



# March on Gender

THE IMPLEMENTATION **GAP**

## The Impact of Legal Frameworks on Women's Economic Empowerment around the World: **challenges and good practices**

Draft Summary



## Advancing Women's Economic Empowerment Worldwide: An OECD priority

The OECD has been a driver in moving gender equality to the top of the international agenda by building the business case for equality. Its work has, however, highlighted that while progress has been made in combating gender inequality, numerous factors are still holding women back from



*"Legal and institutional frameworks can pose huge challenges; OECD reports have found significant links between legal frameworks, women's participation in public life and the broader gender equality agenda." – Gabriela Ramos, OECD Chief of Staff and Sherpa to the G20*

reaching their full potential, some of which are legal institutions.

To further explore opportunities to lift these barriers, the Organisation's Global Relations Secretariat organised a conference on *"The Impact of Legal Frameworks on Women's Economic Empowerment around the World: Challenges and Good practices"* on 7 March 2018, in conjunction with International Women's Day. The event launched the [OECD March on Gender](#), a month-long conference series focusing on different issues and policy areas critical to furthering gender equality.

This high-level event was opened by Ms Gabriela Ramos, OECD Chief of Staff and Sherpa to the G20, who emphasised the importance of bringing together both OECD countries and partner countries in the fight for gender equality, as gender equality is a shared, global challenge.

A diverse and gender-balanced panel of experts and stakeholders (see Annex), moderated by H.E. Ghazi Gherairi, Ambassador of Tunisia to UNESCO, and closed by H.E. Annika Markovic, Ambassador of Sweden to the OECD, discussed the legal barriers and societal stereotypes barring women from fuller economic participation in different regional contexts – Central Asia, Middle East and North-Africa (MENA), Latin America and the Caribbean (LAC) and South East Europe. The meeting aimed to provide an overview of women's status vis à vis key legal frameworks in different regions, identify key discriminatory legal provisions and other factors that hamper gender equality and to highlight good practices and actions taken by governments, business and civil society to overcome – or work around – existing legislative barriers to advance women's economic empowerment.

Participants underlined that women's empowerment remains a global concern, as no single country has achieved gender equality today. They also agreed that legal and institutional frameworks can pose major challenges to economic empowerment when discriminatory provisions are embedded into legal frameworks and policies, or when egalitarian provisions are inadequately implemented.

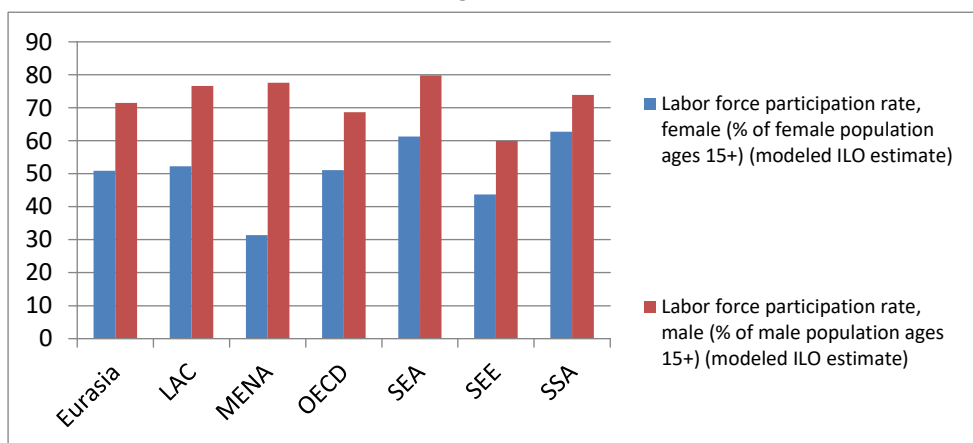
These conclusions mirror the key takeaways of the publication [Women's Economic Empowerment in selected MENA-countries: the impact of legal frameworks in Algeria, Egypt, Jordan, Libya, Morocco and Tunisia'](#) (OECD, 2017), which was launched at the MENA-OECD Women's Economic Empowerment Forum in October 2017.

## Conference Highlights

This document seeks to capture the key conclusions of the conference and bring forward some of the main findings of the 2017 report. The first section provides a statistical overview of women's current position in education and the labour market in different regions. The second section aims to put progress in gender equality and legal reform in a regional context. The third section identifies the main legal barriers and implementation gaps. The final sections recap key cross-cutting findings and conclusions.

### I. Education, employment and entrepreneurship around the world

Across the world, women's educational attainment has improved. Primary and secondary school enrolment rates are approximately equal for boys and girls worldwide.<sup>1</sup> This is one of the main achievements of the Millennium Development Goals, which supported an increase in the primary school net enrolment in the developing world from 83% in 2000 to 91% in 2015.<sup>2</sup> Female tertiary school enrolment is in fact higher than that of men in all regions except sub-Saharan Africa (where tertiary enrolment is very low overall, with 7% for women and 10% for men<sup>3</sup>). This is not to say that there is full equality in educational attainment. Within OECD countries, gender gaps persist in mathematics and numeracy, young women are under-represented in the fields of science, technology engineering and mathematics (STEM), whereas men are under-represented in health studies, and gender differences in financial literacy remain.<sup>4</sup> While there is thus still room for improvement in educational attainment, progress made over the last decades has been significant.



Source: ILO modelled estimates, 2015

However, this progress has not translated into equal participation in or access to equal opportunities in the labour market in most economies. In OECD countries, female labour force participation is 63% on average, compared to a participation rate of roughly 80% for men.<sup>5</sup> In sub-Saharan Africa, the labour force participation rate is comparable to OECD countries, though the participation rate for men is lower at roughly 73%.<sup>6</sup> In the LAC region, the gap in participation rates

<sup>1</sup> UNESCO, 2015

<sup>2</sup> <http://www.un.org/millenniumgoals/education.shtml>

<sup>3</sup> World Bank, 2014

<sup>4</sup> OECD (2017), *The Pursuit of Gender Equality: An Uphill Battle*, OECD Publishing, Paris

<sup>5</sup> OECD (2018), "Labour Market Statistics: Labour force statistics by sex and age: indicators", *OECD Employment and Labour Market Statistics* (database), (accessed May 2018).

<sup>6</sup> ILO modelled estimates, 2015

is as high as 25%, despite the gap narrowing by around 10% over the last 20 years in all countries of the continent.<sup>7</sup> In contrast, in South East Europe, female labour force participation has not improved significantly over the last decades and remains low at 46.3%<sup>8</sup>. In the MENA-region, the share of women in the workforce increased substantially from 1970 to 1990 but has improved very little over recent years, with an increase of 0.3 per cent between 2005 and 2015. Today, female participation in the MENA is the lowest in the world at 20.6 per cent.<sup>9</sup>

It is important to note that participation rates do not shed light on the quality of jobs women occupy. Poor-quality employment is a main labour market challenge in most regions. In sub-Saharan Africa for instance, over 60% of all working women (and over 50% of working men) remain in agriculture, often concentrated in time- and labour-intensive activities that are poorly paid.<sup>10</sup> Similarly, in Southeast Asia, women tend to work in more precarious jobs than men and are paid less. Related to this is the fact that informal employment among women also remains a challenge in many regions of the world. In three regions – sub-Saharan Africa, Latin America and the Caribbean and Southern Asia – informal employment (as a percentage of non-agricultural employment) is higher among women than among men.<sup>11</sup> The gap is particularly high in sub-Saharan Africa, where 74% of women not working in the agricultural sector are in informal employment, compared to 61% of men.<sup>12</sup> In the MENA region, the percentage of informal non-agricultural employment for women is 35%.<sup>13</sup> The informal sector is typically not covered by labour laws, leaving women vulnerable. Furthermore, once in employment, globally almost 15% of women are contributing family workers, whereas among men, this accounts for just 5.5%.<sup>14</sup> Women are also more likely to undertake a greater number of hours of unpaid work due to time spent on household and care provisions. On average, women carry out at least two and a half times more unpaid household and care work than men.<sup>15</sup>

In formal employment, women have difficulty accessing senior management positions, both in the public and the private sector. Women are highly underrepresented in corporate boards and executive management in each country discussed. In Kazakhstan for instance, the percentage of women on corporate boards is less than 5%. In many regions, women tend to work in the public rather than private sector, as this is considered more socially acceptable and generally offers more stability. Yet in the public sector as well, women are not always equally represented in decision-making positions, although there is a high-level of cross-country variation in this respect. In South East Europe for instance, the number of women in public positions decreased significantly after the transition to a market economy since the 1990s. On the other hand, in Argentina, a quota ensures representation of women in the legislature. Yet female participation in other types of decision-making processes, such as in trade unions, is very low in the country. In Africa, in only 11 countries did women hold close to one-third of seats in parliament in 2015.<sup>16</sup> Even within the public sector,

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<sup>7</sup> ILO modelled estimates, 2015

<sup>8</sup> ILO modelled estimates, 2015

<sup>9</sup> Source: World Bank data from ILO Modelled estimates, 2018

<sup>10</sup> ILO, Women at Work, Trends 2016

<sup>11</sup> ILO, Women at Work, Trends 2016

<sup>12</sup> ILO, Women at Work, Trends 2016

<sup>13</sup> ILO, Women at Work, Trends 2016

<sup>14</sup> ILO, World Employment Social Outlook. Trends for women 2017.

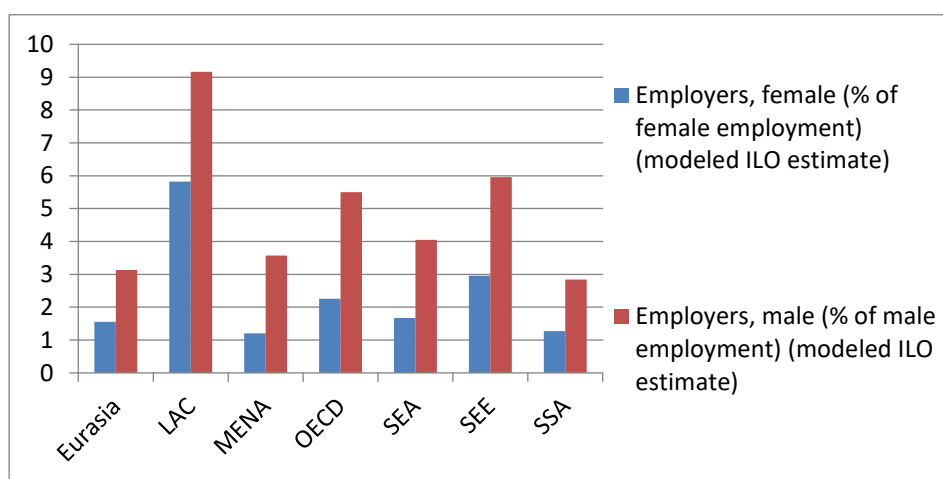
<sup>15</sup> ILO, Women at Work, Trends 2016

<sup>16</sup> ILO modelled estimates, 2015

a gendered division of labour is in place, with women more often dominating ministries with social and/or cultural functions, reinforcing traditional stereotypes of expertise and interest.

When considering entrepreneurship, in most regions, the percentage of self-employed women and men in the labour force is roughly equal, except in sub-Saharan Africa, where 69% of women are self-employed compared to 56% of men<sup>17</sup>. Sub-Saharan Africa has the highest average female total entrepreneurial activity rates worldwide, together with the LAC-region. In these regions, women are starting business on average at more than 80% the level of men.<sup>18</sup> In the MENA-region and Europe, this parity is lower as women start businesses at less than 60% the rate of men.<sup>19</sup>

Furthermore, across regions, many women start businesses out of necessity, rather than opportunity.<sup>20</sup> In sub-Saharan Africa, 36% of women cite necessity motives for starting a business, 30% do so in the LAC-region.<sup>21</sup> In the MENA and Southeast Asia, this percentage is 24% and 23% respectively.<sup>22</sup> In all regions, working women are at best roughly half as likely as men to be employers.<sup>23</sup> Furthermore, women may develop businesses in areas that are not necessarily lucrative. In Romania for instance, women predominantly develop business in areas such as trade, education and services, which are perceived as less important than IT and production.



Source: ILO modelled estimates, 2015

## II. Solidifying legal frameworks – albeit at an uneven pace

Having appropriate legislation can ensure further participation by women in the formal economy and entrepreneurship. Countries across the world are working to make their legal frameworks more gender neutral and equal, both on the international and constitutional level and in other laws. But as stressed by participants, countries are moving forward with legal reform at different paces – and motivated by different reasons – and thus inter- and intra-regional differences should not be

<sup>17</sup> ILO modelled estimates, 2015

<sup>18</sup> GEM, Women’s Entrepreneurship 2016/2017 Report.

<sup>19</sup> GEM, Women’s Entrepreneurship 2016/2017 Report.

<sup>20</sup> GEM, Women’s Entrepreneurship 2016/2017 Report.

<sup>21</sup> GEM, Women’s Entrepreneurship 2016/2017 Report.

<sup>22</sup> GEM, Women’s Entrepreneurship 2016/2017 Report.

<sup>23</sup> ILO, modelled estimates, 2015

overlooked. Even within countries, many parallel legal systems continue to exist alongside statutory laws (e.g. customary laws) which may impact the implementation of national laws and regulations.

Some examples of this were illustrated by the speakers in the session:

- ◆ The fight for gender equality in South East Europe must be put into the context of the Soviet legacy. During the Soviet era, women were fairly well represented in all aspects of life. However, after 1989, political focus shifted to economic transition reforms, and the implementation of laws governing gender equality slipped down the priority list. Since then, modest improvements have taken place, mainly driven by countries' accession processes to the European Union. Countries like Romania (2003) and Croatia (2008) have introduced and adopted important gender equality laws as part of the EU's *Acquis Communautaire*.<sup>24</sup> Nevertheless, in Romania for instance, the feminist movement is still strongly associated with communist doctrine, thus garners little support from either men or women nowadays. As a result, there is little public debate on the economic and greater benefits of gender equality.
- ◆ Countries in Central Asia have a similar communist background. Most countries in the region have quite a solid legislative base laying the basis for equality between men and women, from their constitutions to various national laws and regulations, which either bar or do not contain discriminatory measures. Nevertheless, in practice countries' performance on gender equality is widely diverse, with Kazakhstan being ahead of its neighbours. In this country, the economic benefits of gender equality are a driving force for reform.
- ◆ Most African countries have ratified key international conventions on women's rights. They also have their own, Africa-specific human rights instruments on the topic. The African Union adopted the Protocol on the Rights of Women in Africa to the African Charter on Human and Peoples' Rights ([Maputo Protocol](#)) in 2003. The protocol envisages, inter alia, equal access to work and to economic opportunities. However, only 36 of the 51 signatory countries have ratified the protocol.<sup>25</sup> Moreover, while most sub-Saharan African countries have explicitly prohibited discrimination based on sex, discriminatory legal provisions as well as challenges with law implementation and enforcement continue to exist to the detriment of women and societies as a whole.<sup>26</sup>
- ◆ Spurred by the Arab springs, in which women played a leading role, the new constitutions of Morocco (2011), Tunisia (2014) and Egypt (2014) and the fundamentally amended constitutions of Jordan (2011) and Algeria (2016) as well as the provisional declaration of Libya (2011) all refer to the principle of equality and prohibit discrimination, albeit it in different ways. Awareness of the benefits of gender equality



*"In Tunisia, polygamy has been abolished, there is parity in the constitution, 32 women in parliament and every form of violence against women is forbidden" -- H.E. Ghazi Gherairi, Ambassador of Tunisia to*

<sup>24</sup> European Institute for Gender Equality

<sup>25</sup> <http://www.achpr.org/instruments/women-protocol/>

<sup>26</sup> Women, Business and the Law Database, World Bank, accessed May 2018

is high, and the MENA-region has advanced in terms of public debate on gender equality. A recent study by UN Women and Promundo found that 24% of men in selected MENA countries support at least some dimensions of gender equality and women empowerment.<sup>27</sup> Furthermore, reforms have been ongoing over the past years. In Tunisia, a Committee on Individual Freedoms and Equality was set up in August 2017 to focus on equal inheritance rights and the ability for women to pass on their family name to their children. A law was passed that criminalises domestic violence against women and a ban was lifted on Muslim women marrying non-Muslim men. Tunisia, Jordan and Lebanon recently repealed penal law provisions that allow rapists to escape punishments by marrying their victims. Saudi Arabia issued a decree that allowed women to drive and repealed the so-called “House of Obedience” article of the marriage law that forces a wife to return to her husband after she asks for a divorce. Egypt declared 2017 the “Year of the Egyptian Women” and launched a 2030 National Woman’s Strategy. Similarly, Morocco launched ICRAM II, the new government plan for gender equality, and adopted a law on violence against women. Most recently, the UAE Cabinet has approved the issuance of an equal pay law.

### III. Implementation Gaps

However, to ensure real progress in women’s economic empowerment (inter)national and constitutional commitments to equality and non-discrimination should be included in domestic legislation and effectively implemented. Importantly, areas of law that do not directly govern the economic sector are critical as they can significantly affect women’s economic and entrepreneurial activity. World Bank<sup>28</sup> and OECD analyses have shown that laws governing marriage, divorce, inheritance, land rights and labour markets can determine whether women can make economic decisions in their own name, can own or inherit property and assets, can freely travel to the work place and so forth. Legal frameworks should therefore be coherent, but this remains a key challenge in every region discussed during the conference. Some examples of this were evoked by the speakers and reported below.

In the MENA region, family law is not yet in line with countries’ constitutional provisions of equality and non-discrimination. Provisions in family law directly constraining women’s autonomy, such as the need to obtain authorisation from husbands or fathers to work or to travel, limit women’s capacity to participate in the labour market. Furthermore, inheritance remains discriminatory against women, with women generally only inheriting half of what their male counterparts receive. This limits the collateral women can put down for a loan, hence affecting entrepreneurship and other economic activity. Bank requirements that expect husbands to co-sign loans only reinforce this. As discussed in the previous section, reforms in these areas are ongoing in some MENA countries, and these discussions are at the heart of the public debate in many MENA economies.

Similar to the MENA region, in sub-Saharan Africa, women’s access to land, property and inheritance is often severely restricted, either in statutory laws or in customary laws that exist in parallel. Women are therefore rarely landowners, despite being responsible for most agricultural work. Access to landownership is a key leverage for gender equality as it enables agricultural

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<sup>27</sup> El Feki, S., Heilman, B. and Barker, G., Eds. (2017) *Understanding Masculinities: Results from the International Men and Gender Equality Survey (IMAGES) – Middle East and North Africa*. Cairo and Washington, D.C.: UN Women and Promundo-US.

<sup>28</sup> Women, Business and the Law, World Bank 2018

expansion, is an asset in case of divorce, and provides a location or asset to run a business as well as collateral for credits and so forth. Countries with strong performances in the AfDB's Gender Equality Index such as Rwanda and Ethiopia have opened up landownership to women, which has increased female ownership to 30% in those countries, compared to 15% on average in Africa.

Furthermore, across the world, labour codes often still contain discriminatory provisions. In the MENA region, labour laws are gender neutral from the outset. Yet when looking into the details of different laws, there are 'protective' laws that apply only to women and are meant to protect them from 'hazardous' tasks or from working long hours. No country in the region offers equal employment opportunities for men and women. In the LAC region, countries such as the Dominican Republic and Mexico have removed all legal restrictions on women's work, while discriminatory laws continue to obstruct equal employment opportunities for women in 16 countries on the continent.<sup>29</sup> As pointed out by the speaker, labour codes in Central Asia also have restrictions for women in certain professions in order to protect them in their childbearing role. In Africa, by 2015, only 15 countries had legislation to ensure equal opportunities in hiring.<sup>30</sup> Necessarily, such provisions limit opportunities for women's participation in the labour market. Other provisions directly targeting women, such as nursing and day-care at the workplace or early retirement, may carry costs and exert a negative influence on women's employment by private sector employers.

In addition to addressing inconsistencies in the laws themselves, to generate greater economic opportunities for women it is crucial to ensure that legal reforms are fully implemented. All speakers recognised that this is a key challenge in their respective regions. Indeed, proper implementation requires the following key measures<sup>31</sup>:

- allocating sufficient human and financial resources to implementing bodies
- having a sound mechanism to monitor implementation
- coordinating with civil society and other regional/international organisations
- mainstreaming gender throughout policy areas, including gender budgeting

Gender mainstreaming involves ensuring that gender perspectives are integrated into the preparation, design, implementation, monitoring and evaluation of policies, regulatory measures and spending programmes, as a means to achieve gender equality.<sup>32</sup> The relevance of mainstreaming can, for instance, be seen in business environment reforms. Countries across all regions are working on improving their business environment and reducing regulatory burdens. Yet women's lagging entrepreneurship levels suggests that women face specific challenges in establishing, managing or developing a business. Although from a legal standpoint, women face the same requirements for registering a business, in practice, women may encounter specific obstacles stemming from their lack of work experience, access to networks and difficulties in identifying and physically accessing the relevant agencies via safe transportation. As such, extra support structures for women may be required.<sup>33</sup>

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<sup>29</sup> Women, Business and the Law Database, World Bank, accessed May 2018

<sup>30</sup> AfDB Gender Equality Index 2015

<sup>31</sup> Convention on the Elimination of All Forms of Discrimination against Women, [General Recommendations](#) made by the Committee on the Elimination of Discrimination against Women, accessed May 2018

<sup>32</sup> European Institute for Gender Equality

<sup>33</sup> OECD (2017), *Women's Economic Empowerment in Selected MENA Countries: the Impact of Legal Frameworks in Algeria, Egypt, Jordan, Libya, Morocco and Tunisia*, Competitiveness and private Sector Development, OECD Publishing, Paris



Participants identified the underrepresentation of women in decision-making positions, as outlined earlier, as another important factor hindering implementation. As such, several panellists pointed to the potential of gender quotas in the public sector for achieving greater gender equality and women's economic empowerment. In Argentina, new legislation was proposed to introduce a 50% quota for women in parliament, and in Kazakhstan a new package is being introduced that would implement quotas not just in the political realm, but also in the economic and educational sphere. Yet, as with other legislation, a quota system needs to be properly designed and implemented. This issue also came forward in discussions of the Steering Group Meeting of the MENA-OECD Initiative in March 2018.

An effective and accessible justice system and awareness of rights are also critical for implementation of legal frameworks. Violations of rights infringements need to be sanctioned in order to ensure that laws are effective in enhancing women's economic status. However, in many countries, women may be unaware of their rights. Speakers noted that even among the judicial community, knowledge regarding the conventions that have been ratified may be lacking, for instance in Tajikistan and some MENA countries.<sup>34</sup> Access to justice may also be limited by legal formalities that are not always favourable to women, the cost of going to court, and social pressures. These barriers are usually even higher for women in rural areas. Having equal representation of women in the judiciary would help lower the risk of gender-bias feeding into rulings, which in turn further discourages women taking their cases to court.

Speakers also discussed stereotyping that harms women's economic empowerment. They noted that legal frameworks, social values, cultural norms and customs associated with gender-defined roles and relations can mutually reinforce each other and create a negative spiral. OECD analysis indeed reveals that the legacy of gender roles in family laws shapes social norms, which leads to gender stereotyping and ingrained cultural barriers. This in turn impacts the implementation of other economic laws and public policies affecting women's autonomy, social roles and confidence. This is, for instance, clearly seen in the MENA-region. In some regions, such stereotypes may be perpetuated by religious actors, although religion may also be appropriated by conservative voices to further their agenda.

#### **IV. Cross-cutting messages**

Speakers from across regions discussed the following ideas to help advance the fight for gender equality and women's economic empowerment:

- It is important to **keep emphasising the economic benefits of gender equality**. Nevertheless, gender equality is not just about economics, or even just about women. Gender policies are also policies to support families, build more inclusive societies and promote social harmony.
- **Legal frameworks need to become more coherent, and more effort needs to be directed towards proper implementation and practice**. This requires mainstreaming gender across policy agendas, allocating sufficient resources to implementing bodies, and

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<sup>34</sup> Ibid

having solid monitoring mechanisms. Voluntary commitments taken at the international level need to be reflected in national legislations.

- Legislation can play a key role in providing **equal access to economic tools**. In Africa and the Middle East especially, access to assets, equal inheritance and property should be high on the legislative agenda.



- Women need to be aware of their rights and have full access to the judicial system. A cross-cutting approach can be used to **enhance legal literacy**: through traditional and new media, civil society, SMS-messaging etc. Importantly, the judicial community, including judges themselves, also need to become more aware about their countries' international and national legislative commitments regarding gender equality.
- **Engagement with civil society** is important to enhance legal frameworks. In Kazakhstan, it was mainly thanks to civil society support that legislation on sexual harassment in the public and private sector was introduced.
- **Men and boys should be actively engaged** in promoting gender equality and women's economic empowerment. Using a very personal approach has proved useful in Kazakhstan to help men and boys speak out on the role that they could play in achieving gender equality. The UN [Women He for She Campaign](#) is a striking example of a highly successful awareness-raising campaign.

*"Gender equality is a power struggle (...) we need to make sure that we learn from each other and make new laws where laws are not yet in place." – H.E. Annika Markovic, former Ambassador of Sweden to the OECD*

## V. Conclusions

In her closing remarks, H.E. Annika Markovic, former Ambassador of Sweden to the OECD, stressed that gender equality is an on-going, global challenge, affecting both OECD and non-OECD countries. She underscored that gender equality is in fact a power struggle – as more power to women will mean less power to men. Learning from each other, sharing experiences, and partnerships will be essential.

The Agenda 2030 for Sustainable Development and the Sustainable Development Goals recognise the importance of gender equality, both as a goal in itself and as a prerequisite for sustainable development. Legal frameworks are still holding women back in many countries across the world; thus, reforming these frameworks is a necessary step in achieving the Agenda 2030. Changing laws is the first step before changing mid-sets.

The conclusions of this meeting will nourish on-going work by the OECD, notably to continue collecting good practices on legal reform for women's economic empowerment as this responds to country requests and real needs.



*Session speakers and the organisers with the "Fearless Girl" statue loaned to the OECD for March on Gender month.*

### **Speakers**

- H. E. Sorana Baciú, Former State Secretary of the Ministry of Economy, Romania
- Elaine Conkievich, UN Women Representative to Kazakhstan, Tajikistan, Turkmenistan and Uzbekistan, Head of Multi-Country Office in Kazakhstan
- Darío Celaya Álvarez, Minister, Chargé d'Affaires, Embassy of Argentina in France
- Hervé Lado, Associate Researcher – ESSEC Business School; Professor of Economics, Corporate Social Responsibility and Business Ethics – EDC Paris Business School and European Business School (sharing views from sub-Saharan Africa)
- Nicola Ehlermann, Head of the MENA-OECD Competitiveness Programme, Global Relations Secretariat, OECD

**For more information:**

[www.oecd.org/gender](http://www.oecd.org/gender)

[www.oecd.org/mena/competitiveness/women-empowerment.htm](http://www.oecd.org/mena/competitiveness/women-empowerment.htm)