Empowering Women

Legal Rights and Economic Opportunities in Africa

Mary Hallward-Driemeier and Tazeen Hasan
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Expanding opportunities for women has intrinsic value. It is also instrumental in fostering development. Realizing the potential of all people is needed to ensure growth, productivity, and a vibrant society. *Empowering Women: Legal Rights and Economic Opportunities in Africa* brings new data and analysis to recommend how best to move this agenda forward.

Strengthening the incentives and abilities to pursue opportunities expands women’s economic empowerment. Property rights are central in this process because they ensure that people can reap the benefits of their efforts. Policy makers shape property rights through laws and regulations, and the legal system supports their enforcement. Yet despite their importance, before the publication of this volume, no study had looked systematically across Sub-Saharan Africa to examine the impacts on women’s economic empowerment.

Assessments of laws and regulations governing the business environment rarely examine whether they have different impacts on women and men. They fail to do so partly because they look at issues such as how to register property or enforce contracts, presuming that everyone can own property or enter into a contract. A major contribution of this book is to demonstrate that in many Sub-Saharan countries, economic rights for women and men are not equal. Areas of family law, inheritance law, and land law are not generally included in studies of business regulations. But it is precisely these areas of law that define legal capacity and the ability to own and control assets—and it is in these areas that explicit gender gaps are most likely.

To document the gender gaps in formal economic rights, the book draws on the Women’s Legal and Economic Empowerment Database for Africa (Women–LEED–Africa). Covering all 47 countries in Sub-Saharan Africa, this new database provides detailed indicators and links to statutes, constitutions, and international conventions on issues of legal capacity, marital property, land ownership, and labor law. The book’s recommendations focus not only on specific substantive changes to the law but also on ensuring that rights are enforced and the system of justice is made more accessible. The recommendations also
target women, showing how a few key decisions—such as registering a marriage, choosing a marital property regime, titling assets and businesses, and writing wills—can have dramatic impacts on their rights to property.

The book illustrates the benefits of bringing law and economics together. For lawyers, it provides evidence on how laws and legal reforms can improve economic outcomes. Links to specific statutes and case law facilitate comparisons of de jure gender gaps in rights, and discussions of the de facto functioning of the legal system show how it can hamper women’s access to justice. For economists, the book demonstrates that a broader set of laws beyond business regulations has direct gender impacts. The rich set of programs and approaches to expand access to the legal system the book discusses invite further research into their effectiveness in expanding women’s access to credit, investment, and entrepreneurship.

This book provides compelling evidence that the areas of law it examines need to be addressed—in terms of substance, enforcement, awareness, and access—if economic opportunities for women in Sub-Saharan Africa are to continue to expand.

Ngozi Okonjo-Iweala
Coordinating Minister of Economy and
Minister of Finance for the Federal Republic of Nigeria
This book looks at the effect of legal and economic rights on women’s economic opportunities. It focuses on entrepreneurship because women in Africa are active entrepreneurs, and the links between property rights and the ability to enter contracts in one’s own name affect entrepreneurial activities.

The laws that are the focus of this book are not business laws and regulations, which are generally gender blind and presuppose that individuals can own property or enter into contracts. Instead, the book examines family, inheritance, and land laws, which often restrict these rights in ways that hurt women. This book surveys constitutions and statutes in all 47 countries in Sub-Saharan Africa to document where gender gaps in these laws impinge on women’s legal capacity, property rights, or both. The results are introduced in a new database: the Women’s Legal and Economic Empowerment Database for Africa (Women–LEED–Africa).

The book also looks at some labor law issues, such as restrictions on the types of industries or hours of work in which women may engage and provisions for equal pay for work of equal value. These laws affect women as employees and influence the attractiveness of wage employment versus entrepreneurship. They were also selected because they affect the choice of enterprise women may run. The equal pay for work of equal value provisions are also of interest as an indicator of the recognition of women’s broader economic rights.

This book provides a series of indicators that show whether a country does or does not provide particular legal provisions. Several points are worth emphasizing in interpreting these indicators. First, the indicators are binary; there is no attempt to differentiate between small and large gender gaps. Second, the indicators are not used to generate an index or otherwise aggregate the indicators; no weights are given to differentiate the relative importance of different sets of laws. Third, the indicators reflect whether certain legal provisions are recognized in a country or not; because the link between the indicator and gender gaps is not always straightforward, care must be taken in making value judgments. Although some indicators reveal that women are treated equally or
identify gender differences in treatment, others do not. For example, the database includes indicators on whether customary or religious law is recognized as a formal source of law. Although recognition of these sources of law can have implications for women’s rights (as discussed in chapter 3), it does not necessarily imply that women’s rights are stronger or weaker. Conversely, the inclusion of some protections for women’s rights may reflect not the strong standing of women but rather the fact that gender equality is not seen as axiomatic and needs to be explicitly stated.

Chapter 1 argues for the importance of broadening the set of laws that need to be examined in order to determine how law affects women’s economic opportunities. Chapters 2 and 3 focus on formal rights and how they have been upheld in court decisions. Chapter 4 examines the gap between laws on the books and practice on the ground. Chapter 5 looks at how both the substance of law and women’s access to justice issues can be improved to expand women’s ability to pursue economic opportunities.

Most assessments of the business climate for women overlook the areas of law this study examines. Policy makers need to focus more closely on closing these legal—and other—gaps in order to expand the economic opportunities for women in Sub-Saharan Africa.

A companion volume, Enterprising Women: Expanding Opportunities in Africa (forthcoming 2013), examines in more detail ways to improve women’s ability to move into higher return activities. Drawing on the findings of this report, it finds a significant role for improving women’s legal and economic rights.
Acknowledgments

This book was written with important contributions from colleagues at the World Bank. In addition to contributions to chapters 1, 2, and 4, Mark Blackden provided invaluable assistance by introducing the authors to key local partners, moderating workshops, and pushing the authors to broaden the scope of the work. Tazeen Hasan, Jane Kamangu, and Emilia Lobti collected the information on the formal legal economic rights of women in the region, assembling the Legal and Economic Empowerment Database (Women–LEED–Africa). They also brought together and distilled the lessons from case law that, together with the database, form the basis of the analysis in this book.

Insightful comments and suggestions were provided by participants in workshops in Addis Ababa, Cape Town, Dakar, Nairobi, and Washington DC, from Cameroon, the Democratic Republic of Congo, Ethiopia, The Gambia, Ghana, Kenya, Malawi, Mali, Nigeria, Rwanda, Senegal, South Africa, Sudan, Tanzania, and Uganda. Particular thanks are given to Mekonnen Firew Ayano, Reena Badiani, Elena Bardasi, Lisa Bhansali, Christina Biebesheimer, Rea Abada Chiongson, Aline Coudouel, Susan Deller Ross, Asli Demirgüç-Kunt, Deval Desai, Shanta Devarajan, Louise Fox, Anne Goldstein, Markus Goldstein, Sarah Iqbal, Sandra Joireman, Maureen Lewis, Valeed Malik, Andrew Mason, Nicholas Menzies, Ferenc Molnar, Ana Maria Munoz Boudet, Pierella Paci, Rita Ramalho, Ana Revenga, Bob Rijkers, Caroline Sage, Carolina Sanchez-Paramo, Sudhir Shetty, Sevi Simavi, and Vijay Tata for their comments and suggestions. The text benefited from the editorial services of Bruce Ross-Larson.

Financial support from the Dutch BNPP Trust Fund, and the World Bank’s Gender Action Plan, the Africa Chief Economist Regional Studies Program, the Finance and Private Sector Development Chief Economist Office, and the Development Economics Department is gratefully acknowledged. The study was carried out under the overall guidance of Marilou Uy, director for Finance and Private Sector Development in Africa, and Shanta Devarajan, chief economist for the Africa Region.
Mary Hallward-Driemeier is a lead economist and adviser to the Chief Economist of the World Bank. Since joining the World Bank as a Young Professional in 1997, she has published articles on entrepreneurship, firm productivity, the impact of the investment climate on firm performance, the impact of financial crises, and determinants of foreign direct investment. She was the deputy director for World Development Report 2005: A Better Investment Climate for Everyone. Mary helped establish the World Bank’s Enterprise Surveys Program, now covering more than 100,000 enterprises in 100 countries. She is also a founding member of the Microeconomics of Growth Network and is co-leading the Jobs Knowledge Platform. She received her MS in development economics from Oxford University as a Rhodes Scholar and her PhD in economics from the Massachusetts Institute of Technology.

Tazeen Hasan is a lawyer with expertise in finance and private sector development and justice and gender issues. She was the legal specialist on the team for World Development Report 2012: Gender Equality and Development and the MENA companion report, “Opening Doors: Gender Equality in the Middle East and North Africa.” Prior to joining the World Bank Group, Tazeen practiced as a barrister in the United Kingdom for 10 years, specializing in civil and commercial law. While living in Kenya, she also worked on legal issues relating to the conflict in South Sudan; she is currently a trustee of the International Association for Digital Publications, a nongovernmental organization focusing on higher education in developing countries. Tazeen obtained a masters (LLM) in international law from the London School of Economics and a BA in law from Pembroke College, University of Oxford. She is a member of the London Bar.
## Abbreviations

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<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<td>GDP</td>
<td>gross domestic product</td>
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<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>Women–LEED–Africa</td>
<td>Women’s Legal and Economic Empowerment Database for Africa</td>
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