides.

The answers to the questions below are based on statutory or codified law for civil law systems, and on case law, which for common law systems is law established by judicial decisions in cases that set binding precedents. Customary law is not taken into account unless it has been codified or upheld by case law. The answers are based solely on the letter of the law and not on how the law is applied in practice.

Domestic violence

This subtopic covers the existence and scope of laws on domestic violence. Domestic violence is gender-specific, commonly directed against women, and occurring within the family and in intimate relationships. Intimate relationships may be with either spouses or unmarried intimate partners. The violence can take the form of physical, sexual, emotional or financial abuse. There are 14 questions for this subtopic:

72. Is there domestic violence legislation?

- The answer is “Yes” if
 - there is legislation addressing domestic violence: violence between spouses, within the family or members of the same household, or in interpersonal relationships, including intimate partner violence that is subject to criminal sanctions or provides for protection orders for domestic violence, or
 - the legislation addresses “cruel, inhuman or degrading treatment” or “harassment” that clearly affects physical or mental health, and it is implied that such behavior is considered domestic violence.
- The answer is “No” if
 - there is no legislation addressing domestic violence, or what does so refers to or prohibits domestic violence but does not provide for sanctions or orders of protection, or
 - the provision enables a woman to obtain a protection order only if the husband has been convicted of the offense or the wife has ceased to reside in the common home, or

- the provision protects only a specific category of women (e.g., pregnant) or defines the offense in terms of specific motives (e.g., violence against a person in connection with performing a professional or civil duty), or
- there is only a provision that heightens penalties for general crimes covered in the criminal code if committed between spouses or within the family.

73. If there is no legislation specifically protecting against domestic violence, are there aggravating penalties¹⁰ for crimes against a spouse or family member?¹¹

- The answer is “Yes” if penalties are increased for offenses committed by a spouse, family member or intimate partner but there is no other provision on domestic violence.

74. Are there clear criminal penalties for domestic violence?¹²

- The answer is “Yes” if
 - the law addressing domestic violence clearly establishes criminal penalties for domestic violence offenses, or
 - the domestic violence law does not prescribe criminal sanctions but states that domestic violence offenses will be sanctioned in accordance with the criminal code, or
 - domestic violence is addressed in the criminal code, which criminalizes violence by or against a spouse, a family member or an intimate partner, or
 - the criminal code provides for aggravated penalties if an offense is committed by or against a spouse, a family member or an intimate partner.
- The answer is “No” if
 - the domestic violence law does not provide for criminal sanctions or the provision on sanctions does not protect individuals from violence by or against a spouse, a family member or an intimate partner, or
 - the provision addressing domestic violence prohibits only the conduct or establishes only noncriminal penalties or penalties for violating a protection order.

75a. Does domestic violence legislation cover physical violence?

- The answer is “Yes” if
 - the term “physical” violence or abuse is clearly defined or stated in the law or provision as a form of domestic violence, or

- the language in the provision can clearly be interpreted as treating physical violence or abuse as a form of domestic violence, including cruel or inhuman treatment, or harassment if stated as affecting physical health.
- The answer is “No” if the domestic violence law does not use the term “physical” violence or abuse or other language that can clearly be interpreted as physical violence or abuse.

75b. Does domestic violence legislation cover sexual violence?

- The answer is “Yes” if
 - the term “sexual” violence or abuse is clearly defined or stated in the law or provision as a form of domestic violence, or
 - language in the provision can clearly be interpreted as treating sexual violence or abuse as a form of domestic violence, including rape between spouses.
- The answer is “No” if
 - the domestic violence law does not contain the term “sexual” violence or abuse or other language that can clearly be interpreted as referring to sexual violence or abuse, or
 - the provision on sexual abuse is not classified as occurring within the context of domestic violence, or if legislation on sexual abuse covers only female genital mutilation or rape.

75c. Does domestic violence legislation cover emotional violence?

- The answer is “Yes” if
 - the term “psychological” or “emotional” violence or abuse is clearly defined or stated in the law as a form of domestic violence, or
 - the law contains language that can clearly be interpreted as psychological or emotional violence or abuse being a form of domestic violence, such as outrages upon personal dignity, humiliating and degrading treatment and harassment, if affecting mental health, and harm, if interpreted as emotional harm.
- The answer is “No” if the domestic violence law does not contain the term “psychological” or “emotional” violence or abuse or other language that can clearly be interpreted as psychological or emotional violence or abuse.

75d. Does domestic violence legislation cover economic violence?

- The answer is “Yes” if
 - the term “financial” or “economic” violence or abuse is clearly defined or stated in the law as a form of domestic violence, or
 - the law contains language that can clearly be interpreted as financial or economic violence or abuse, or
 - a provision covers the use of violence that causes or results in consequences affecting the livelihood of the victim.
- The answer is “No” if the domestic violence provision does not use the term “financial” or “economic” violence or abuse, or other language that can clearly be interpreted as financial or economic violence or abuse.

76. Does legislation on domestic violence protect family members?¹³

- The answer is “Yes” if
 - the law addressing domestic violence clearly protects spouses or married couples, or
 - the law clearly protects family members or members of the same household, including cohabiting individuals.
- The answer is “No” if the law addressing domestic violence does not cover married couples, spouses, family members or members of the same household.

77. Does domestic violence legislation protect former spouses?¹⁴

- The answer is “Yes” if it clearly protects former partners or spouses.
- The answer is “No” if it does not clearly protect former partners or spouses.

78. Does domestic violence legislation protect unmarried intimate partners?

- The answer is “Yes” if the legislation clearly protects women in unmarried, intimate relationships, including cohabiting and noncohabiting partners.
- The answer is “No” if the legislation only covers married couples or spouses and does not protect women in unmarried, intimate relationships.
- The answer is also “No” if the legislation covers de facto spouses, defined as persons who have gone through a form of ceremony recognized as a marriage but that has not been registered or is not capable of being registered.

79. Do protection orders for domestic violence exist?¹⁵

- The answer is “Yes” if victims of domestic violence can obtain a protection order in cases of domestic violence.

80. Do protection orders provide for removal of the perpetrator from the home?¹⁶

- The answer is “Yes” if the protection order obtained in cases of domestic violence provides for removal of the perpetrator from the home or ensures the perpetrator does not approach the home.

81. Do protection orders cover prohibition of contact and maintaining distance from the survivor?¹⁷

- The answer is “Yes” if the protection order obtained in cases of domestic violence provides for prohibiting contact with the survivor and/or requiring the perpetrator to maintain a geographic distance from the survivor or contains similar language.

82. Is there a specialized court or procedure for cases of domestic violence?

- The answer is “Yes” if the law
 - establishes a court with exclusive jurisdiction on matters related to domestic violence, or
 - provides revised rules of civil procedure or specially trained judges for matters related to domestic violence in a nonspecialized court, or
 - establishes special procedures for protection or restraining orders for cases of domestic violence.
- The answer is “No” if there are no special courts, procedures or protection or restraining orders for cases of domestic violence.

Sexual harassment

Sexual harassment is any unwelcome sexual advance, request for sexual favor, verbal or physical conduct or gesture of a sexual nature or any other behavior of a sexual nature that might reasonably be expected or be perceived to cause offense or humiliation to another.¹⁸ Such harassment may be but is not necessarily of a form that interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. There are nine questions for this subtopic.

83a. Is there legislation that specifically addresses sexual harassment?

- The question is meant to capture whether there is a law or specific provisions on sexual harassment; provisions may be general or apply only to employment.

- The answer is “Yes” if

- legislation specifically addresses and protects against sexual harassment, including unwelcome sexual advances; requests for sexual favors; verbal or physical conduct or gestures of a sexual nature; annoyance, if understood to include harassment with sexual content; or any other behavior of a sexual nature that might reasonably be expected or be perceived to cause offense or humiliation to another, or
- sexual harassment is considered “discrimination,” and legislation protects against discrimination, or
- there is a provision protecting against sexual harassment in employment, including provisions on inducing indecent or lewd behavior coupled with financial or official dependence or authority, abuse of position or authority, or language that can be clearly interpreted to mean such dependence or abuse.

- The answer is “No” if

- the law does not specifically address sexual harassment, or
- the behavior or gesture of sexual nature is performed using force or violence or the threat of force or violence, which is understood to constitute a crime, e.g., sexual assault or abuse, or
- the conduct covered in the legislation is not directed at a specific individual, or
- the legislation allows an employee to terminate employment based on sexual harassment but provides for no other protection (however, a provision allowing the employer to terminate an employee’s contract for committing sexual harassment will be considered), or
- the legislation protects only a specific category of women or those in a specific area or sector of employment, e.g., protection from sexual harassment in political functions, or applies only to government or state-owned enterprises, or
- the legislation accounts only for sexual acts, including intercourse or copulation, as clearly involving contact of or with genital organs, or
- the legislation states only that the employer has a duty to prevent sexual harassment, but there are no provisions to prohibit or provide sanctions for sexual harassment, or
- the legislation addresses harassment in general but makes no reference to acts of a sexual nature or contact.

83b. Are there civil remedies for sexual harassment?¹⁹

- The question covers whether the law provides for civil remedies such as compensation for victims of sexual harassment or recovery of monetary damages.
- The answer is “Yes” if
 - the legislation provides for civil remedies or compensation for victims of sexual harassment, or
 - there is a provision on sexual harassment in the criminal code that provides for reparation of damages for offenses covered by the code.

83c. Are there criminal penalties for sexual harassment?

- The answer is “Yes” if legislation specifies criminal sanctions, such as fines and imprisonment, for sexual harassment.
- The answer is “No” if
 - there are no criminal sanctions for sexual harassment, or
 - the legislation on sexual harassment refers to penalties for more serious offenses in the criminal code, such as sexual assault, or
 - the law prohibits only sexual harassment in employment and sets forth only that the employer should apply discretionary sanctions.

84a. Is there legislation on sexual harassment in employment?

- The question covers provisions on sexual harassment in the workplace or in employment, whether or not sanctions apply.
- The answer is “Yes” if
 - there is legislation that specifically protects against sexual harassment in employment, including unwelcome sexual advances, requests for sexual favors, verbal or physical conduct or gestures of a sexual nature, annoyance if understood to include harassment with sexual content, or any other behavior of a sexual nature that might reasonably be expected or be perceived to cause offense or humiliation to another in connection with employment, including provisions on inducing indecent or lewd behavior coupled with financial or official dependence or authority, abuse of position or authority, or language that can be clearly interpreted to mean such dependence or abuse, or
 - sexual harassment is deemed discrimination in employment, and the law protects against discrimination.

- The answer is “No” if

- there is no legislation specifically addressing sexual harassment in employment, or
- a behavior or gesture of sexual nature uses force or violence or the threat of force or violence, which is understood to constitute a crime, e.g., sexual assault or abuse, or
- the conduct covered by legislation is not directed at a specific individual, or
- the legislation allows an employee to terminate an employment contract based on sexual harassment but provides for no other protection, although a provision allowing the employer to terminate an employee’s contract for committing sexual harassment will be taken into account, or
- the legislation covers only public or only private sector employees, but not both, or
- the legislation protects only a specific category of women or only a specific area of employment, e.g., protection from sexual harassment in political functions, or applies only to government or state-owned enterprises, or
- the legislation refers only to sexual acts, including intercourse or copulation, as clearly involving contact of or with genital organs, or
- the legislation states only that the employer has a duty to take measures to prevent sexual harassment, but there are no provisions prohibiting or providing sanctions for sexual harassment, or
- the legislation addresses harassment in general but makes no reference to acts of a sexual nature or contact.

84b. Are there civil remedies for sexual harassment in employment?²⁰

- The question covers whether the law provides for civil remedies for sexual harassment in employment, such as compensation for victims or recovery of monetary damages.
- The answer is “Yes” if
 - the legislation provides for civil remedies or compensation for victims of sexual harassment in employment, or
 - there is a provision on sexual harassment in the workplace in the criminal code that provides for reparation of damages for offenses covered by the code.

84c. Are there criminal penalties for sexual harassment in employment?

- The question covers sanctions such as imprisonment or fines specifically for sexual harassment in the workplace.
- The answer is “Yes” if the legislation specifies criminal sanctions, such as fines and imprisonment, for sexual harassment in employment.
- The answer is “No” if
 - there are no criminal sanctions for sexual harassment in employment, or
 - the law on sexual harassment refers to penalties for more serious offenses in the criminal code, such as for sexual assault, or
 - the law prohibits sexual harassment in employment but states only that the employer should apply discretionary sanctions.

85. Is there legislation on sexual harassment in education?

- The question covers provisions addressing sexual harassment in education, educational facilities, schools or where the offender is in the role of educator, professor or in charge of the education of the victim, whether or not there are sanctions associated with the provision.
- The answer is “Yes” if the legislation specifically covers sexual harassment in education or contains language that can clearly be interpreted as sexual harassment in education.
- The answer is “No” if
 - the legislation does not specifically cover sexual harassment in education, or
 - it covers sexual harassment only in public or only in private education, but not in both.

86. Is there legislation on sexual harassment in public places?

- The answer is “Yes” if the legislation specifically covers sexual harassment in public places, including public spaces, in the public life or sphere, or in transportation.
- The answer is “No” if the legislation does not cover sexual harassment in public places, public spaces, in public, in the public life or sphere, or in transportation.

Child and early marriage

87a. What is the legal age of marriage for boys?²¹

- The legal age of marriage for boys is the age at which boys can be married without parental or another authority’s consent.
- The legal age of marriage for boys is also the age before which boys are not allowed to be married, assuming no exceptions are provided for.

87b. What is the legal age of marriage for girls?²²

- The legal age of marriage for girls is the age at which girls can be married without parental or another authority’s consent.
- The legal age of marriage for girls is also the age before which girls are not allowed to be married, assuming no exceptions are provided for.

88. Are there any exceptions to the legal age of marriage?²³

- The answer is “Yes” if girls or boys may get married before the specified legal age of marriage with the consent of, e.g., a parent, guardian, the judge, the court, or any other authority.

89. Does the law prohibit or invalidate child or early marriage?²⁴

- The answer is “Yes” if there are provisions that prevent the marriage of girls, boys, or both before they reach the legal age for marriage or the age of marriage with consent, including, for example, a prohibition on registering the marriage or provisions stating that such a marriage is null and void.
- The answer is “No” if
 - there are no provisions invalidating the marriage or prohibiting the registration under a minimum age, or
 - the marriage is invalid based on lack of consent of the parent or guardian when the law does not set a minimum age.

90. Are there penalties in the law for authorizing or knowingly entering into child or early marriage?²⁵

- The answer is “Yes” if there are enforcement measures or sanctions in the law against anyone who allows, registers or celebrates the marriage of girls or boys violating the legal age requirements, including for any party to the marriage who is over the legal age of marriage and knowingly marries someone not of legal age.

Marital rape

91. Does legislation explicitly criminalize marital rape?²⁶

- The answer is “Yes” if
 - there is legislation that explicitly criminalizes the act of marital rape by providing that rape or sexual assault provisions apply “irrespective of the nature of the relationship” between the perpetrator and complainant or by stating that “no marriage or other relationship shall constitute a defense to a charge of rape or sexual assault under the legislation,” or
 - there is legislation that explicitly criminalizes the act of rape between (i) persons in marital relationships; (ii) relatives, when the law explicitly considers spouses relatives (but not for relatives in general); or (iii) persons in situations of abuse or dependency of family position (but not of dependency in general), when the law clearly includes spouses within the definition of family; or when legislation that explicitly criminalizes the act of rape states that the spouse is a potential offender or is not exempt from charges, or
 - marital relationships are an aggravating factor for the crimes of rape and sexual assault that includes elements of rape, or if the law sets out conditions in which the penalty for marital rape or rape by the husband is mitigated so that the criminalization of marital rape can be inferred.
- The answer is “No” if
 - there are no criminal sanctions for the offense (i.e., the law only “prohibits” the act, provides for the application of protection orders, or “allows a judge to order a husband not to rape his wife”), or
 - the provision on marital rape applies only if the spouses are separated or in the process of getting separated, or
 - the provision covers only relationships of dependency in general, or financial or official dependence, or
 - the provision on rape applies only in certain circumstances, such as sickness, or
 - the provision applies only to family members, and spouses are not clearly included in the definition of family.

92. If there is no specific provision that explicitly criminalizes marital rape, can a woman otherwise file a criminal complaint against her husband for rape?²⁷

- The answer is “Yes” if legislation entitles a woman to file a complaint for rape against her husband or partner, and does not exclude spouses from its application.
- The answer is “No” if
 - the legislation on rape or sexual assault contains exemptions that prevent spouses from being charged with the offense or states that there is no crime of rape between husband and wife or within marriage, or
 - rape is not a codified crime.

93. Is the husband exempt from facing criminal penalties for rape (marital rape exemption)?²⁸

- The answer is “Yes” if
 - the legislation on rape or sexual assault, or general criminal law, exempts husbands or spouses from being charged with the offense or clearly states that there is no crime of rape between husband and wife or within marriage, or
 - the provision on rape between spouses is conditioned on the act being committed with violence.

94. Are perpetrators exempt from facing criminal charges for rape if they marry the victim?²⁹

- The answer is “Yes” if
 - the legislation on rape or sexual assault, or general criminal law, exempts the perpetrator from being charged with the offense if he marries the victim after the crime, or
 - the legislation provides for mitigated penalties if the perpetrator marries the victim after the crime.

Summary of methodology changes

There were several changes of methodology between *Women, Business and the Law 2014* and *Women, Business and the Law 2016*. For that reason, the data presented on the website were recomputed to match the new methodology. In six of the topics there were changes of methodology as follows:

Accessing institutions: includes new questions on whether legislative quotas exist for women candidates on candidate lists in national parliament and local government elections. Where such quotas exist the applicable percentage is stated. These new questions complement previous questions on reserved

seat quotas, allowing for a more accurate representation of how women's political representation is promoted in a diversity of political systems. The methodology for the question on whether customary law is recognized by the constitution has been revised to capture only cases in which customary law is widely applicable. The question no longer captures instances where customary law may only be applied by indigenous communities in restricted territories.

Going to court: explicit restrictions on women's testimony relative to men's are taken into account. Unwritten laws, including unwritten religious laws, are excluded from this question. The questions on customary law and personal law courts only cover courts with exclusive jurisdiction.

Providing incentives to work: the question on childcare now covers public childcare services, including preschools, which are either provided directly by the government or by government-subsidized private childcare institutions. New questions were added covering financial support provided by the government to parents with children under the age of primary education and the availability of a leave for employees specifically to care for a sick relative.

Building credit: includes new questions that examine whether the law prohibits discrimination on the basis of gender and marital status by creditors in access to credit.

Getting a job: the assumption that the woman or man is a non-managerial employee in the manufacturing sector working for a firm of at least 50 employees has been modified. It is now assumed that the woman or man is a cashier in the food retail sector working for a supermarket or grocery store of at least 60 employees. For questions on the length of paid and unpaid parental leave, an assumption has been added that only one parent takes the full parental leave entitlement where parental leave is an individual entitlement. The questions on industry restrictions for women's work have been further disaggregated into 10 specific areas, rather than the previous 8. A question has been added to capture if there is any other sector where women cannot work apart from mining, construction

and factories, which are considered separately. Additionally a question has been added to capture whether there are any other job-related tasks that women cannot do, apart from metalwork or lifting weights above a certain threshold, which are examined separately. The question on whether non-pregnant and non-nursing women can work the same night hours as men now captures laws that broadly restrict women from working at night. Previously, restrictions on women working at night in factories were also captured by this question, as it was assumed that the woman works in the manufacturing sector. Where the law conditions women's ability to work at night on employer compliance with safety measures (such as providing transportation to and from work), a restriction is not counted, as legislating safety measures can facilitate women's ability to work at night.

Protecting women from violence: the question on whether there is legislation specifically addressing domestic violence was revised to exclude provisions that only provide for aggravated penalties in case of crimes committed between spouses or family members and a new question was added to capture such provisions. The question addressing protection of victims of domestic violence was further disaggregated to determine whether the law specifically covers spouses or family members and former spouses or partners. A new question was added to determine whether the legislation establishes criminal penalties for domestic violence. Four new questions were included to cover explicit provisions on marital rape, the availability of general criminal law to prosecute for rape, and exemptions for perpetrators of rape when they are married or subsequently marry the victim. New questions were added examining the availability of protection orders for victims of domestic violence and whether they provide for removing the perpetrator from the home and prohibiting contact with the victim. Additionally, new questions were added to capture the legal age of marriage of boys and girls, exceptions to the legal age of marriage, provisions invalidating or prohibiting child or early marriage and penalties for authorizing or knowingly entering into child marriages. The questions on sexual harassment provisions were further disaggregated to cover the availability of civil remedies for victims of sexual harassment.

Notes

- 1 This is a new question.
- 2 This is a new question.
- 3 This is a new question.
- 4 This is a new question.
- 5 This is a new question.
- 6 This is a new question.
- 7 “Morally inappropriate” jobs are often not defined objectively but are left to employers to determine subjectively. However, some economies categorize such jobs as distributing images, working in casinos, or producing alcohol as morally inappropriate.
- 8 This is a new question.
- 9 This is a new question.
- 10 “Aggravated penalties” refers to circumstances that heighten the severity of the criminal act, leading to an increase in the perpetrator’s penalty or punishment.
- 11 This is a new question.
- 12 This is a new question.
- 13 This is a new question.
- 14 This is a new question.
- 15 This is a new question.
- 16 This is a new question.
- 17 This is a new question.
- 18 UNHCR. 2005. “UNHCR’s Policy Framework on Harassment, Sexual Harassment and Abuse of Authority.” [http://www.un.org/womenwatch/osagi/UN_system_policies/\(UNHCR\)policy_on_harassment.pdf](http://www.un.org/womenwatch/osagi/UN_system_policies/(UNHCR)policy_on_harassment.pdf)
- 19 This is a new question.
- 20 This is a new question.
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