



KENYA

REGION
Sub-Saharan Africa

MAIN BUSINESS CITY
Nairobi

INCOME GROUP
Lower-middle Income

FEMALE LABOR FORCE PARTICIPATION
72 percent

Over the last several decades, Kenya has made significant political and economic reforms that have contributed to sustained economic growth, social development, and political stability. Gender equality, however, remains a key development challenge. When women are given the same opportunities as men, they enter and remain in the labor force, strengthening economies and enabling development. Gender equality is also associated with better development outcomes, such as lower rates of vulnerable employment and extreme poverty among female workers.

WBL INDEX SCORE

80.6

ABOVE
REGIONAL AVERAGE
for Sub-Saharan Africa

71.0

ABOVE
GLOBAL AVERAGE

76.1

KENYA ENACTED REFORMS
AFFECTING FIVE OF THE
EIGHT INDICATORS,
INCREASING ITS SCORE:

Index score
in 1971

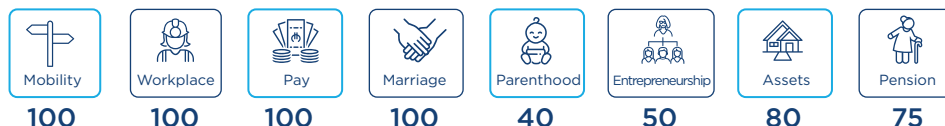
48.8



Index score
in 2021

80.6

WBL 2021 SCORE BY INDICATOR



Kenya's current score can be attributed to a number of reforms increasing gender equality that were passed over the last 50 years, with the majority occurring in the last two decades. In 1970, the Law of Domicil Act allowed women to choose where to live in the same way as men. This was the only reform implemented in the areas measured by *Women, Business and the Law* until 2006. With the adoption of both the Sexual Offences Act and amendments to the Employment Act between 2006 and 2009, Kenya criminalized sexual harassment in employment, mandated equal remuneration for work of equal value, eliminated the ban on women's employment in certain sectors, and prohibited discrimination based on gender in employment. Since 2009, Kenya has also enacted legislation recognizing non-monetary contributions and protecting women from domestic violence.

Sub-Saharan Africa WBL 2021 Index Score



Today, Kenya receives a score of 100 on four indicators: Mobility, Workplace, Pay, and Marriage. These scores signify that men and women have equal rights and opportunities in the areas measured. However, the remaining four indicators show room for improvement. Gaps persist in the regulatory framework as measured by the Parenthood, Entrepreneur-

ship, Assets, and Pension indicators. With the exception of Assets, in all of these areas Kenya lags behind other economies in the region and of the same income group. The following sections explore Kenya's scores for each of the *Women, Business and the Law* indicators, highlighting both the progress made and remaining opportunities for reform.



MOBILITY 100/100

Of the 48 economies in Sub-Saharan Africa, 25, including Kenya, receive a score of 100 on the Mobility indicator. Mobility affects every step in a working woman's life cycle. Limitations in this area reduce opportunities for women to build networks with other entrepreneurs and exchange vital information on market opportunities, ultimately preventing them from developing their full potential as successful entrepreneurs. Increasing women's mobility, including the opportunity to freely commute to and from a workplace outside of the home, can give women access to better employment opportunities. Kenya achieved a score of 100 after the passage of the Law of Domicil Act on June 4, 1970, which stated that "an adult married woman shall not, by reason of being married, be incapable of acquiring an independent domicile of choice." Previously, case law indicated that a married woman would automatically adopt the domicile of her husband, thus restricting her freedom of movement and her choices.

CAN A WOMAN CHOOSE WHERE TO LIVE IN THE SAME WAY AS A MAN?	☒ YES
CAN A WOMAN TRAVEL OUTSIDE HER HOME IN THE SAME WAY AS A MAN?	☒ YES
CAN A WOMAN APPLY FOR A PASSPORT IN THE SAME WAY AS A MAN?	☒ YES
CAN A WOMAN TRAVEL OUTSIDE THE COUNTRY IN THE SAME WAY AS A MAN?	☒ YES



WORKPLACE 100/100

Kenya also receives a score of 100 under the Workplace indicator, which analyzes laws affecting women's decisions to enter and remain in the labor force. In the last 15 years, Kenya has prohibited discrimination in employment and introduced legislation on sexual harassment in employment, including criminal penalties for such conduct. Kenya is among 36 other economies in the region that have introduced sexual harassment legislation since 1970. In 2019, the Employment Act (Amendment) Bill was introduced to parliament, seeking to lower the threshold of the number of employees needed for an employer to develop a sexual harassment policy from 20 to five. The legislation is pending as of June 2021.

CAN A WOMAN GET A JOB IN THE SAME WAY AS A MAN? ☒ YES

DOES THE LAW PROHIBIT DISCRIMINATION IN EMPLOYMENT BASED ON GENDER? ☒ YES

IS THERE LEGISLATION ON SEXUAL HARASSMENT IN EMPLOYMENT? ☒ YES

ARE THERE CRIMINAL PENALTIES OR CIVIL REMEDIES FOR SEXUAL HARASSMENT IN EMPLOYMENT? ☒ YES



PAY 100/100

Just 13 economies in Sub-Saharan Africa (including Kenya), and less than one-third of all economies globally, receive a score of 100 on the Pay indicator. This indicator focuses on laws and regulations affecting occupational segregation and the gender wage gap. Worldwide, Pay has the second lowest performance of all indicators, with an average global score of just 67.5. Should a woman successfully enter and remain in the labor force, it is imperative that she not face job restrictions or receive lower pay than a man holding the same position. Yet 88 economies still restrict the jobs women can hold. Additionally, fewer than half of economies worldwide (90) have mandated equal remuneration for work of equal value.

With an amendment to the Employment Act in 2007, Kenya mandated equal remuneration for work of equal value. It also eliminated the ban on women's employment in certain sectors. The legislation previously in force had banned women from being employed "between the hours of 6:30 p.m. and 6:30 a.m. in an industrial undertaking," which included mining, factories, the construction sector, and transport.

DOES THE LAW MANDATE EQUAL REMUNERATION FOR WORK OF EQUAL VALUE? ☒ YES

CAN A WOMAN WORK AT NIGHT IN THE SAME WAY AS A MAN? ☒ YES

CAN A WOMAN WORK IN A JOB DEEMED DANGEROUS IN THE SAME WAY AS A MAN? ☒ YES

CAN A WOMAN WORK IN AN INDUSTRIAL JOB IN THE SAME WAY AS A MAN? ☒ YES





MARRIAGE 100/100

Unequal rights in marriage and divorce can have negative effects on women's intra-household bargaining power and jeopardize their financial security. Measures that can promote gender equality in this sphere include protection from domestic violence as well as the ability to divorce and remarry in the same way as men. Kenya is one of 16 economies in Sub-Saharan Africa to score 100 on the Marriage indicator. This was achieved in 2015 with the passage of Kenya's first domestic violence legislation, which extends to women protections against physical, sexual, psychological, and economic violence. The law, however, does not provide for criminal penalties for domestic violence except in situations where a protection order is broken. One

good practice example for comprehensive reform is Madagascar, whose 2019 law establishes criminal penalties for different forms of gender-based violence in the private and public spheres. The law also stipulates that the state must support survivors through the provision of health care, including psychological health care, and legal aid services. Since 2015, eight economies in the region have passed legislation specifically addressing domestic violence. Equal remarriage procedures support women's economic security by promoting equal decision-making within marriage and ensuring women's financial stability during and after a divorce or death of spouse.

IS THERE NO LEGAL PROVISION THAT
REQUIRES A MARRIED WOMAN TO OBEY
HER HUSBAND? ✓ YES

CAN A WOMAN BE HEAD OF HOUSEHOLD
IN THE SAME WAY AS A MAN? ✓ YES

IS THERE LEGISLATION SPECIFICALLY
ADDRESSING DOMESTIC VIOLENCE? ✓ YES

CAN A WOMAN OBTAIN A JUDGMENT OF
DIVORCE IN THE SAME WAY AS A MAN? ✓ YES

DOES A WOMAN HAVE THE SAME RIGHTS
TO REMARRY AS A MAN? ✓ YES

INTRODUCTION OF DOMESTIC VIOLENCE LEGISLATION IN SUB-SAHARAN AFRICA, 2014-2019

▼ 2014 Guinea-Bissau, Comoros

▼ 2015 Kenya

▼ 2017 Chad

▼ 2018 Burkina Faso, Eswatini

▼ 2019 Liberia, Madagascar



PARENTHOOD 40/100

Kenya receives a score of 40/100 on the Parenthood indicator, which examines laws affecting women's work after pregnancy. Maternity, paternity, and parental leave schemes can help recognize and redistribute unpaid care work. Kenya is among a minority of countries in the region that do not grant at least 98 days of paid maternity leave, the standard established by the International Labour Organization (ILO). Neighboring countries that have carried out reforms in this area include

Ethiopia, which lengthened paid maternity leave from 90 to 120 days and introduced three days of paternity leave in 2019. Liberia and Mauritius also passed reforms in 2015 by extending the length of leave from 90 days and 84 days, respectively, to 98 days. Of the 27 economies in Sub-Saharan Africa that provide at least 14 weeks of maternity leave for women, 12 economies require the government to administer this benefit.

IS PAID LEAVE OF AT LEAST 14 WEEKS AVAILABLE TO MOTHERS?

✗ NO

DOES THE GOVERNMENT ADMINISTER 100% OF MATERNITY LEAVE BENEFITS?

✗ NO

IS PAID LEAVE AVAILABLE TO FATHERS?

✓ YES

IS THERE PAID PARENTAL LEAVE?

✗ NO

IS DISMISSAL OF PREGNANT WORKERS PROHIBITED?

✓ YES

LENGTH OF PAID LEAVE (CALENDAR DAYS)

	Maternity	Paternity	
The Gambia	180	14	
Ethiopia	120	3	
Seychelles	112	14	
Congo, Rep.	105	0	
São Tomé and Príncipe	98	0	
Kenya	90	14	
Nigeria	84	0	
Mozambique	60	1	
Sudan	56	0	



ENTREPRENEURSHIP 50/100

Laws that prescribe equal access when conducting financial transactions, entrepreneurial activity, or when receiving financial assistance are key to expanding access to finance for women-owned businesses. The Entrepreneurship indicator analyzes constraints on women starting and running businesses. Kenya scores 50 out of 100 points on this indicator. While women in Kenya can sign binding contracts and open bank accounts in the same way as men, crucial barriers to women's participation in entrepreneurship activities remain. First, the law does not prohibit discrimination in access to credit based on gender. Economies in Sub-Saharan Africa that prohibit discrimination in access to credit based on gender include Angola, Cabo Verde, Democratic Republic of Congo, Guinea, Mauritius, Mozambique, South Africa, Zambia, and Zimbabwe. In South Africa, the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 bars unfair practices, which it defines to include refusing to provide goods or services and providing unequal access to financial resources to any person on one of the prohibited grounds, including sex. Additionally, the National Credit Act of 2006 (in Art. 61) establishes that a credit provider must not unfairly discriminate directly or indirectly based on gender. In 2015, Zambia enacted the Gender Equity and Equality Act, which determines that both sexes shall have equal access and rights to credit, capital, mortgages, security, and training (Art. 14). The law's Art. 37 also explicitly prohibits discrimination against women based on their gender and marital status when accessing financial services or resources. *Women, Business and the Law* has found

that laws prohibiting gender-based discrimination by creditors are positively associated with female bank account ownership.

Kenya is also one of just four economies in Sub-Saharan Africa, and six worldwide, that does not allow women to register a business in the same way as men. Article 6(1)(h) of the Registration of Business Names Act requires a married woman who wants to register a business to include the name and surname of her husband, while a married man is not required to provide such information about his wife. These disparities can limit women's ability to make effective choices and transform these choices into economic outcomes.

DOES THE LAW PROHIBIT DISCRIMINATION IN ACCESS TO CREDIT BASED ON GENDER?

✗ NO

CAN A WOMAN SIGN A CONTRACT IN THE SAME WAY AS A MAN?

✓ YES

CAN A WOMAN REGISTER A BUSINESS IN THE SAME WAY AS A MAN?

✗ NO

CAN A WOMAN OPEN A BANK ACCOUNT IN THE SAME WAY AS A MAN?

✓ YES



ASSETS 80/100

The Assets indicator examines gender differences in property and inheritance law. Strong property rights can allow women to leverage assets for economic gain. Kenya receives a score of 80/100 on this indicator. The country's most recent reform in this area was the adoption of the Matrimonial Property Act in 2013, which explicitly introduced the concept of non-monetary contributions to matrimonial property, such as child care or domestic work, that usually disproportionately fall on women. Kenya fails to achieve a perfect score because it does not grant female and male surviving spouses equal inheritance rights. Article 36 of the Law of Succession Act states that if the surviving spouse is a widow, the "life interest shall be determined upon her re-marriage to any person." This means that women's right to inheritance is conditioned upon their decision to remarry, which is a requirement that does not exist for men.

Where wives or daughters lack equal inheritance rights, their economic prospects may be limited. Conversely, giving women greater access to assets through inheritance can change outcomes for children, particularly girls. The majority of economies in Sub-Saharan Africa (71 percent) grant surviving spouses equal inheritance rights.

DO MEN AND WOMEN HAVE EQUAL OWNERSHIP RIGHTS TO IMMOVABLE PROPERTY? ☒ YES

DO SONS AND DAUGHTERS HAVE EQUAL RIGHTS TO INHERIT ASSETS FROM THEIR PARENTS? ☒ YES

DO MALE AND FEMALE SURVIVING SPOUSES HAVE EQUAL RIGHTS TO INHERIT ASSETS? ☒ NO

DOES THE LAW GRANT SPOUSES EQUAL ADMINISTRATIVE AUTHORITY OVER ASSETS DURING MARRIAGE? ☒ YES

DOES THE LAW PROVIDE FOR THE VALUATION OF NONMONETARY CONTRIBUTIONS? ☒ YES



GOOD PRACTICE: INHERITANCE IN RWANDA

Law Governing Matrimonial Regimes, Donations and Successions (Law No. 27 of 2016), Art. 75

The surviving spouse is entitled to take part in succession of the deceased spouse's estate. The surviving spouse called to succeed inherits in equal portions with first category heirs. If there are no heirs of the first category, he/she has the same right of succession as heirs in the second category and in the absence of heirs of the second category, he/she co-inherits with those of the third category, and so forth.



PENSION 75/100

The Pension indicator assesses laws affecting women's economic prospects in retirement. Kenya receives a 75/100 on this indicator. While the ages at which men and women can retire are equal, periods of absence due to childcare are not accounted for in pension benefits. Explicit recognition of maternity leave as a qualifying period of employment allows women's retirement savings to continue growing while on care leave. Currently, 24 of the 48 economies in Sub-Saharan Africa legally establish pension care credits for periods of childcare. In Côte d'Ivoire, for example, periods of interrupted work during which the employed woman receives maternity allowance are accounted for when calculating the amount of retirement pension, regardless of contributions. Others, such as Benin, Burkina Faso, Cameroon, and Togo, credit time spent on maternity leave as insured periods. Provisions like these can help ensure women's economic security in old age.

IS THE AGE AT WHICH MEN AND WOMEN CAN RETIRE WITH FULL PENSION BENEFITS THE SAME? ☒ YES

AGE (WOMEN) 60
AGE (MEN) 60

IS THE AGE AT WHICH MEN AND WOMEN CAN RETIRE WITH PARTIAL PENSION BENEFITS THE SAME? ☒ YES

IS THE MANDATORY RETIREMENT AGE FOR MEN AND WOMEN THE SAME? ☒ YES

ARE PERIODS OF ABSENCE DUE TO CHILDCARE ACCOUNTED FOR IN PENSION BENEFITS? ☒ NO

THE WAY FORWARD

Women in Kenya have experienced significant increases in socio-economic opportunities thanks to the reforms pursued over the last several decades. Of the 35 good practices measured by *Women, Business and the Law*, 20 percent have room for improvement. Prioritizing reforms in the areas of **Parenthood, Entrepreneurship, Assets**, and **Pension** is crucial to help women achieve full equality before the law.

In the area of **Entrepreneurship**, the country could improve women's situation by prohibiting discrimination in access to credit and equalizing the process and requirements for women to register a business. In the area of **Assets**, Kenya should consider a reform of inheritance law to grant equal rights to male and female surviving spouses. And in **Parenthood**, the country has room to align with the international good practice established by the ILO by granting 14 weeks of leave for mothers.

Even in areas where the country has pursued reforms, it can take time before the law is fully implemented. One example is the need for clearer guidance for the judiciary to adjudicate non-monetary contributions and equitable distribution of property. Case law still highlights the inconsistent interpretation and application of laws, which often results in discriminatory distribution of matrimonial property. Another example is the case of the Protection Against Domestic Violence Act of 2015. After the passage of the act, rules of procedure were not enacted. However, civil society groups worked to resolve this situation, which led to rules of procedure being drafted. These rules were subsequently signed by the Chief Justice and Chairman of the Rules Committee on October 6, 2020.

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Women, Business and the Law presents an index covering 190 economies and structured around the life cycle of a working woman. It employs eight indicators that are structured around women's interactions with the law as they begin, progress through, and end their careers: Mobility, Workplace, Pay, Marriage, Parenthood, Entrepreneurship, Assets, and Pension. Overall scores are calculated by taking the average of each indicator, with 100 representing the highest possible score.



For more information, including analysis over time, please visit wbl.worldbank.org or contact wbl@worldbank.org.

ANALYSIS: KENYA IN THE *WOMEN, BUSINESS AND THE LAW* INDEX

INDICATOR	QUESTION	KENYA LEGAL BASIS	KENYA (Y/N)	REGIONAL TREND (Y/N)
 Mobility	Can a woman choose where to live in the same way as a man?	No restrictions could be located	Yes	62% 38%
	Can a woman travel outside her home in the same way as a man?	No restrictions could be located	Yes	98% 2%
	Can a woman apply for a passport in the same way as a man?	Constitution of Kenya, Art. 12(1)(b); Kenya Citizenship and Immigration Act, Arts. 24(1) and 27	Yes	75% 25%
	Can a woman travel outside the country in the same way as a man?	No restrictions could be located	Yes	98% 2%
 Workplace	Can a woman get a job in the same way as a man?	No restrictions could be located	Yes	79% 21%
	Does the law prohibit discrimination in employment based on gender?	Employment Act, Art. 5(3)(a)	Yes	90% 10%
	Is there legislation on sexual harassment in employment?	Sexual Offences Act, 2006, Sec. 23	Yes	75% 25%
	Are there criminal penalties or civil remedies for sexual harassment in employment?	Employment Act, 2007, Sec. 6 Criminal Sexual Offences Act, 2006, Sec. 23 Civil: No applicable provisions	Yes	73% 27%
 Pay	Does the law mandate equal remuneration for work of equal value?	Employment Act, 2007, Sec. 6 Criminal penalties; Sexual Offences Act, 2006, Sec.23	Yes	46% 54%
	Can women work the same night hours as men?	No restrictions could be located	Yes	94% 6%
	Can women work in jobs deemed dangerous in the same way as men?	No restrictions could be located	Yes	58% 42%
	Are women able to work in the same industries as men?	No restrictions could be located	Yes	52% 48%
 Marriage	Is there no legal provision that requires a married woman to obey her husband?	No applicable provisions could be located	Yes	90% 10%
	Can a woman be head of household in the same way as a man?	No restrictions could be located	Yes	65% 35%
	Is there legislation specifically addressing domestic violence?	Protection Against Domestic Violence Act, 2015	Yes	65% 35%
	Can a woman obtain a judgment of divorce in the same way as a man?	No restrictions could be located	Yes	79% 21%
	Does a woman have the same rights to remarry as a man?	No restrictions could be located	Yes	50% 50%
 Parenthood	Is paid leave of at least 14 weeks available to mothers?	Employment Act, Sec. 29(1)	No	56% 44%
	Does the government pay 100% of maternity leave benefits?	Employment Act, Art. 29	No	38% 62%
	Is there paid paternity leave?	Employment Act, Art. 29(8)	Yes	58% 42%
	Is there paid parental leave?	No applicable provisions could be located	No	0% 100%
	Is dismissal of pregnant workers prohibited?	Employment Act, Arts. 45(4) and 46(a)	Yes	79% 21%
 Entrepreneurship	Does the law prohibit discrimination in access to credit based on gender?	No applicable provisions could be located	No	19% 81%
	Can a woman sign a contract in the same way as a man?	Matrimonial Property Act, Art. 4(b)	Yes	96% 4%
	Can a woman register a business in the same way as a man?	Registration of Business Names Act, Art. 6(1)(h)	No	92% 8%
	Can a woman open a bank account in the same way as man?	No restrictions could be located	Yes	85% 15%
 Assets	Do men and women have equal ownership rights to immovable property?	Matrimonial Property Act, Sec. 4(a)	Yes	79% 21%
	Do sons and daughters have equal rights to inherit assets from their parents?	Law of Succession Act, Art. 35(5)	Yes	75% 25%
	Do female and male surviving spouses have equal rights to inherit assets?	Law of Succession Act, Art. 36(1)	No	71% 29%
	Does the law grant spouses equal administrative authority over assets during marriage?	Matrimonial Property Act, Sec. 12	Yes	83% 17%
	Does the law provide for the valuation of nonmonetary contributions?	Matrimonial Property Act, Sec. 7	Yes	60% 40%
 Pension	Are the ages at which men and women can retire with full pension benefits equal?	National Social Security Fund Act, Arts. 2 and 36	Yes	85% 15%
	Are the ages at which men and women can retire with partial pension benefits equal?	No applicable provisions could be located	Yes	92% 8%
	Are the mandatory retirement ages for men and women equal?	No applicable provisions could be located	Yes	96% 4%
	Are periods of absence due to child care accounted for in pension benefits?	No applicable provisions could be located	No	50% 50%