

Discriminatory Laws Against Women

A Survey of the Literature

Sanchari Roy



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Abstract

This paper reviews the empirical literature on the existence and impact of gender discriminatory laws on women's outcomes across various domains (categories) that constitute the Women in Business and the Law measure of gender inequality. The evidence to date suggests that there are significant negative consequences of legal gender discrimination on women's outcomes. However, there is considerable variation in the depth of the literature across different domains.

In addition, a significant share of the evidence for certain domains is drawn from developed countries, which raises questions about its relevance for developing countries. The literature also highlights some potential unintended consequences of well-intended policy interventions to address legal gender discrimination in certain domains. The paper concludes with a discussion of the various theories relating women's legal rights to their outcomes.

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Discriminatory Laws Against Women: A Survey of the Literature¹

Sanchari Roy

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¹ I thanks Asif Mohammed Islam for helpful feedback during the preparation of this paper. Sanchari Roy: email: sanchari.roy@kcl.ac.uk; address: Department of International Development, King's College London, Strand, London WC2R 2LS, United Kingdom.

1. Introduction

Existing literature has documented the extent of legal discrimination that women face in various spheres, including property rights, access to credit, labor markets, etc. This captures inequality of opportunity between men and women resulting in the disadvantage of the latter (Doepke et al. 2012). An in-depth understanding of this issue is of utmost relevance for public policy in order to guide policy makers in their continued efforts to combat discrimination and ensure greater equality between men and women across the world.

In this survey paper, I review the empirical literature on the existence and impact of gender discriminatory laws on women's outcomes across various domains that intersect with the different categories constituting the World Bank's Women, Business and the Law (WBL) measure of gender inequality. The main conclusions of the paper are as follows. First, the impact of legal gender discrimination on most women's outcomes is significantly negative. Second, there is significant variation in the depth of existing literature relating to different domains of legal gender discrimination. Considerable, if somewhat mixed, evidence exists on the impact of discriminatory laws in the context of women *starting a job, getting paid, having children* and *managing assets*, while there is relatively limited evidence on issues relating to their *going places, getting married, running a business* and *getting a pension*.

Third, a significant share of evidence, particularly for *starting a job, getting paid* and *having children* categories, is from developed countries, potentially driven by data availability. However, given that existing evidence documents the legal gender gap as being typically larger and more persistent in poor countries (Doepke and Tertilt 2009),² this alerts us to potential external validity concerns. In particular, women's equal treatment in the labor market was achieved only after expansion in their basic economic and political rights in the United Kingdom and the United States. In contrast, women in many developing countries (including former colonies) still lack economic rights even after having gained political rights (Doepke et al. 2012). Such endemic differences suggest that the historical experiences of today's developed countries may not generalize very easily to developing countries. Further research

² For example, Doepke and Tertilt (2009) find a cross-country negative correlation of 0.4 or higher between the lack of legal rights for women and GDP per capita.

is needed to test whether existing findings from developed countries replicate in developing countries.

Fourth, some studies provide evidence on potential unintended consequences of gender progressive legislation in developing economies, especially in the *getting married*, *having children* and *managing assets* categories. This suggests that caution should be exercised regarding “piece-meal” reform attempts to tackle gender discrimination, and the focus should be more on holistic approaches to address this deep-rooted issue.

The paper is organized as follows. Section 2 reviews the existing literature on the existence and impact of gender discriminatory laws on women’s outcomes across the different WBL categories. Section 3 discusses the various theories relating women’s legal rights to their outcomes. Section 4 concludes.

2. Literature Review

2.1 Going places

Restrictions on female mobility are often observed in many developing countries (Jayachandran 2015). Commonly cited reasons for such restrictions include concern for women’s safety and “female purity” issues linked to their family honor (Chen 1995).

Existing evidence points to a negative association between laws restricting female mobility and female outcomes. These restrictions mostly relate to choosing where to live and traveling outside home. Using data from 98 developing countries, Demirguc-Kunt et al. (2013) find that in countries where women face legal restrictions in their ability to choose where to live, they are less likely to own an account, save and borrow relative to men. Using data for approximately 60,000 firms across 94 economies, Islam et al. (2018) find that travel restrictions on women is negative correlated with female business ownership. Htun et al. (2018) find similar cross-country evidence for female labor force participation as well. Hallward-Driemeier and Gajigo (2015) find that in Ethiopia, reforms that removed restrictions on female work outside home increased the proportion of women working in occupations involving work outside home, paid work and with higher educational requirements.

There is little systematic evidence on constraints faced by women in obtaining a passport and potential consequences for women's outcomes. Ethnographic evidence from Nepal reveals that lack of independent citizenship for women limits their freedom of movement and access to services (Laczo 2003). However, further research is required to deepen our understanding on these restrictions.

2.2 Starting a job

In many countries, women face unequal treatment in the labor market, including at the entry level and especially once they are married. Several studies have uncovered a variety of negative employment effects of such unequal treatment of women.

Lack of freedom to legally pursue a profession has been found to have a negative association with female employment (Gonzales et al. 2015, Islam et al. 2018). Removing restrictions on working outside home in Ethiopia was found to increase the likelihood of women working in occupations that involve work outside home, paid work and work with higher educational requirements (Hallward-Driemeier and Gajigo 2015).

Often, countries have been found to legislate anti-discrimination laws to tackle gender inequality in the labor market. Existing evidence on the impact of such laws on women's labor market outcomes is somewhat mixed. Mandating nondiscrimination based on gender has been found to be positively associated with women's relative employment across 58 developing economies (Amin and Islam 2015). Anti-discrimination legislation has been found to be positively associated with the relative employment and earnings of women in the United Kingdom (Zabalza and Tzannatos 1985).

An unsafe workplace environment has also been shown to negatively impact women's labor market outcomes. McLaughlin et al. (2017) find that sexual harassment ends up negatively influencing women's career trajectories in the United States, but training can increase male worker sensitivity to sexual harassment issues (Antecol and Dobb-Clark 2003) and potentially improve female worker outcomes.

Gender norms also play a key role in determining women's labor market outcomes in many developing countries, especially once they are married. This may be despite any legal

prohibition. Burzstyn et al. (2018) find that the misperceived beliefs of husbands constrain women's labor force participation in Saudi Arabia. Correcting such misperceptions increased wives' job applications, but there is no available evidence on actual employment outcomes.

2.3 Getting paid

Unequal treatment of women in the labor market also extends to their pay. Equal pay legislation has not always been successful in addressing this problem. Pike (1985) found that despite equal pay legislation, relative female employment declined in the manufacturing sector in the United Kingdom, while Gunderson (1975) found no impact in case of the United States. On the other hand, tax credits on childcare have been shown to significantly increase maternal labor supply (Averett et al. 1997) as well as spending on children's goods (Fisher 2016).³

Job restrictions, including inaccessibility to certain jobs (Ogloblin 1999; Ogloblin 2005, for the Russian Federation) and night hour restrictions (Zveglic and Rodgers 2003, for Taiwan), have also been found to be negatively correlated with female employment. The latter are consistent with cross-country evidence provided by Islam et al. (2018), who find that allowing women to work during night hours is positively correlated with the likelihood of women being top managers.

2.4 Getting married

In many countries, women face restrictions once they get married. Existing studies have shown the positive impact of lifting such restrictions on female outcomes. Hallward-Driemeier, Hasan, and Rusu (2013) find that while one in four countries still do not recognize women in this role, legislation allowing a woman to be the head of household is positively correlated with female labor force participation across 98 economies. The same was found by Gonzales et al. (2015) for 143 economies. From a historical perspective, World War II arguably precipitated

³ Regarding the impact of other childcare support on maternal labor market outcomes, the evidence is mixed in terms of effect size. Some studies find a small positive (or negligible) causal impact of child care subsidy reforms on female labor supply in Sweden (Lundin et al. 2008), Norway (Havnes and Mogstad 2011; Black et al. 2014), France (Givord and Marbot 2015), and the Netherlands (Bettendorf et al. 2015). Others estimate significant positive causal impact of similar reforms in Canada (Baker et al. 2008) and the United States (Gelbach 2002). The latter is also consistent with correlational evidence obtained by Averett et al. (1997) for the United States. Differences in target populations as well as local labor market conditions may explain some of these cross-country differences. For instance, in countries with very high female labor force participation (like the Nordic countries), the scope for childcare subsidy policy to further push up labor supply is rather limited.

the lifting of women's "marriage bars" (restrictions specific to married women) in the United States, such that women's labor supply function shifted to the right without a fall in real wages (Goldin and Olivetti 2013). Removing discrimination against married women in family law also expanded to other countries in Europe and Latin America over the course of the twentieth century (Htun and Weldon 2011). However, in some countries, particularly those in the Middle-East and South Asia, discriminatory legislation against married women still persists, including requiring women to obey their husband, lack of equal rights of guardianship over children, etc. However, more research is needed to comprehend the full consequentiality of amending such discriminatory laws on women's outcomes in these areas, especially in light of their correlation with religion.

On legislation relating to domestic violence, Iyengar (2009) finds that mandatory arrest laws increase intimate partner homicides in the United States, driven primarily by reduced reporting by victims. Once again, this highlights the potential for perverse and unintended consequences of *prima facie* well-intended policy interventions against legal gender discrimination. In contrast, Aizer and Dal Bo (2009) find that no-drop policies⁴ increase reporting of domestic violence in the United States.

2.5 Having children

Having children imposes differentially higher costs on women than men. For example, Goldin et al. (2017) indicate that the gap between career achievements of men and women widens as women's family responsibilities grow. Leave policies and childcare provision are two common policy options used to mitigate the cost of parenthood.

The empirical evidence on the impact of maternity, paternity and parental leave on women's employment outcomes is mixed, given the non-linearities of the effects. In other words, some leave appears to be good for parental, especially maternal, outcomes but too much leave is detrimental. In addition, mixed results may also be due to the fact that the existing studies are from developed countries where women's labor force participation is already quite high.

⁴ In the United States, a no-drop policy implies that once a woman brings charges against a batterer, the prosecution will continue regardless of her stated wishes to drop the charges.

On maternity leave, several correlational and causal studies find that women in developed economies are more likely to return to work if offered maternity leave (Ruhm 1998, Berger and Waldfogel 2004; Baker and Milligan 2008), but that the timing of returning to work is delayed (Baum 2003, Dahl et al. 2016, Dustman and Schonberg 2012, Schonberg and Ludsteck, 2014).

On the other hand, evidence on the long-term causal effects of maternity leave is more mixed. For the United States, Klerman and Leibowitz (1997) find no significant long-run impact on female employment of maternity leave sanctioned under the federal Family and Leave Act. In Canada, increasing paid maternity leave from 25 to 50 weeks led to a reduction in return to work within a year of childbirth but no impact on long-run employment rates (Hanratty and Trzcinski 2009). Ondrich et al. (2003) suggest that the expansion in leave coverage in Germany reduced employment of mothers in the long-run. Schonberg and Ludsteck (2014) also finds that maternity leave expansion in Germany led to a fall in women's employment 6 years after childbirth, but this decline was small.⁵

On paternity leave, the evidence is also mixed. Amin et al. (2016) find a positive correlation between mandated paternity leave and female employment in private firms, using data for 53 developing economies. Arnarson and Mitra (2010) also show a positive association between paternity leave and female labor market outcomes in Iceland. However, causal studies either find no estimated impact of paternity leave on female labor force participation (Rege and Solli 2013) or a marginal negative impact (Cools et al. 2015), the latter being supported by other correlational studies as well (Ekberg et al. 2013).

On parental leave,⁶ the evidence is mixed as well. Waldfogel et al. (1999) find that such leave coverage increases women's return to work in the United Kingdom, the United States and Japan. Blau and Kahn (2013) find that parental leave as well as part-time work policies raise labor force participation for women more than men. This is also consistent with findings in Nordic countries obtained by Ronsen and Sundstrom (2002). In contrast, Dahl et al. (2016)

⁵ There is little evidence on whether maternity leave paid by the government or employer leads to better or worse outcomes. The idea is that government payment of maternity leave is likely to reach a broader section of the population, as well as prevents workers from being tied to certain employers due to the benefits. Zveglic and Rodgers (2003) find that in Taiwan, employer-provided maternity benefits increases employment without any impact on wages, but we do not know how such effects would compare to government-provided benefits in a similar setting.

⁶ Parental leave includes taking additional time off work to care for infants or young children.

find that extending paid parental leave in Norway had no impact on women's labor force participation. For Austria, extended parental leave significantly delayed return to work and reduced maternal employment and earnings in the short run (Lalive and Zweimuller 2009) but not in the long run. Regarding women's career progression, gender-neutral family leave policy aimed at "leveling the playing field" between early career male and female economists in the United States actually had the opposite effect of widening the gender gap in promotion rates (Antecol et al. 2018). Once again, this points to the potential for unintended consequences of well-intended policy if attempted in isolation.

In terms of broader impacts, Carneiro et al. (2015) find that maternity leave in Norway had no impact on earnings for women but led to better outcomes for children. Dustman and Schonberg (2012) obtain similar evidence for paid maternity leave, but find a negative impact on child education for additional unpaid maternity leave. Cools et al. (2015) find that paternity leave increases child school performance, while Eckberg et al. (2013) find that paternity leave does not change the share of childcare borne by fathers.

There is little direct evidence on prohibition of dismissal of pregnant workers, although studies have shown such discrimination is common (Salihu et al. 2012; Banks and Russell 2011).

2.6 Running a business

In many countries, women face discrimination in access to credit for business purposes. In a few, they face unequal treatment in matters like signing a contract, registering a business, and legally opening a bank account. Existing literature has documented the positive impact of removing such gender-based differential treatment on women's outcomes.

Using cross-country data, Gonzales et al. (2015) find that women being able to legally sign a contract or open a bank account is positively correlated with female labor force participation across 143 economies. Islam et al. (2018) find that laws prohibiting gender-based discrimination by creditors and those enabling women to legally register a business like men are positively associated with female business ownership across 94 economies. For the United States, Ladd (1982) finds that progressive legislation like the Federal Equal Credit Opportunity Act (ECOA) may have had a favorable impact on women's ability to obtain mortgage funds, although federal and state laws were not sufficient to address discriminatory lending practices.

From a historical perspective, Khan (1996) shows that laws allowing women to trade, write contracts and engage in business on their own account (sole trader laws) were associated with greater patenting activity in the United States in the late 1700s. For developing countries, Field et al. (2016) find that having access to bank accounts has a positive causal impact on women's labor supply in India. However, de Mel et al. (2008) find no impact of relaxing credit constraints on returns to female-owned enterprises in Sri Lanka. This suggests that the binding constraint for female business owners could be a different one (e.g. time constraints related to their role as homemakers).

2.7 Managing assets

Access to property is a key ingredient to economic prosperity. There is considerable empirical evidence showing that improving women's legal rights to owning and managing property has positive impacts on a variety of their outcomes, including labor force participation and earnings, access to credit, human capital, etc.

On labor market outcomes, Hallward-Driemeier, Hasan, and Rusu (2013) provide cross-country evidence using 98 economies that women enjoying equal access to property ownership and inheritance as men is associated with greater female labor force participation. In a similar vein, Gonzales et al. (2015) find that giving equal property and inheritance rights to women is associated with reduction of the gender gap in labor force participation across 143 economies. The positive implications extend to within-country studies as well. Peterman (2011) finds that improving women's property and inheritance rights is positively associated with female earnings and employment in rural Tanzania. Heath and Tan (2018) obtain similar causal findings for India, where legal reform giving equal inheritance rights to women increased their labor supply. Hallward-Driemeier and Gajigo (2015) find that reforms to expand women's access to marital property in Ethiopia increased their likelihood to work in occupations that involve work outside home, paid work and work with higher educational requirements.

On access to credit, the evidence is rather limited (Meinzen-Dick et al. 2017). Only two studies were found to examine this issue carefully. Persha et al. (2017) find that land certificates increase access to microfinance or informal loans for female (but also male) headed households in Ethiopia. Santos et al. (2014) find that beneficiaries of a land allocation program in West Bengal, India, that made wives joint-titleholders with husbands increased credit use in agriculture relative to non-beneficiaries.

On education and health outcomes, Branisa et al. (2013) report a positive association between women's property rights and their educational attainment and fertility, using a data set of 124 countries. This is also confirmed by causal evidence from India, where Deininger et al. (2013, 2018) and Roy (2015) estimate significant positive effects of legislating equal inheritance rights for women on their educational achievements. Mishra and Sam (2016) find that increase in women's land ownership in Nepal boosted their empowerment through greater household decision-making in health care and household purchases. Similar causal findings have been obtained for Vietnam (Menon et al. 2014), India (Mookerjee 2017) and Kenya (Harari 2018).

Despite overall positive findings, Roy (2015) shows that legislation to provide equal inheritance rights to women in India resulted in some parents circumventing the law in order to disinherit their daughters from their rightful share. Bhalotra, Brule and Roy (2018) and Rosenblum (2015) find that the reform also increased female foeticide and female infant mortality, while Anderson and Genicot (2015) show that it increased marital conflict leading to greater suicides. These negative findings alert us to the possibility of unintended consequences of gender progressive legislation in developing economies, especially in the presence of multiple constraints that interact to perpetuate the status quo of gender inequality. For example, in the case of India, *patrilocality*⁷ is a key social norm that perpetuates preference for sons over daughters, as it ensures provision of old-age care for parents in the absence of a viable social security system. Thus, focusing on alleviating one constraint (access to property) without addressing other related ones (informal insurance) might be counterproductive, and suggests that greater attention should be paid to tackling gender discrimination using a holistic approach.

In terms of legal rights to administer marital property, unilateral divorce laws (by affecting spouses' outside options) have also been shown to impact labor market decisions of married women. However, the evidence in this regard is somewhat mixed. Gray (1998) finds a positive impact of such legislation on female labor force participation in the United States. In contrast, Voena (2015) finds the opposite effect, accompanied by an increase in leisure. This indicates that the divorce legislation led to an increase in women's share of intra-household resources (in the presence of equal division of assets), leading to lower female labor supply and greater leisure. It is important to note that most of the literature on divorce laws is derived from

⁷ *Patrilocality* (also known as *virilocality*) is the social custom that requires married women to leave their parents' home and reside with their husband's family post marriage (Bhalotra et al., 2018).

developed country contexts, and it is unclear what the corresponding implications would be in developing countries, where women often lack recourse to divorce in any meaningful way. Moreover, there exists no evidence on whether the law provides for valuation of non-monetary contributions in the family, and its consequences.

2.8 Getting a pension

In the context of developing countries, differences in pensions between men and women have been documented in China. Among people aged 60 and older, women receive about half the amount of men's social pensions (Zhao and Zhao 2018). About three-quarters of the deficit in women's pensions is explained by their lower likelihood of receiving occupational pensions, and one-third is due to smaller benefits when they do receive them. Among pension recipients, nearly one-third of the gap is explained by women's fewer years of employment and lower salaries.

Women are found to be less likely to take early retirement compared to men in developed countries like Norway (Dahl et al. 2002). One possible reason could be that early retirement policy for women reduces their welfare compared to men, as Lee et al. (2017) find in case of China. Increasing the early retirement age for women has been found to increase employment rates of women at ages 60 and 61 in the United Kingdom (Cribb et al. 2016) and in Austria (Staubli and Zweimuller 2013). However, this may come at the expense of lower net household income if women are on a state pension (Cribb and Emerson 2017). Lalive and Staubli (2014) find that raising the female full retirement age delays labor force exit and pension claim in Switzerland.

2 Discussion of Mechanisms

What are the various mechanisms through which legal rights may affect women's outcomes? In this section, I review the various theoretical frameworks discussed in the literature, with particular reference to the *getting married*, *having children* and *managing assets* categories. Across all of them, the bargaining model⁸ has particular relevance in interpreting a significant

⁸ Bargaining models are used to understand outcomes in situations where two or more players (e.g. individuals, firms, countries) have a common interest to co-operate, but have conflicting interests over exactly how to co-operate. Much economic interaction involves negotiations on a variety of issues. Wages and prices of other commodities (such as oil, gas and computer chips) are often the outcome of negotiations among the concerned parties (Muthoo, 2000).

share of the existing empirical evidence discussed above. For example, by improving the female worker's options for outside employment (through job protection), parental leave legislation strengthens her bargaining power position relative to the firm, resulting in improved employment outcomes for them (Blau and Kahn 2013; Ruhm 1998). Similarly, tax-credits to women shift intra-household bargaining power and distribution of income in their favor, leading to redirection of resources towards women's preferences, e.g. higher investment in children's goods (Fisher 2016).

On assets, stronger property rights legislations also increase women's intra-household bargaining power such that they are able to negotiate better health behavior with their spouses (Anderson 2018), increase investment in their health (Harari 2017), improve child education and health outcomes (Menon et al. 2014), and increase their labor supply (Heath and Tan 2018). Legislation of unilateral divorce laws, coupled with equitable sharing of marital property, may lead to an exogenous increase in the wife's expected income and subsequent strengthening of her intra-household bargaining power, resulting in an increase in her labor supply (Gray 1998).

The intertemporal labor supply model is also useful to interpret empirical evidence at the intersection of the *starting a job*, *getting paid* and *having children* categories. For instance, paid leave legislation increases women's reservation wage, thereby making them less inclined to return to work, but facilitates the return of those mothers who would have dropped out of the labor force otherwise (Hanratty and Trzcinski 2009; Ronsen and Sundstrom 2002). Similarly, subsidized child care raises women's effective wages within such a model, thereby increasing their labor supply (Averett et al. 1997).

3 Conclusion

Across much of the developing world, discriminatory laws against women prevail. This essay reviews the empirical evidence on the impact of such gender-discriminatory laws on women's outcomes, with particular focus on the different categories constituting the World Bank's WBL measure of gender inequality. The evidence to date suggests that there are significant negative consequences of legal gender discrimination on women's outcomes. However, there exists significant variation in the depth of the existing literature across these different categories. In particular, more research is required to obtain a richer understanding of the impacts and mechanisms pertaining to women's mobility, marriage, entrepreneurship and

pension. Moreover, a significant share of the existing evidence for some of these categories is drawn from developed countries, which raises questions about how well these findings would generalize to developing countries, especially given the persistent differences between them. Finally, while the overall impacts of reforms to gender-discriminatory laws have been mostly positive, the literature highlights some unintended negative consequences as well, at least in the short run. This points to the need for adopting a more holistic approach towards understanding and tackling the deep-rooted issue of gender inequality, as well as taking a more balanced view about our expectations from legal reform in affecting change, especially in the presence of sticky gender norms.

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