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Item 8 (a) of the provisional agenda

## **Legislative reforms for women's economic empowerment in the Arab region**

### **Summary**

Overcoming gender-specific legal barriers is beneficial for the overall economy, not just for women. Evidence shows that lifting discriminatory barriers, by improving legal frameworks and strengthening a gender-responsive policy environment, is necessary for women to access their rights to education, health and employment without discrimination or violence, and therefore to achieve women's economic empowerment. Arab States have made some progress on legislation, but there is still a long way to go towards creating an inclusive and effective legislative framework to promote women's economic empowerment.

The present document focuses on legislation that supports women's economic empowerment, reviewing examples of good practices and actions needed to bring about positive change. It also examines the experiences of some States that have adopted legislative reforms, which contributed to enhancing women's economic empowerment. The document provides recommendations for adopting an inclusive legislative approach, based on the analytical tools developed by the Economic and Social Commission for Western Asia (ESCWA). The Committee on Women is invited to review the present document and comment thereon.

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## **Introduction**

1. Over the past decades, Arab countries have made progress in enabling women to have a productive role in the economy and society, through several actions taken in support of women and multiple legislative achievements. Despite these efforts, different overlapping forms of legal discrimination continue to hinder women's economic participation. Conflicts and the effects of the COVID-19 pandemic continue to weigh on the economic prospects of the Arab region, highlighting the importance of intensifying efforts and interventions to increase women's economic participation as a way to achieve gender equality and ensure the stability of national economies.
2. To increase women's economic participation, a comprehensive legislative reform is needed to provide a decent work environment, a stimulating environment for women's entrepreneurship and employment, and a legislative environment that helps address social relations affecting women's economic empowerment.
3. In this context, the present document provides an overview of the legislative framework related to women's economic empowerment and reviews the progress made and existing legal gaps. Chapter I deals with legislation that directly contributes to a decent work environment to enhance women's participation in the labour market; chapter II highlights legislation that helps promote women's entrepreneurship and employment, and chapter III tackles the general legislative framework that affects women's ability to benefit from the legislative environment conducive to their economic participation. Chapter IV reviews ESCWA tools related to developing legislation on women's rights, and chapter V provides a set of recommendations.
4. The document is based on the analysis and policy tools developed by the Economic and Social Commission for Western Asia (ESCWA), including the reports of the [Gender Justice and the Law in the Arab States Region](#) initiative. It presents case studies from Arab countries that have undertaken constitutional and legal reforms and changes, for a better understanding of the policy context enabling women's economic empowerment.

### **I. Decent work environment for women's economic empowerment and the related legislation**

5. Ensuring rights at work and providing social protection are two elements of decent work.<sup>1</sup> Various decent work strategies have been developed, and legislation is an important tool for their implementation. In the absence of model legislation in this area, three basic and interrelated standards could be adopted based on international human rights treaties and International Labour Organization (ILO) conventions and recommendations. These standards should be achieved by virtue of legislation, given their importance in providing a decent work environment for women or what can be considered as a "first pillar" for strengthening women's role as real and active forces in the economy. These standards are:

- (a) Promote equality in the world of work and eliminate all forms of discrimination against women;
- (b) Ensure comprehensive protection from violence and harassment against women in the workplace;
- (c) Recognize, redistribute and alleviate women's unpaid family responsibilities.

#### **A. Promote equality in the world of work and eliminate all forms of discrimination against women**

6. Ensuring equality and non-discrimination is a fundamental human rights principle and a cornerstone of decent work. It is therefore important that legislation be based on the principle of non-discrimination in all work-related benefits, particularly non-discrimination based on sex. Mechanisms must be developed to ensure that victims of discrimination have access to effective remedies in the event of a violation. Legal protection for women should be provided by removing discrimination in laws (e.g. prohibiting women from working in

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<sup>1</sup> International Labour Organization (ILO), [Decent Work and the 2030 Agenda for Sustainable Development](#).

certain jobs) and including in the law articles that clearly respond to women's need for access to decent work (e.g. articles related to maternity leave, flexible working arrangements, etc.). Such legal provisions or articles would motivate the State to provide opportunities that guarantee women's equal right to work. It is also important to remove societal constraints hindering the right to work and enable women to enjoy this right. Globally, some States have made progress that has not been limited to adopting legal provisions against gender discrimination. For example, following the COVID-19 pandemic, Spain issued a decree requiring companies to disclose sex-disaggregated distribution of salaries.

7. International standards on decent work have emphasized equal pay and non-discrimination in occupation as necessary to guarantee the right to work, achieve the well-being of all and support employees' professional advancement in conditions of freedom, dignity, economic security and equal opportunity.<sup>2</sup> Discrimination relates not only to restrictions on occupations or night work, but also to women's entire economic life cycle. Women often leave the labour market during the first years after the birth of their children or take unpaid leave to raise them because they shoulder the primary responsibility for their care. This affects the number of years that women spend in the labour market and, consequently, their ability to advance in the profession and assume leadership positions. As a result, women receive a lower pension than men because of their limited years of employment in the labour market. This situation is worse in States that impose on women a retirement age lower than that adopted for men, as indicated in paragraph 10 of the present document.

8. In the Arab region, reports prepared by ESCWA in 2022, in collaboration with its partners under the Gender Justice and the Law initiative, showed that labour laws in 17 Arab States contained specific provisions on equal enjoyment of the right to work.<sup>3</sup> In Algeria, Egypt and Qatar, the law does not prohibit discrimination based on sex in employment, but general provisions prohibiting discrimination in general can be used. In the Sudan, no legal provision addresses discrimination against women at work.

9. In 14 Arab countries, legislation restricts jobs that women can hold.<sup>4</sup> Legal restrictions are imposed on women's night work in some Arab States, with the exception of Bahrain, Djibouti,<sup>5</sup> Jordan, Saudi Arabia and the United Arab Emirates.

10. Most Arab countries discriminate between the sexes in terms of retirement age or in permitting early retirement age for women. In nine countries only (Djibouti,<sup>6</sup> Egypt, Lebanon, Oman, State of Palestine, Saudi Arabia, Sudan, Tunisia and Yemen), national legislation provides for a similar retirement age for men and women. In five Arab countries, namely Algeria,<sup>7</sup> Bahrain, Kuwait, Libya<sup>8</sup> and Morocco, national legislation provides for a similar retirement age for men and women but grants the option of early retirement to women only. In six Arab countries (Iraq, Jordan, Qatar, Somalia, Syrian Arab Republic and United Arab Emirates), national legislation provides for a retirement age for women lower than that for men.

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<sup>2</sup> ILO, [Gender Equality and Decent Work: Selected ILO conventions and recommendations that promote gender equality](#), 2012.

<sup>3</sup> In Iraq, Labour Law No. (37) of 2015 defines "direct discrimination" in article 1–25 as "any distinction, exclusion or preference based on race, colour, sex, religion, sect, opinion, political belief, origins or nationality". The term "indirect discrimination" is defined in article 1–26 as "any distinction, exclusion or preference based on nationality, age, health condition, economic or social status, affiliation to a trade union, which has the effect of nullifying or impairing equality of opportunity or treatment in employment and occupation".

<sup>4</sup> In Libya, the law does not address night working hours, but article 24 provides for the possibility of reducing working hours for women in certain professions and businesses.

<sup>5</sup> According to article 84 of the Labour Code, the statutory working hours of employees, regardless of their sex and the method of calculating their remuneration, are set at forty-eight hours per week in all enterprises except agricultural ones. Articles 94, 95 and 96 of the Labour Code regulate night work and place no restrictions except those relating to youth labour.

<sup>6</sup> Article 13 of the law on retirement provides for the same retirement age for both men and women.

<sup>7</sup> Article 2 of Law No. 15–16 of 2016 on retirement.

<sup>8</sup> On 12 January 2022, the Libyan parliament amended the retirement age specified in Law No. 13 of 1980.

11. Another gap affecting women's economic rights in labour laws is the provision on equal pay. While labour laws in all Arab countries, with the exception of the Sudan, generally prohibit gender discrimination in pay, only 13 countries have enacted an explicit legal provision on equal pay for work of equal value: Algeria,<sup>9</sup> Bahrain, Djibouti,<sup>10</sup> Iraq, Jordan, Libya,<sup>11</sup> Morocco, State of Palestine, Saudi Arabia, Somalia, Syrian Arab Republic, United Arab Emirates and Yemen.

### **B. Ensure comprehensive protection from violence and harassment against women in the workplace**

12. Guaranteeing decent work environment should ensure protection from violence and harassment in the workplace. Harassment may affect anyone, but it particularly affects women and reinforces stereotypes about their abilities. Conversely, addressing violence and sexual harassment in the workplace promotes women's economic empowerment by providing opportunities and safe spaces that allow women to realize their economic potential on an equal basis with men.

13. While the provisions of general laws, in particular the penal code, could be invoked to criminalize practices abusive to women, it would be preferable to adopt a special law or legal provision on sexual harassment as a stand-alone offence. Special laws provide tools that contribute to the development of response and recovery strategies, especially during crises that pose significant challenges to the world of work. The adoption of special laws would help to strengthen preventive measures, provide monitoring and documentation mechanisms and establish civil remedies.

14. The Arab region has made some progress in this area, with 12 Arab countries criminalizing sexual harassment, including sexual harassment in the workplace, under a special law such as the Anti-Harassment Law in Saudi Arabia,<sup>12</sup> or under direct provisions in the labour law, or through the penal code, and there are special provisions that tighten penalties in relation to the workplace. For example, according to article 40 of the Moroccan Labour Code, sexual harassment is a serious crime committed against a worker. In Egypt where the labour law does not address sexual harassment, amendments to the penal code were made in 2021, raising the penalty to seven years in prison if the harassment is committed by persons with authority at work, including superiors or co-workers, even if the harassment occurs outside the workplace.

### **C. Recognize, redistribute and alleviate women's unpaid family responsibilities**

15. According to various reports and literature, unpaid reproductive and family responsibilities of women represent a major challenge affecting their ability to play important economic roles. Therefore, international standards have stressed the importance of redistributing and alleviating family responsibilities, so that maternity does not represent a cause of discrimination against women at work, as well as taking into account the conditions of pregnant working women and ensuring their protection.

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<sup>9</sup> According to article 84 of the Labour Code, every employer must ensure equal remuneration of workers for every work of equal value without any discrimination.

<sup>10</sup> According to article 137 of the Labour Code, for every work of equal value, the salary shall be equal for all workers regardless of their origin, sex, age, status or religion.

<sup>11</sup> According to article 21 of the Law No. 12 of 2010 on Labour Relations, no differentiation in remuneration for work of equal value shall be made on the grounds of sex, race, religion or colour. Article 24 of the same law stipulates that no discrimination shall be made between men and women in treatment, employment and remuneration for work of equal value.

<sup>12</sup> In May 2018, the Saudi Shura Council approved the Anti-Harassment Law issued by Royal Decree No. M/96 dated 16/9/1439H.

16. Women in the region carry out 80 to 90 per cent of unpaid care work and therefore have little time to participate in the workforce or advance in their professional life.<sup>13</sup> With projected population trends such as population growth, ageing societies, increasing female-headed households and worsening socioeconomic crises following the COVID-19 pandemic, Arab societies will witness an increase in the demand for care work, i.e. an increase in the burden placed on women.

17. It is therefore important to adopt laws that take into account the special circumstances of women and recognize the care economy, taking into consideration the following factors: (a) Consider the reproductive role of women by not imposing restrictions on their promotion and active participation in economic life, such as prohibiting dismissal from work on the grounds of maternity or granting maternity leave in accordance with international standards, or establishing laws that allow part-time, flexible and remote working arrangements, or ensure the availability of childcare; (b) distribute and alleviate childcare burdens, which are considered as a shared responsibility, by promulgating laws that provide for paternity leave or parental leave;<sup>14</sup> (c) recognize other unpaid family burdens and invest in the care economy.<sup>15</sup>

18. Although labour laws in 18 Arab States prohibit the dismissal of working women on the grounds of pregnancy and maternity leave,<sup>16</sup> most Arab States, with the exception of Djibouti,<sup>17</sup> Iraq, Libya,<sup>18</sup> Morocco and Somalia, do not grant women 14 weeks of maternity leave in accordance with ILO conventions. Another key gap is that the largest proportion of maternity benefit coverage in most countries in the region falls on employers rather than the social insurance system, thus influencing the decision to hire women of childbearing age. In only four Arab countries, namely Algeria, Jordan, Morocco and Tunisia, maternity leave paid through the social insurance system is covered. In Egypt, it is covered through a hybrid system (75 per cent from social insurance and 25 per cent from private sector employers). In Jordan, the social protection system can contribute to covering the costs of nurseries in the first six months after the end of maternity leave, under the social protection system linked to maternity insurance (Regulation No. (93) of 2020).

19. Paternity leave, granted by Algeria,<sup>19</sup> Jordan, Morocco, Tunisia and the United Arab Emirates, remains symbolic in terms of duration and does not contribute to a change in societal attitudes towards strengthening the role of fathers in childcare. In 2020, the Government of the United Arab Emirates introduced paternity leave that allowed private sector employees to take five days of paid leave, the longest paid paternity leave in the Arab region.

20. In ten Arab countries, namely Egypt, Iraq, Jordan, Kuwait, Libya, Morocco, Saudi Arabia, the Syrian Arab Republic, the United Arab Emirates and Yemen, labour laws address the importance of childcare homes, but this service does not cover the public and private sectors, and is often provided when there is a certain number of

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<sup>13</sup> J. Woetzel and others, [The power of parity: how advancing women's equality can add \\$12 trillion to global growth](#), McKinsey Global Institute, 2015, p. 29. This study covers countries in the Middle East and North Africa region, including Arab countries.

<sup>14</sup> Parental leave is leave "available to either parent after maternity leave without their having to relinquish employment and with their employment rights being protected" (International Labour Organization (ILO), *Care at work: investing in care leave and services for a more gender equal world of work*, p. 4).

<sup>15</sup> For more details, see E/ESCWA/C.7/2023/7 (Part V) on advancing care policies in Arab countries.

<sup>16</sup> In the Sudan, the law does not prohibit the dismissal of women on the grounds of pregnancy and maternity leave. In Algeria, the Labour Code does not contain a provision specifically prohibiting dismissal from work on the basis of pregnancy or maternity leave. However, dismissal can be considered arbitrary and therefore illegal under the general provisions of the Labour Code.

<sup>17</sup> According to Article 113 of the Labour Code, women have the right to 14 weeks of maternity leave with full pay, half paid by the Government and half by the employer.

<sup>18</sup> Law No. 12 of 2010 on Labour Relations, article 25; Law No. 13 of 1980 on Social Security, articles 11 and 25.

<sup>19</sup> Law No. 90–11 of 1990, Article 54.

female workers.<sup>20</sup> The best experience in this area is in Jordan, where a nursery is established if the workplace employs a number of workers who have a total of 15 children under the age of 5. While this measure mitigates discriminatory recruitment practices, it applies only to companies with a large number of male and female employees. In this context, most Arab States grant breastfeeding women a paid breastfeeding break during working hours, and the duration of implementation of these provisions varies by country, mostly ranging from 6 to 12 months after childbirth, and up to two years in Egypt, the Sudan and the Syrian Arab Republic.

**Box 1. Saudi Arabia's efforts to create a decent work environment for an enhanced participation of women in the labour market**

In 2016, Saudi Arabia announced its Vision 2030, which includes among its goals the creation of one million jobs for women. It embarked on reforms to strengthen infrastructure for women's economic empowerment and deployed strenuous efforts to adopt new laws or amend existing ones to increase women's participation in the workforce. The labour law sets out a good framework for women's economic empowerment and contains specific provisions that explicitly prohibit discrimination against women. It affirms that citizens have the equal right to work without any discrimination on the basis of sex, disability, age or any other form of discrimination, whether during the performance of work or at the time of employment or job advertisement. The law also prohibits discrimination against women in remuneration and guarantees the right to equal pay for work of equal value.

This legal system does not impose on women legal restrictions regarding hard work, specific occupations or night work. The new amendment to the social insurance system equalizes retirement age for men and women. The employer may not dismiss a female worker because she has taken maternity leave or because of illness resulting from pregnancy or childbirth, and a working woman is entitled to a ten-week maternity leave with full pay, covered by the employer.

Saudi Arabia has also adopted the Anti-Harassment Law, which obliges stakeholders in the public and private sectors to take the necessary measures to prevent and combat harassment in the work environment. This law contains provisions on the possibility of seeking civil remedies in cases of sexual harassment.

In addition to labour reform, specific policies and programmes are implemented, such as the provision of specialized training for women on information and communication technologies, and the design of transfer and employment support programmes. This legal context has positively reflected on the female workforce as unemployment rate among women fell by 13.9 per cent between 2017 and 2021, female labour force participation increased significantly, and women accounted for 30 per cent of the total Saudi workforce in the private sector. The employment of Saudi women increased significantly in all sectors, including the industrial sector where 39,000 job opportunities were provided for women. Women have emerged in decision-making positions and leadership roles in the public and private sectors, entering for the first time in sectors, such as security, aviation and criminal justice. The number of women-owned enterprises increased by 60 per cent.

*Source:* ESCWA and the Permanent Mission of the Kingdom of Saudi Arabia to the World Trade Organization, presentation entitled [Vision 2030, an economic diversification strategy and women's economic empowerment](#), 23 June 2021.

## **II. An enabling environment for women's entrepreneurship and employment: relevant legislation**

21. Providing a decent work environment for women by applying the above-mentioned standards is one of the ways leading to women's economic empowerment, and should be supported by other endeavours, including promoting women's entrepreneurship and employment. This means facilitating women's access to financial services, such as credit, loans or facilities that include tax exemptions and reductions, providing incentive tools for businesses that employ women, and offering in-kind and financial grants and wage subsidies, among others.

<sup>20</sup> According to article 26 of the Law No. 12 of 2010 on Labour Relations, employers who hire women with children must provide designated childcare facilities, and more than one employer may jointly allocate places for childcare facilities for their female workers. This right is not covered by the law related to public service.



This can be provided through the achievement of equality in relevant legal provisions, or through the enactment of legal provisions that promote entrepreneurship and help reduce the invisible gaps that limit women's involvement in business.<sup>21</sup>

22. Therefore, laws should ensure women's equal and independent access to loans and credit so as to enable them to access land and other productive resources, regardless of their social status and without requiring collateral from a man, such as a husband, father or brother. Public and private financial institutions should also be encouraged to develop and promote gender-sensitive financial products and services. In accordance with international standards, in particular target 1.4 of the Sustainable Development Goals (SDGs), it is essential to ensure women's access to, ownership and disposition of economic resources, basic services and empowerment tools, such as technology and financial services.

23. Tax and investment laws can affect gender equality. This topic has begun to gain global attention in recent years, and there have been calls for analysing the impact of gender-neutral financial and fiscal policies, i.e. those that ignore the impact of the different economic and social realities between men and women on women's opportunities for business entrepreneurship and expansion.<sup>22</sup> In this regard, most countries in the region still adopt gender-neutral legislation, which negatively affects women's economic empowerment because women and men have different needs, interests and priorities. Despite efforts to evaluate and review labour laws, pro-entrepreneurship legislation continues to receive less attention.

24. Gender-sensitive tax laws can be used to develop practical measures that stimulate investments in strategic and employment-generating sectors for women.<sup>23</sup> There are multiple measures that could be derived from tax laws favourable for women. These include tax reductions and exemptions for companies that employ a certain proportion of women or require a certain quota for female board members, or tax cuts for women-owned businesses. In this context, it would be useful to learn from the experience of Spain, which had proposed a law on gender equality that provided for at least 40 per cent of female representation on corporate boards. Spain had also taken measures to introduce tax cuts that encouraged the creation of employment opportunities for the unemployed in specific groups, such as women, young people aged between 16 and 30 years, the long-term unemployed and persons with disabilities. These measures have particularly targeted women exposed to violence.<sup>24</sup>

25. Tax exemptions on care-related expenses can encourage entrepreneurship, especially in the case of small enterprises. Women entrepreneurs cannot benefit from low-cost or free care services provided to women working in the public and private sectors, thus limiting their ability to work. Therefore, tax exemptions applied to childcare expenses contribute to reducing the impact of this cost on women and help them to do business. Globally, those reductions are granted under tax legislation in countries, such as Canada,<sup>25</sup> France,<sup>26</sup> Malaysia,<sup>27</sup> the United Kingdom,<sup>28</sup> the United States of America<sup>29</sup> and others.

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<sup>21</sup> For more details, see document E/ESCWA/C.7/2023/7 (Part IV) on access to land, property, immovable assets and women's entrepreneurship.

<sup>22</sup> OECD, *Tax Policy and Gender Equality: A Stocktake of Country Approaches*, 2022.

<sup>23</sup> A report on taxation and social justice published by the Arab NGO Network for Development in 2017. Available in Arabic at: <https://2030monitor.annd.org/data/report/arabic/44.pdf>.

<sup>24</sup> *Organic Act 1/2004 of 28 December on Integrated Protection Measures against Gender Violence*.

<sup>25</sup> Government of Canada, *Family, child care, and caregivers deductions and credits*.

<sup>26</sup> French Republic, *Income Tax – Out-of-Home Child Care Expenses (tax credit)*, 2023.

<sup>27</sup> PWC, *Worldwide Tax Summaries, Malaysia, Individual Deductions*.

<sup>28</sup> Government of UK, *Tax credits and childcare*, 2022.

<sup>29</sup> Department of the Treasury, Internal Review Service, *Publication 503: Child and Dependent Care Expenses*, 2022.



26. At the regional level, access to finance is a major and common barrier for women entrepreneurs, as regional legislation and financial institutions do not consider the specific needs of women in the field of entrepreneurship. Although financial and banking legislation does not provide for any direct gender discrimination and grants women the right to open a bank account, obtain loans and conclude financial contracts, such practices are often largely subject to prevailing social and cultural norms. Since women do not have access to funds, bank deposits and real estate, they are unable to provide collateral to lenders for loans, especially under certain social practices that prevent them from accessing their right to inheritance.

27. In the Arab region, there is little research that analyses tax laws and policies from a gender perspective, and the legislative framework governing taxation does not address these issues and does not contain clear provisions on the elimination of any clear bias against women or the negative effects of gender-neutral tax legislation on women in particular.<sup>30</sup> However, some reforms of tax legislation have begun to take into account the reality of women within the family and their role as breadwinners in cases of divorce or separation. For example, the law amending Jordan's Income Tax Law<sup>31</sup> stipulated that spouses must agree to file a joint tax return, and recognized the contribution of women as breadwinners in the event of separation or divorce to enable them to benefit from the exemptions granted by the law to families. Tax exemptions for families in the Arab region do not include care expenses for children under the age of six.

28. According to a research paper prepared by ESCWA,<sup>32</sup> Arab States have undertaken several tax reforms over the past decade. While most of these reforms are a step in the right direction, further action should be taken, such as increasing tax revenues or improving the reality of justice. Thus, tax systems are still unable to break loose from their heavy dependence on indirect taxes or undertake radical income tax reforms to ensure the compliance of high-net-worth individuals, professional service providers and multinational corporations.

29. Investment laws in the Arab States do not directly discriminate against women in doing business, but they still do not take into account gender differences and gaps<sup>33</sup> and the challenges faced by women in business management.<sup>34</sup> There are few examples of laws that promote the presence of women in the investment environment in the Arab region, but the Jordanian Investment Law provides for incentives, exemptions and benefits to encourage the employment of Jordanian women so that they account for at least 50 per cent of the total labour force, provided that their number is not less than 50 female Jordanian workers.<sup>35</sup>

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<sup>30</sup> Arab NGO Network for Development, [Gender Inequality in the Tax Systems of Arab Countries](#), 2019.

<sup>31</sup> Law No. (38) of 2018, amending the Income Tax Law.

<sup>32</sup> ESCWA, [Arab tax systems: tax revenue leakages and tax challenges arising from the digital economy](#), 2021.

<sup>33</sup> The Arab region continues to witness low rates of entrepreneurship compared to the rest of the world. Women's entrepreneurship in the region is relatively limited, with 24.8 per cent of businesses owned by women in the Middle East and North Africa (MENA) region, compared to 35.9 per cent globally and 52.7 per cent in East Asia and the Pacific. In the Arab region, women have founded or are leading one in three online start-ups in the region. The Global Entrepreneurship Monitor (GEM) found that in ten economies in the MENA region, for every ten men engaged in entrepreneurial start-up activity, seven men owned or ran an existing business, while out of every ten women working in an entrepreneurial start-up activity, only more than four were engaged in an established business. This wide gender gap between a start-up entrepreneurial activity and the established business suggests that businesses founded by women are not surviving at the same rate as those founded by men.

<sup>34</sup> CAWTAR and AIDS, [Empowering Women towards Gender Equality in the MENA Region through Gender Mainstreaming in Economic Policies and Trade Agreements](#), 2019.

<sup>35</sup> Law No. (21) of 2022, Investment Environment Law.

### **Box 2. Efforts by the United Arab Emirates to promote women's entrepreneurship**

While the entrepreneurship ecosystem in the United Arab Emirates is relatively recent, the [Women, Business and the Law 2023](#) report ranked the United Arab Emirates as the leading country in this field in the MENA region. According to the 2022 Women's Entrepreneurship Report, the United Arab Emirates received the highest scores in terms of achieving gender equality in access to procurement, enabling remote work in the wake of the pandemic,<sup>a</sup> helping women in their family care responsibilities, providing adequate family support services for women, and providing equal cultural support to women entrepreneurs.<sup>b</sup> The United Arab Emirates has reached these high ranks through legal and regulatory reforms. For example, the Emirati Government has created a strong ecosystem for women entrepreneurs that can be an important source of employment and promote women's economic empowerment, which is central to the country's long-term development strategy.<sup>c</sup> Legal reforms have enabled the adoption of regulatory changes that make it easier to do business,<sup>d</sup> and the Gender Balance Council has made efforts to promote women's entrepreneurship.<sup>e</sup> In 2020, the United Arab Emirates facilitated women's access to credit by prohibiting gender-based discrimination in financial services.<sup>f</sup> The Business Women Councils have implemented extensive initiatives, and the Khalifa Fund for Enterprise Development has introduced special start-up programmes for women entrepreneurs.<sup>g</sup> In 2022, the Emirati Government and 20 major local and multinational companies launched an initiative to accelerate women's leadership in the private sector with the aim of increasing women's representation in mid- and senior-level management positions in the country to 30 per cent by 2025.<sup>h</sup>

<sup>a</sup> Gulf Business, [Pandemic sparks surge of female entrepreneurship in the UAE – report](#), 2022. In the United Arab Emirates, the increase in the female entrepreneurship rate during the pandemic was 68 per cent in 2020 and was higher than the increase in the male entrepreneurship rate that stood at 46 per cent. Women's entrepreneurship increased by 54 per cent in the education sector, by 50 per cent in the health and fitness sector, and by 44 per cent in the health care sector.

<sup>b</sup> Global Entrepreneurship Monitor, [GEM 2021/22 Women's Entrepreneurship Report: From Crisis to Opportunity](#), 2022.

<sup>c</sup> Zawya, [Women entrepreneurs key to inclusive economic growth](#), 2022.

<sup>d</sup> ESCWA, [Propelling women into entrepreneurship in the Arab region: The role of information and communication technology \(ICT\)](#), 2021.

<sup>e</sup> The United Arab Emirates Gender Balance Council was established in 2015 and consists of key members of the Emirati Cabinet, including representatives of the Prime Minister's Office. The Council oversees the review of legislation, policies and partnerships to promote sustainable gender balance in the United Arab Emirates and has spearheaded important legal reforms in the area of women's economic empowerment.

<sup>f</sup> The World Bank, [Women, Business and the Law](#).

<sup>g</sup> Oxford Abstracts, [Women's entrepreneurship in the UAE: Making dreams come true](#).

<sup>h</sup> ESCWA, [Knowledge and Learning platform, UAE Second Voluntary National Review 2022](#).

### **III. A legislative system supporting women's economic empowerment: relevant legislation**

30. There is a need for a legislative system that provides an enabling environment for decent work to promote women's participation in the labour market, and an environment conducive to women's entrepreneurship and employment. The legislative system protects against discrimination and promotes equality in the public and private spheres, given the intersection between women's positions within the family and in society, as well as between power relations within the family and in institutions. Therefore, women's economic empowerment requires a legislative system that promotes the concept of equality and addresses all dimensions of gender-based discrimination.

31. The general legislative system is the package of laws to which the State is committed, foremost of which is the constitution due to its essential role in determining the nature of relations between citizens and the authority, and the limits and powers of State institutions. The importance of the legislative system lies in ensuring the rights and freedoms of all people without any discrimination.

32. There are several national laws that deal with various details of women's lives, and most of them affect women's economic empowerment. The failure of the legislative system to protect women and girls from violence is a major factor hindering the realization of their rights to security, adequate housing, health, food, education and participation. Violence against women and girls in the Arab region has a multidimensional impact on the economy in the short and long term. In the short term, women victims of violence are likely to have reduced working hours and low productivity when they work. In the long term, high levels of domestic violence can reduce the number of women in the workforce and women's opportunities to acquire skills. Violence also reduces public investment, with much of the public resources going to health and judicial services needed to address the effects of violence. Women victims of violence receive 35 per cent less income than women who are not subjected to violence, which is equivalent to 2 to 3 per cent of the gross domestic product (GDP) and represents a significant loss of productivity at the national level. In this context, studies prepared by ESCWA on the cost of violence in a number of Arab countries can be consulted. The [Egypt Economic Cost of Gender-Based Violence Survey](#) indicates that violence has induced women's absence from care work, contributing to 93 per cent of the costs incurred by women due to spousal violence. The report "Economic costs of marital violence against women in the State of Palestine" reveals that in 2018, the State of Palestine lost a minimum of \$36 million or a maximum of \$45 million due to violence against women, and 22,193 women were prevented from working and/or forced to quit work. If these women joined the workforce, wage employment would increase by 50 per cent.<sup>36</sup> In Jordan, the total annual costs of domestic violence against women and girls amounted to 130,124,787 Jordanian dinars in 2021 or about 0.4 per cent of Jordan's GDP for 2021.<sup>37</sup> In this context, discriminatory legislation on family affairs deprives women of equal rights and access to economic opportunities and resources, and perpetuates stereotyped gender roles and responsibilities. When women and girls are prevented from enjoying full equality in the family, they cannot participate in other areas of society and public life, including the professional, political and educational spheres. Discrimination in the family prevents the recognition of women's economic contribution to the home because most laws do not allow for the division of acquired assets, which means that women's contribution to the family income and expenses is not recognized. Women continue to bear disproportionately the burden of care in the family, limiting their ability to engage in paid work outside the home.

33. Promoting equality in family laws would increase women's economic capacity and access to resources. Conversely, continued discrimination exposes women to insecurity and undermines their ability to participate in the economy and develop their knowledge. Discrimination against women in the family, in particular the need to obtain their husband's consent to work, affects their freedom of movement and autonomy of their decision-making with regard to education and employment, including the quality thereof.

34. Societal perceptions of women's roles within the family affect women's economic empowerment because women are often valued on the basis of their reproductive capacity. Early marriage, early pregnancy or frequent pregnancies within short intervals have a severe impact on women's economic empowerment and ability to participate effectively. Marriage in childhood violates girls' rights, restricts their educational attainment and future income, adversely impacts their health and that of their children, contributes to widespread poverty and hinders economic growth. According to the World Bank, childhood marriage negatively affects not only the well-being of children, but also families and national economies.<sup>38</sup> According to ESCWA studies, the Arab region will incur significant economic burdens if the issue of child marriage is not addressed, even if progress is made at the level of other social, economic, demographic and health measures. If child marriage rates remain high, countries such as Algeria, Jordan, the State of Palestine, the Sudan and Tunisia are expected to experience the highest cumulative GDP losses between 2021 and 2050. In contrast, eliminating child marriage could boost the region's economy by about 3 per cent annually, generating an additional \$3 trillion in revenue between 2021 and 2050.<sup>39</sup>

<sup>36</sup> ESCWA, [Economic costs of marital violence against women in the State of Palestine](#), 2021.

<sup>37</sup> ESCWA, [Economic costs of domestic violence in Jordan](#), 2023 (forthcoming).

<sup>38</sup> International Center for Research on Women and others, [Economic Impacts of Child Marriage](#).

<sup>39</sup> ESCWA, [Study on estimating the economic costs of child marriage in the Arab region](#), 2023 (forthcoming).

35. Equal legal capacity gives women equal rights to conclude contracts, administer property, complete all stages of judicial proceedings, or take other actions related to equality before the law. Equal legal capacity would promote women's economic empowerment because equality before the law is an essential element for women's equality.

36. Women's economic empowerment also requires the promotion of gender equality in budget law, helping policymakers address inequality based on the assessed differences between gendered roles in society.

37. At the level of the Arab States, significant progress has been made in a number of laws passed in recent years. There are still various areas that need to be addressed by countries in the region to ensure an equal environment that supports women's economic empowerment.

38. With regard to the international framework, all Arab States, with the exception of Somalia and the Sudan, have acceded to the Convention on the Elimination of All Forms of Discrimination against Women. However, most countries in the region continue to make reservations to the Convention, with the exception of Djibouti, the State of Palestine and Tunisia. A number of countries have entered reservations to article 15 on the equal rights of men and women with regard to the movement of persons and the freedom to choose their domicile and residence.

39. At the constitutional level, the countries of the region have not witnessed significant amendments to their constitutions in recent years to conform to international standards, with very few exceptions. For example, the phrase "Jordanian women" was added to the title of Chapter II of the Jordanian Constitution, in 2022, to read "Rights and Duties of Jordanian Men and Women". In 2021, the Basic Statute of the State of Oman affirmed the rights and freedoms of citizens, specifically equality between women and men. Although the constitutions of most countries in the region guarantee the principle of gender equality, they do not all prohibit indirect discrimination. Besides, cultural and customary practices continue to affect women's rights to land, property and housing. These practices often spread in parallel with laws and sometimes prevail over national laws,<sup>40</sup> complicating legal reforms that run counter to recognized traditional beliefs and societal practices and attitudes.<sup>41</sup>

40. At the level of criminal laws, the countries of the region have made efforts over the past years by abolishing some discriminatory provisions affecting women, such as ending the so-called honour killings; amending provisions related to the marriage of victims of sexual violence to rapists; or adopting laws to protect against violence, such as sexual harassment, human trafficking or domestic violence. However, there is still a need to develop the legal system in some States to ensure the protection of women, particularly within the family. Ten States still need to adopt a law on protection against domestic violence: Egypt, Iraq, Libya,<sup>42</sup> Oman, State of Palestine, Qatar, Somalia, Sudan, Syrian Arab Republic and Yemen.

41. With regard to personal status matters, some provisions of personal status codes or family laws have been slightly amended in recent years in Jordan, Lebanon, Saudi Arabia, the Syrian Arab Republic and the United Arab Emirates. In all countries of the region, women enjoy minimum guardianship rights over children. In most countries of the region, legal inequalities persist in marriage and divorce cases.

42. For reproductive health issues, maternal health care is regulated by special legislation or through public health laws. Arab States have made progress in this area as maternal mortality decreased, according to the United Nations Population Fund (UNFPA). However, the legislative framework does not give women the real power to make decisions about their reproductive health, such as the number of children and the spacing between births, especially in the case of marriage under the age of eighteen.

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<sup>40</sup> Office of the United Nations High Commissioner for Human Rights, Women and housing, land and property.

<sup>41</sup> International Monetary Fund eLibrary, [Tackling Legal Impediments to Women's Economic Empowerment](#), 2022.

<sup>42</sup> A draft law on protection against violence is under way.

43. As for legal capacity, the greatest progress has been made in this area, particularly in terms of concluding contracts, trading, initiating civil and legal proceedings, acquiring identification documents, moving, etc.

44. Another gap in the general legislative framework is the lack of gender-sensitive budgets, which have not been adopted by the majority of Arab countries. Some countries in the region, such as the United Arab Emirates, have allocated budgets to implement legislation on violence against women. Five countries allocated gender-sensitive budgets, namely Bahrain, Iraq, Morocco, Saudi Arabia and Tunisia. In contrast, 11 Arab countries do not allocate any gender-sensitive budget.

45. This analysis shows the importance of adopting a cross-cutting approach to women's economic empowerment, which means conducting coherent and comprehensive legal reforms, not only partial reforms of legislation that is directly related to women's economic empowerment.

### **Box 3. The experience of Tunisia: Has family law reform translated into women's economic empowerment?**

Tunisia has adopted various measures related to women's rights, including the Family Code, which has gained importance beyond its legislative framework for regulating family matters. Despite some gaps, the Code sets the framework for family relations that are based to some extent on the principle of equality. For example, customary marriage was prohibited,<sup>a</sup> a full equality of spouses was recognized in all matters of divorce, unilateral divorce was terminated and replaced with judicial divorce based on equality of spouses, and polygamy was prohibited. The concept of male guardianship over women was excluded, recognizing that women with financial resources should contribute to household expenses. In May 2007, the Tunisian Government amended the Family Code to raise the minimum age of marriage for girls and boys to 18, as girls under this age can only marry with the consent of their guardians and mothers, and with special permission from the judge in "very serious" cases. Tunisia adopted a normative law for women's protection against violence, applicable to all forms of violence, including economic violence.<sup>b</sup> However, this progressive attribute of family law and protection from violence has not been reflected in the Labour Code, which still contains many loopholes. Although article 5 of the Code prohibits discrimination between men and women in the application of the Code and the texts adapted for its implementation, the Code still contains many shortcomings. It does not provide for specific provisions on equal pay for work of equal value, and maternity leave is granted for no more than 30 days, which can be extended for 15 days if there are complications or medical reasons to do so. Paternity leave, stipulated in the Labour Code, is only two days. There are legal restrictions on certain jobs and on women's night work. In Tunisia, the law on the elimination of violence against women prohibits sexual harassment of women in public places. The Penal Code provides for sexual harassment as a comprehensive crime, but the Labour Code contains no provisions in this regard, with the exception of article 76, which requires good manners and public morals, especially in places where women and children under the age of eighteen work. The Labour Code does not explicitly provide for civil remedies that can be used at work for sexual assault and harassment. Since legislative reform lacks inclusiveness, its impact on women's economic reality has been limited, as the rate of women's labour force participation in Tunisia has not significantly changed. According to the World Bank, labour market results remained limited. Unemployment rate stood at 18.4 per cent by the third quarter of 2021, and there was a slight decline in labour force participation.<sup>c</sup>

<sup>a</sup> It is a marriage based on a simple and unwritten agreement.

<sup>b</sup> The law prohibits gender-based economic discrimination or violence if this deprives women of economic resources or control thereof. It also prohibits pay discrimination for work of equal value and occupational discrimination, including refusal of promotion and employment grade. It is also illegal to commit discrimination or deprivation; to prevent victims from enjoying their rights, obtaining benefits or services, or participating in normal activities; to refuse employment; or to dismiss or sanction the victim.

<sup>c</sup> World Bank, [Tunisia's Economic Update](#), April 2021.



## **IV. ESCWA tools for the development of legislation related to women's rights**

46. ESCWA has prepared a number of tools that urge the countries of the region to develop their legislative system in accordance with international standards. The present document reviews two initiatives that can be used to analyse and develop the map of legislation related to women's economic empowerment.

### **A. Gender Justice and the Law**

47. The Gender Justice and the Law initiative<sup>43</sup> is the outcome of a partnership between four United Nations agencies, namely ESCWA, the United Nations Development Programme, UN-Women and the UNFPA, and national stakeholders in the Arab States.

48. The initiative methodology builds on international frameworks to strengthen States' adherence to international standards and is the result of a participatory and consultative process. In 2018, 18 country reports were issued based on 27 indicators.<sup>44</sup> In 2019, a regional report was issued with a colour-coded map that monitored the alignment of laws with international standards and agreements.<sup>45</sup> Between 2021 and 2022, the four agencies conducted a review of legislation in 17 Arab States to assess their alignment with international standards based on 74 SDG indicators related to gender justice, in particular indicators 5.1.1 and 5.2.6.<sup>46</sup> The country reports address several issues related to inclusive legal frameworks, public life, protection from violence against women and girls in the public and private spheres, work and economic benefits, family and personal status, and health. Each of these areas contains indicators related to the promotion, implementation and monitoring of rights.

49. The tool, which has been rated as a good practice by the United Nations Secretary-General, uses colour coding to compare laws and public policies under each area. It provides policymakers with a map highlighting legislation that needs further attention, harmonization and/or amendment according to international standards. Users can benefit from this tool to learn about the experiences of other Arab States in adopting and amending laws related to gender justice.

### **B. Index Simulator for Policymakers in the Arab Region**

50. ESCWA has developed the Index Simulator for Policymakers in the Arab Region (ISPAR) for use in policymaking and to highlight gaps in legal reform.<sup>47</sup> The ISPAR tool includes a range of international indicators related to human development, economy and entrepreneurship, including four indicators on gender equality: the World Economic Forum's Gender Gap Index, the World Bank's Women, Business and the Law Index, the Georgetown Institute for Women, Peace and Security Index, and the United Nations Development Fund for Women (UNIFEM) Human Development Gender Index.

51. Given the important role of well-designed and evidence-based policies in achieving the SDGs at the national level, the tool covers a range of issues, including the economic framework, which aims to assess State competitiveness and provide insights on economic growth as an important factor for improving living standards. The economic framework also explores the relationship between competitiveness, shared prosperity and environmental sustainability, explaining that there is no inherent trade-off between enhancing competitiveness and building more equitable societies that provide opportunities for all and enable the transition to environmentally sustainable systems.

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<sup>43</sup> <http://genderjustice.unescwa.org/>.

<sup>44</sup> <http://genderjustice.unescwa.org/Nationalpubs.aspx>.

<sup>45</sup> [http://genderjustice.unescwa.org/regional\\_report.aspx](http://genderjustice.unescwa.org/regional_report.aspx).

<sup>46</sup> <http://genderjustice.unescwa.org/Nationalpubs2023.aspx>.

<sup>47</sup> <https://ispar.unescwa.org/>.

52. The ISPAR tool aims to assist member States in identifying effective actions that can be implemented in the short, medium and long term to improve State ranking and promote socioeconomic development. It contributes to enhancing and disseminating knowledge on performance measurement, monitoring and evaluation, analysing existing obstacles and formulating reform scenarios to enhance policy effectiveness and efficiency. This easy-to-use tool aims to support policymakers and stakeholders, such as the private sector, civil society and academia in Arab countries, in developing policies based on selected international indicators. It can be used to analyse the impact of changing or adopting a gender law on a country's improved performance in gender equality indicators and some other development and economic indicators.

53. With regard to women's economic empowerment, ISPAR provides a roadmap for legal reform to enhance the role of women in the economy. Following the approach developed by ESCWA, legal reform should lead to an improved inclusive and enabling environment and to specific regulatory and legal policies for labour and the economy aimed at increasing women's entrepreneurship and participation in the workforce.

## V. Conclusion and recommendations

54. Achieving gender equality is not a short-term process, but legal and regulatory reforms are a first step and an essential tool for women's economic empowerment given their important role in bringing about the desired change at the level of infrastructure, community and institutional relations, and in affecting women's daily lives. Laws that promote gender equality play a vital role in accelerating progress.<sup>48</sup> It is therefore necessary to reform laws that discriminate against women and enact legislation that would achieve gender equality and provide an enabling legal environment for workers in the formal and informal sectors.<sup>49</sup>

55. It is important to carry out legal reform using integrated and coherent approaches by eliminating all forms of discrimination in the law, incorporating a gender perspective into various laws, and enacting legislation that would help advance women and encourage their participation in the economy.

56. It is essential that work on legislative reform and the development of laws coincide with the adoption of actions and measures that ensure the implementation of these laws. Legislation may contain provisions that require equal treatment of women as employees and entrepreneurs, but poor enforcement can limit women's access to equality due to weak political and legal institutions or poor oversight or accountability for non-compliance with laws. When legal institutions are ineffective, the impact of legal improvements and amendments is limited.

57. Therefore, recommendations in the present document focus on strengthening the different roles of stakeholders in the area of legislative reforms aimed at achieving women's economic empowerment. The recommendations can be summarized as follows:

- Enhance the vital role of Arab parliaments in achieving gender equality through the development of gender-related policies, frameworks and practices commensurate with their national contexts and integrate gender equality in all aspects of their work.
- Build the capacity of various parliamentary and governmental institutions on the techniques and principles of gender-sensitive drafting of legislation and on the human rights-based approach.
- Strengthen the roles of national women's machineries in the countries of the region and promote dialogue with them in the field of policy development and legal analysis and awareness raising.
- Ensure a greater role for civil society organizations in the development of legislation due to their field work and constant communication with women rights holders.
- Strengthen the role of judicial institutions in providing an integrated protection system that guarantees remedies and access to justice for women.

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<sup>48</sup> International Labour Organization, [A quantum leap for gender equality: For a better future of work for all](#), 2019.

<sup>49</sup> UN Women, [Leave no one behind: Taking action for transformational change on women's economic empowerment](#), 2018.