



# THINK LABOR

To keep up with everything skilling and employment

## Women, Business, and the Law - Economy Summary: India

### Originally published: World Bank

India, the world's third-largest economy, has a female labor force participation rate of only 21%, which places it at 168 out of 187 countries. Ensuring economic inclusion of women is essential for strengthening economies and ensuring better development. With this in mind, *Women, Business, and the Law* (WBL) has assessed reforms in India over the past 50 years, applicable in the city of Bombay, that have affected 8 important indicators which determine women's economic participation.

### Key highlights:

- According to the report, India has a WBL index score of 74.4 out of 100 - the second highest of the 8 economies in South Asia, where the average index score is 63.7 out of 100.
- India has a perfect score of 100 on 3 of the 8 indicators measured - Mobility, Workplace, and Marriage - signifying equal opportunities and rights for both men and women in these areas.
- **Mobility - 100/100**
  - India places no restrictions on the movement of women and has the same laws on passports, migration, and matrimonial rights for both women and men.
  - This indicates better access to employment and entrepreneurship opportunities for women as they can commute freely and build networks for exchanging vital market information.
  - In practice, safety concerns, inadequate transportation facilities, and societal expectations compel women to stay home. Policy changes should be concentrated in these areas but efforts to enhance women's safety should not infringe upon their rights.
- **Workplace - 100/100**
  - Legislation prohibiting sexual harassment and gender discrimination in employment have enhanced women's willingness to enter and remain in the labour force.
  - The landmark Vishaka Guidelines in 1997 and the resultant introduction of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in 2013 are important laws in this area.
- **Pay - 25/100**
  - Pay has the second lowest performance of all areas, with an average global score of 68.7. 84 economies including India limit the jobs women can hold, which acts as a deterrent to their long-term employment in the labor force. For instance, the 1952 Mines Act prohibits their employment in underground mines.
  - To bridge the gender pay gap resulting from occupational sex segregation that confine women to low-paying jobs, India should eliminate legal restrictions on women's employment, like allowing women to work night shifts while ensuring their safety against violence in transportation and public places, as has been done by Maharashtra, Goa, and Karnataka.
  - Currently, India is not aligned with the International Labor Organization (ILO) Equal Remuneration Convention despite having ratified it in 1997. The convention provides a broad framework for comparison between similar as well as different jobs of equal value.
  - India adopted the Code on Wages in 2013, which does not provide for equal remuneration for work of equal value - making it one of the 95 economies to not have a mandate for the same.

- **Marriage - 100/100**
  - Marriage and divorce rights determine women's intrahouse bargaining power and financial security.
  - India passed the The Protection of Women from Domestic Violence Act in 2006, which protects women from physical, sexual, psychological, and economic abuse.
  - Marital rape is still not clearly prohibited - husbands raping their wives above the age of 18 are exempted from the penal code, which remains a serious issue that requires reform.
  - Women's divorce procedures are the same as that of men, allowing them to leave abusive marriages and be assured of financial stability, which promotes their economic participation.
  
- **Parenthood - 40/100**
  - Parenthood analyses laws affecting women's work during pregnancy and after birth of children.
  - The Maternity Benefit Act 2017 increased the paid maternity leave period to 26 weeks - more than the ILO's standard of 14 weeks.
  - In 2020, India also established a social insurance system for the public administration of paid maternity leave benefits.
  - The government grants up to 6 months paid paternity leave to civil servants, but lacks any such provision for private sector employees, which could result in discriminatory hiring and remuneration practices against women due to the different costs of hiring men and women.
  - To prevent this, the government should fully administer maternity leave benefits and mandate paid paternity leave for private sector employees.
  
- **Entrepreneurship - 75/100**
  - This examines constraints to women starting and running businesses. Laws mandating equal access to credit and initiating entrepreneurial activities are central to promoting women-owned businesses.
  - India provides equality in signing contracts, registering a business, and opening a bank account.
  - However, the law in India does not prohibit gender or sex-based discrimination in access to credit - Maldives is the only South Asian country to have legislation for the same under Article 9b and Article 23.
  - Reforms should prohibit gender-based discrimination in accessing finance - for instance, through promotion of female bank ownership - which would promote female entrepreneurship, resulting in job creation and economic growth and inclusion.
  
- **Assets - 80/100**
  - Gender differences in inheritance and property laws determine women's financial security and their access to collateral for procuring credit and starting businesses.
  - Women and men in India have equal access to inheritance under the Hindu Succession (Amendment) Act of 2005, equal ownership rights to immovable property, and equal administrative authority over assets during marriage.
  - However, divorce proceedings do not legally recognise the value of nonmonetary contributions upon dissolution of marriage - this disproportionately impacts women who tend to perform unpaid activities such as elder and child care, and generally obtain fewer monetized contributions and assets during marriage.
  - Although no South Asian economy has such a provision, Zimbabwe is a lower middle-income economy that recognises the same in its Matrimonial Causes Act.
  
- **Pension - 75/100**
  - This indicator examines laws affecting women's economic prospects in retirement.
  - In India, men and women can retire at the same ages to avail full or partial pension benefits.
  - India loses points here as periods of absence due to childcare are unaccounted for in pension benefits, which tends to lower women's pension and hamper their economic security in old age.

- Provisions such as Pakistan's Sindh Employees Old Age Benefits Act ensure that the maternity leave period is also added in the calculation of women's pension.
- While India has enacted reforms affecting 5 of the index's 8 indicators, increasing its score from 51.9 in 1971 to 74.4 in 2022, there are still 26 good practices (out of the 35 measured) that can be improved.
- Due to the federal nature of India's political system, reforms take time to be fully implemented across the country as these areas are mostly administered by the state legislations.
- Moreover, inheritance and marriage laws are often derived from customary practices, so they do not apply for all sections of the economy even when implemented.

**Read more:** [Women, Business and the Law - Economy Summary : India](#)

**Author:** Navya Sachdeva, Intern