

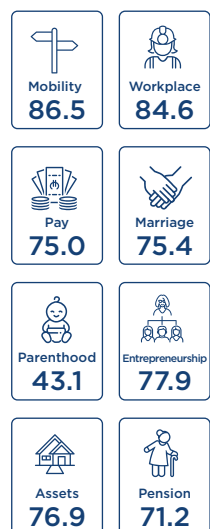


EASTERN AND SOUTHERN AFRICA

When societies get to equal, economies become more resilient. *Women, Business and the Law* (WBL) examines progress toward gender equality over time by measuring the laws and regulations that restrict women's economic inclusion in 190 economies. The project presents eight indicators structured around women's interactions with the law as they move through their lives and careers: Mobility, Workplace, Pay, Marriage, Parenthood, Entrepreneurship, Assets, and Pension. It identifies barriers to women's economic participation and highlights opportunities for reform.

Over the last 50 years, Eastern and Southern Africa has made significant strides toward gender equality. The average score in 1970 was just 37.3. Today, the average score is 73.8, above the regional average for Sub-Saharan Africa, 71.0, but below the global average of 76.1. Though progress has been made in the region, there is more work to be done.

REGIONAL AVERAGE BY INDICATOR



ECONOMY SCORES

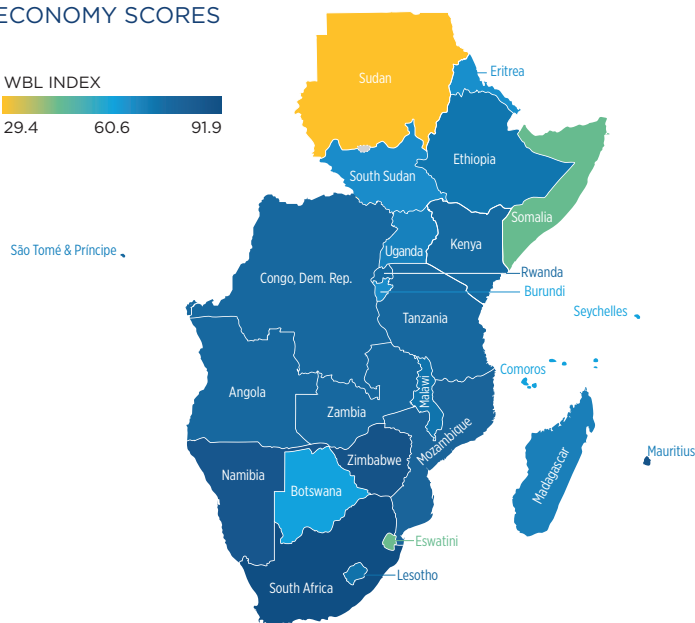
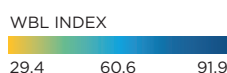


FIGURE 1: ECONOMY SCORES

	1970	2021
Mauritius	46.3	89.4
South Africa	25.6	88.1
Zimbabwe	36.9	86.9
Namibia	33.8	86.3
Rwanda	41.3	83.8
São Tomé & Príncipe	18.8	83.1
Mozambique	33.8	82.5
Tanzania	58.8	81.3
Zambia	46.9	81.3
Kenya	48.8	80.6
Angola	30.6	79.4
Congo, Dem. Rep.	23.1	78.8
Lesotho	28.8	78.1
Malawi	42.5	77.5
Ethiopia	44.4	76.9
Burundi	45.0	76.3
Seychelles	51.3	76.3
Average	37.3	73.8
Uganda	46.9	73.1
Madagascar	42.5	71.9
Eritrea	50.6	69.4
South Sudan	37.5	67.5
Comoros	35.6	65.0
Botswana	22.5	63.8
Somalia	32.5	46.9
Eswatini	26.9	46.3
Sudan	17.5	29.4

REFORMS TOWARD GREATER GENDER EQUALITY, RECORDED BY *WOMEN, BUSINESS AND THE LAW* BETWEEN 2020 AND 2022

WBL 2021			WBL 2022	
<p>Madagascar enacted legislation protecting women from domestic violence.</p>			<p>Angola enacted legislation protecting women from sexual harassment in employment. It also adopted criminal penalties for sexual harassment in employment.</p>	
<p>Ethiopia increased paid maternity leave from 90 to 120 days and introduced three days of paid paternity leave.</p>			<p>Burundi mandated equal remuneration for work of equal value.</p>	
<p>Rwanda gave women the same rights to remarry as men.</p>				

50 YEARS OF WOMEN’S RIGHTS

In 1970, women in Sub-Saharan Africa faced more legal restrictions than those in any other region of the world apart from the Middle East and North Africa. In many economies, these provisions were carried over from the colonial era. For example, the Democratic Republic of Congo inherited the Belgian civil code, while Kenya used British marriage laws. By the mid-1980s, however, Sub-Saharan African economies represented the region with the fifth highest average score (see Figure 2). This progress was in part attributable to reforms made by the economies in Eastern and Southern Africa, all of which implemented at least one legal change enhancing women’s employment and entrepreneurship between 1970 and 2021.

The decade from 2000 to 2009 is particularly notable for the progress made. Some of this success could be attributed to the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol), which entered into force in 2005 and guarantees comprehensive rights to women. The African Women’s Decade (AWD) on Grassroots Approach to Gender Equality and Women’s Empowerment 2010-2020 could also have led to more recent reforms in the region. These campaigns may have worked by spurring the adoption of gender policies across the continent, and by mandating reporting requirements showing the extent of progress on these goals. The biggest change in average score was recorded by upper middle-income economies: Botswana, Namibia, and South Africa. Overall, Eastern and Southern Africa economies have implemented 240 reforms in the areas measured by *Women, Business and the Law* since 1970.

FIGURE 2: WBL INDEX SCORE BY REGION

	1970	2021
Eastern & Southern Africa	37	74
OECD High Income	56	95
Europe & Central Asia	57	84
Latin America & Caribbean	49	80
East Asia & Pacific	48	72
Sub-Saharan Africa	38	72
South Asia	44	64
Middle East & North Africa	31	53
Global	45	76

A majority of these reforms affected scores on the Workplace, Parenthood, and Marriage indicators (see Figure 3). Since 1970, all economies in the region except Sudan have passed reforms affecting women’s decisions to enter and remain in the labor force. Twenty-four economies prohibited discrimination in employment based on gender, while 19 passed legislation on sexual harassment in employment. Significant improvements were also made under the Parenthood indicator, driven primarily by the prohibition of dismissal of pregnant workers and the introduction of at least 14 weeks paid maternity leave. Finally, 19 economies have introduced domestic violence legislation since 1970, leading to a nearly 30-point increase in average score under the Marriage indicator. However, each of these areas still has room to improve. While the Workplace indicator receives the second highest average score, Marriage receives the fourth lowest and Parenthood the lowest today. Opportunities for reform in the areas covered by each indicator are explored on the following pages.

FIGURE 3: CHANGES IN AVERAGE INDICATOR SCORES

	1970	2021
Mobility	67.3	86.5
Workplace	16.3	84.6
Pay	36.5	75.0
Marriage	47.0	75.4
Parenthood	2.3	43.1
Entrepreneurship	45.2	77.9
Assets	47.0	76.9
Pension	36.5	71.2

TOP IMPROVERS IN EASTERN AND SOUTHERN AFRICA

Three of the world’s top 10 most improved economies since 1970 are in the Eastern and Southern Africa region:

SÃO TOMÉ AND PRÍNCIPE

14 REFORMS PASSED

São Tomé and Príncipe is the global top improver. A new family law enacted in the late 1970s granted women rights under the Mobility, Workplace, Marriage, Entrepreneurship, and Assets indicators.

SOUTH AFRICA

18 REFORMS PASSED

The removal of the marital power of the husband allowed women to sign contracts, register businesses, and open bank accounts without requiring their husbands’ consent. This measure, along with the enactment of the country’s first domestic violence law in the 1990s, led to a significant increase in score.

DEMOCRATIC REPUBLIC OF CONGO

14 REFORMS PASSED

A new family code enacted in 2016 no longer required married women to obey their husbands and allowed them to sign a contract, register a business, open a bank account, choose where to live, and get a job in the same way as men. This reform is responsible for much of the country’s increase over the last 50 years.

MOBILITY

The indicator with the highest average score in Eastern and Southern Africa is Mobility. Sixteen of the 26 economies in the region receive a score of 100 on this indicator, meaning that all constraints on women's agency and freedom of movement in the areas measured have been removed. However, there is opportunity for reform in 10 economies. In Botswana, Madagascar, Malawi, Namibia, Seychelles, Sudan, and Zambia, women cannot apply for a passport in the same way as men. In Comoros, Malawi, Somalia, Sudan, and Uganda, the same is true of choosing where to live. Limitations in this area reduce opportunities for women to build networks with other entrepreneurs and exchange vital information on market opportunities. Therefore, increasing women's mobility can give them access to better employment prospects. The most recent reform in this area occurred in 2018 in Uganda, when a new passport application form equalized requirements for spouses to provide information about each other.

WORKPLACE

The introduction of workplace protections can affect women's decision to enter and remain in the labor force. In Eastern and Southern Africa, nearly all economies allow women to get a job in the same way as men and prohibit discrimination in employment based on gender. Addressing sexual harassment in the workplace will also be key to achieving fundamental labor market goals, including closing the gender pay gap. Five economies in Eastern and Southern Africa have no legislation protecting women from sexual harassment in employment: Botswana, Eswatini, Seychelles, Somalia, and Sudan.

In addition to a prohibition, civil remedies and criminal penalties for sexual harassment can provide women with effective recourse. With the exception of Lesotho, all of the economies in Eastern and Southern Africa that prohibit sexual harassment in employment also provide for either civil remedies or criminal penalties (see Figure 4). Good practice examples, with provisions on both civil and criminal avenues of recourse, include legislation from Tanzania, Uganda, and Zambia. In 2017, Zambia enacted the Gender Equity and Equality Act, which extended to women protections from sexual harassment in employment and adopted both civil remedies and criminal penalties.

PAY

Laws and regulations affecting the gender wage gap and occupational segregation can facilitate women's ability to secure and sustain employment. A guarantee of equal remuneration for work of equal value can ensure that women are not discriminated against when receiving wages and benefits. Less than half (11) of the economies in Eastern and Southern Africa do not mandate this workplace protection.

Gender-based job restrictions also persist in the region (see Figure 5), with nine economies prohibiting women from certain occupations: Angola, Democratic Republic of Congo, Eswatini, Ethiopia, Lesotho, Madagascar, Mozambique, Somalia, and Sudan. Economies looking to reform may consider the examples of Rwanda, Kenya, or São Tomé and Príncipe, which eliminated job restrictions in 2001, 2007, and 2019 respectively.

FIGURE 4: LEGISLATION AND REMEDIES FOR SEXUAL HARASSMENT IN EMPLOYMENT

	Sexual Harassment in Employment	Criminal Penalties	Civil Remedies
Angola	✓	✓	
Burundi	✓	✓	✓
Comoros	✓		✓
Congo, Dem. Rep.	✓	✓	✓
Eritrea	✓	✓	
Ethiopia	✓	✓	✓
Kenya	✓	✓	
Lesotho	✓		
Madagascar	✓	✓	✓
Malawi	✓	✓	
Mauritius	✓	✓	✓
Mozambique	✓	✓	✓
Namibia	✓		✓
Rwanda	✓	✓	✓
São Tomé and Príncipe	✓	✓	✓
South Africa	✓		✓
South Sudan	✓	✓	✓
Tanzania	✓	✓	✓
Uganda	✓	✓	✓
Zambia	✓	✓	✓
Zimbabwe	✓		✓

FIGURE 5: NUMBER OF ECONOMIES WITH JOB RESTRICTIONS BY INDUSTRY

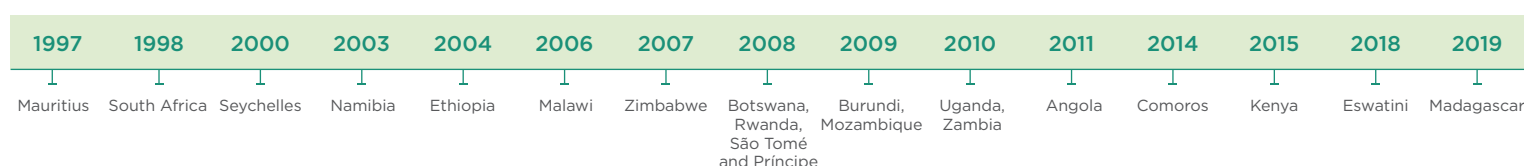
 Mining 7	 Hazardous jobs 5	 Agriculture 4
 Arduous jobs 4	 Factories 3	 Water 3
 Energy 3	 Construction 2	 Transportation 2
 Other 1	 Morally inappropriate jobs 1	

MARRIAGE

Unequal rights in marriage and divorce can have negative effects on women's intra-household bargaining power and jeopardize their financial security. Gender equality in this sphere includes protection from domestic violence as well as the ability to divorce and remarry in the same way as men. In 1970, no economy in the region had domestic violence legislation in place. Today, just seven economies in Eastern and Southern Africa do not have legislation addressing domestic violence: Democratic Republic of Congo, Eritrea, Lesotho, Sudan, Somalia, South Sudan, and Tanzania. In 2019, Madagascar enacted legislation protecting women from violence for the first time. The law establishes criminal penalties for different forms of gender-based violence, including physical, psychological, emotional, and economic abuse in the private and public spheres. It also lays out a process to obtain protection orders. Furthermore, the law stipulates that the state must support survivors through the provision of health care, including psychological health care, and legal aid services.

Several economies also prohibit women from obtaining a divorce in the same way as men (e.g., by requiring additional procedures for women or prohibiting divorce altogether, as in Eswatini). Others require a waiting period before remarriage that is not required of men. Rwanda recently eliminated a 300-day waiting period for women before remarriage.

FIGURE 6: TIMELINE OF DOMESTIC VIOLENCE LEGISLATION, EASTERN AND SOUTHERN AFRICA



PARENTHOOD

The regulatory environment also plays a significant role in shaping women's ability to get jobs and remain in the labor force after starting a family. Maternity, paternity, and parental leave schemes can help recognize and redistribute unpaid care work. While every economy in Eastern and Southern Africa offers paid maternity leave, many do not provide at least 14 weeks (98 days), the minimum standard set by the International Labour Organisation (ILO) (see Figure 7). Paid paternity leave is less common, with just three days provided on average. In 2019, Ethiopia increased paid maternity leave from 90 to 120 days and introduced three days of paid paternity leave.

FIGURE 7: SELECTED LENGTHS OF PAID LEAVE (CALENDAR DAYS)

	Maternity	Paternity	
Ethiopia	120	3	<div></div>
Seychelles	112	14	<div></div>
Mauritius	98	7	<div></div>
Kenya	90	14	<div></div>
Burundi	84	4	<div></div>
Mozambique	60	1	<div></div>
Malawi	56	0	<div></div>
Eswatini	14	0	<div></div>

ENTREPRENEURSHIP

Policy interventions can encourage women's entrepreneurship by prohibiting discrimination based on gender in access to finance. Laws that prescribe equal access when conducting financial transactions, carrying out entrepreneurial activity, or receiving financial assistance are key to expanding access to finance for women-owned businesses. Just seven economies in Eastern and Southern Africa have such provisions: Angola, Democratic Republic of Congo, Mauritius, Mozambique, South Africa, Zambia, and Zimbabwe. In 2018, Mozambique made access to credit easier for women by prohibiting gender-based discrimination in financial services. Globally, such provisions can be found in a variety of legislation ranging from nondiscrimination and gender equality laws to credit acts and consumer protection ordinances.



GOOD PRACTICE

In South Africa, the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 bars unfair practices, which it defines to include refusing to provide goods or services and providing unequal access to financial resources to any person on one of the prohibited grounds, including sex. Additionally, the National Credit Act of 2006 in Art. 61 establishes that a credit provider must not unfairly discriminate directly or indirectly based on gender.

ASSETS

Women in Eastern and Southern Africa can make significant contributions to economic growth and poverty reduction by starting their own businesses, and access to property or finance can provide them with the necessary collateral. In two economies, the Democratic Republic of Congo and South Sudan, however, women and men do not have equal ownership rights to immovable property. In 11 economies in the region, women inherit differently from men (see Figure 8).

Reforms in these areas could allow women to leverage assets for economic gain. Recently, South Sudan, Lesotho, and Eswatini have enacted changes. The first two economies equalized inheritance rights for sons and daughters in the past decade. In 2012, Eswatini granted spouses equal rights to immovable property and equal administrative authority over assets during marriage.



FIGURE 8: ECONOMIES WHERE MEN AND WOMEN INHERIT DIFFERENTLY

Economies where sons and daughters do not inherit equally

- Botswana
- Burundi
- Comoros
- Eswatini
- Madagascar
- Somalia
- Sudan
- Tanzania
- Uganda

Economies where male and female surviving spouses do not inherit equally

- Burundi
- Comoros
- Eswatini
- Kenya
- Somalia
- South Sudan
- Sudan
- Tanzania
- Uganda

PENSION

As women in Africa increasingly enter the formal workforce, pension systems that ensure their economic security in old age become more important. Two economies, Angola and Mozambique, establish different mandatory retirement ages for men and women, giving women shorter working lives and potentially affecting their lifetime earnings. An additional 17 economies do not account for periods of absence due to childcare in pension benefits. Explicit recognition of maternity or parental leave as qualifying periods of employment allow women's retirement savings to continue growing while on care leave. In 2016, the Democratic Republic of Congo equalized the retirement age (60 years) for women and men and established pension credits for periods of child care.



GOOD PRACTICE:









DEMOCRATIC REPUBLIC OF CONGO

Loi n° 16-009 fixant les règles relatives au régime général de sécurité sociale

"Any period during which the insured has received daily allowances for occupational risks or maternity and periods of incapacity to work within the six-month limit, in the event of illness duly recorded by a medical officer, and absences for statutory leave per Labor Code provisions are considered to be a period of insurance or employment."



REGIONAL TRENDS BY DATA POINT

INDICATOR	QUESTION	ANSWER (YES/NO)
 Mobility	Can a woman choose where to live in the same way as a man?	81% 19%
	Can a woman travel outside her home in the same way as a man?	96% 4%
	Can a woman apply for a passport in the same way as a man?	73% 27%
	Can a woman travel outside the country in the same way as a man?	96% 4%
 Workplace	Can a woman get a job in the same way as a man?	88% 12%
	Does the law prohibit discrimination in employment based on gender?	92% 8%
	Is there legislation on sexual harassment in employment?	81% 19%
	Are there criminal penalties or civil remedies for sexual harassment in employment?	77% 23%
 Pay	Does the law mandate equal remuneration for work of equal value?	58% 42%
	Can women work the same night hours as men?	92% 8%
	Can women work in jobs deemed dangerous in the same way as men?	77% 23%
	Are women able to work in the same industries as men?	73% 27%
 Marriage	Is there no legal provision that requires a married woman to obey her husband?	96% 4%
	Can a woman be head of household in the same way as a man?	73% 27%
	Is there legislation specifically addressing domestic violence?	73% 27%
	Can a woman obtain a judgment of divorce in the same way as a man?	73% 27%
	Does a woman have the same rights to remarry as a man?	62% 38%
 Parenthood	Is paid leave of at least 14 weeks available to mothers?	42% 58%
	Does the government pay 100% of maternity leave benefits?	31% 69%
	Is there paid paternity leave?	50% 50%
	Is there paid parental leave?	0% 100%
	Is dismissal of pregnant workers prohibited?	92% 8%
 Entrepreneurship	Does the law prohibit discrimination in access to credit based on gender?	27% 73%
	Can a woman sign a contract in the same way as a man?	96% 4%
	Can a woman register a business in the same way as a man?	92% 8%
	Can a woman open a bank account in the same way as man?	96% 4%
 Assets	Do men and women have equal ownership rights to immovable property?	92% 8%
	Do sons and daughters have equal rights to inherit assets from their parents?	65% 35%
	Do female and male surviving spouses have equal rights to inherit assets?	65% 35%
	Does the law grant spouses equal administrative authority over assets during marriage?	92% 8%
	Does the law provide for the valuation of nonmonetary contributions?	69% 31%
 Pension	Are the ages at which men and women can retire with full pension benefits equal?	73% 27%
	Are the ages at which men and women can retire with partial pension benefits equal?	85% 15%
	Are the mandatory retirement ages for men and women equal?	92% 8%
	Are periods of absence due to child care accounted for in pension benefits?	35% 65%

Support for the *Women, Business and the Law* regional profiles series is provided by the William and Flora Hewlett Foundation. This document aims to improve understanding of how legal and regulatory environments shape women's economic opportunities in Eastern and Southern Africa. It also seeks to build awareness of gender differentiated laws and identify areas for reform in the region. The analysis includes the following economies in the Africa Eastern and Southern (AFE) region as defined by the World Bank: Angola; Burundi; Botswana; Comoros; Congo, Dem. Rep.; Eritrea; Eswatini; Ethiopia; Kenya; Lesotho; Madagascar; Malawi; Mauritius; Mozambique; Namibia; Rwanda; São Tomé and Príncipe; Seychelles; Somalia; South Africa; South Sudan; Sudan; Tanzania; Uganda; Zambia; and Zimbabwe.



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