

Understanding Successful Legal Reform for Women's Economic Empowerment:
A Case Study Analysis

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Introduction

Legal reform is often the critical first step in initiating social change. Yet, not all legal reforms create meaningful differences in individuals' daily lives. This is especially true for legal reforms intended to enhance the status of women, including their economic status. In order to address the gap between law and practice, it is essential to first understand what factors inhibit or promote the success of legal reforms for women. In this paper, we analyze the literature on women's economic empowerment and legal reform and develop a conceptual framework to understand what factors will impede or contribute to the efficacy of legal reform for women. We then use our framework to examine four country cases of legal reform designed to promote women's economic empowerment, two of which we regard as successful cases of legal reform, and two we regard as unsuccessful cases.

We draw three critical conclusions from our case study analysis. First, we find that legal reforms built on less oppressive cultural foundations are more likely to result in progress for women. Second, we find that even within an unfavorable background context, legal reforms can be successful if strong accountability and enforcement mechanisms are in place. Third, certain background context factors seem to be more significant in enhancing the success of legal reform than others. From our conclusions, we postulate that there is likely a sequencing dynamic concerning the level of success with regard to women.

Literature Review

Evidence and Consequences of Economic Inequality

Economic inequality has been and continues to be one of the most critical challenges women face across the globe. In 1986, Barber Conable, President of the World Bank, delivered

an address in Washington D.C. in which he described the economic situation of women. He stated,

Women do two-thirds of the world's work. Their work produces 60 to 80 percent of Africa's and Asia's food, 40 percent of Latin America's. Yet they earn only one-tenth of the world's income and own less than 1 percent of the world's property. They are among the poorest of the world's poor (Conable 1991).

Although these figures have since been found to be more generally true than specifically true, scholars agree that women are important contributors to the world's economy, yet they do not enjoy the same degree of economic reward as men (Doss et al. 2018). Globally, only 50 percent of women over the age of 15 participate in the formal labor force and receive wages for their labor, compared to 75 percent of men in the same age group (Tyson and Klugman 2017). Even women who do receive wages for their labor are more likely than men to be employed in traditionally female occupations that tend to be part-time, insecure, and low-paying.

Consequently, women earn significantly less than their male counterparts – even for doing the same job (Arekapudi 2018; Cortes and Pan 2017; Tyson and Klugman 2017). While women's earnings relative to men have increased by about 4 percentage points worldwide since the 1990s, the pace has been staggeringly slow. Kabeer (2012) stated, “according to ILO estimates, women's earnings fell short of men's by 22.9% in 2008-09, an improvement from the shortfall of 26.2% in 1995. While this is a positive trend, the pace of progress means that it would take more than 75 years to achieve the principle of equal pay for work of equal value.” For all of these reasons, and based on decades' worth of data, the assertion that women experience significant economic inequality in today's world is irrefutable.

The economic inequality of women is not only a concern with regard to justice and human rights, though it absolutely is both of those, it is also a concern for national welfare. Informed experts and policymakers argue that women's economic empowerment is critical to a

nation's development and growth (Kabeer 2012). One source notes, "the economic empowerment of women is a prerequisite for sustainable development...Gender equality and empowered women are catalysts for multiplying development efforts. Investments in gender equality yield the highest returns of all development investments" (DAC Network on Gender Equality 2011). While this statement may seem like politically correct hyperbole, the evidence indicates that it is true. Economists have estimated that the lack of representation of women in the labor force can account for an estimated 14% revenue loss in Latin America and 10% in Europe (Fernandez 2017). Experts argue that if women had the same access to agricultural support as men, crop yields across the African continent would increase by 20% (DAC Network on Gender Equality 2011). If gender gaps in the workforce were closed, scholars estimate that this would add \$12 trillion to the global economy and increase GDP by 12-25% (Tyson and Klugman 2017; Woetzel et al. 2015).

In addition to these effects on national macroeconomic indicators, women's economic empowerment strengthens businesses, communities, and families. Research has shown that women produce high rates of return through their work. One estimate contends that for every dollar a woman invests, she generates an average \$7.00 for the economy (Women, Sustainable Entrepreneurship and the Economy: A Global Perspective 2019). Research also shows that companies with more women in top-level positions generate a higher return than comparable companies with lower female participation (Tyson and Klugman 2017). Families and communities also benefit from women's economic empowerment. Though there is significant debate in the literature around this topic, many researchers argue that child and household welfare both increase when women have control over financial resources because they are more likely to invest their money in their families (Kabeer 2012; Doepke and Tertilt 2017). A study

from Brazil estimated that childhood survival increased by 20% when women were in charge of the household income (DAC Network on Gender Equality 2011). Other research shows that, on average, women invest 90% of their income into their community (Women, Sustainable Entrepreneurship, and the Economy: A Global Perspective 2019). These data show that investing in women's economic empowerment is not only a normative concern over equality and justice, but it is also vital for improving family, community, and national welfare.

Defining Economic Empowerment for Women

Before delving further into the topic of economic empowerment for women, it is essential to first clearly define what it is. Scholars and policymakers have conceptualized the term differently over time. Kabeer (2012) delineates the evolution of thought surrounding economic empowerment over time. The term started to be seriously discussed at the Beijing Platform for Action in 1995 and was conceptualized as including economic independence and access to employment, resources, opportunities, and services. The Millennium Development Goals (MDGs) categorize economic empowerment as “full and productive employment and decent work for all” (Kabeer 201). The World Bank has defined economic empowerment for women as “making markets work for women (at the policy level) and empowering women to compete in markets (at the agency level)” (Kabeer 2012). The OECD-DAC Gender Network defines economic empowerment as “the capacity of women and men to participate in, contribute to and benefit from growth processes in ways which recognize the value of their contributions, respect their dignity and make it possible to negotiate a fairer distribution of the benefits of growth” (DAC Network on Gender Equality 2011). SIDA defines empowerment as “the process which increases women's real power over economic decisions that influence their lives and priorities in

society. Women’s economic empowerment can be achieved through equal access to and control over critical economic resources and opportunities, and the elimination of structural gender inequalities in the labor market including a better sharing of unpaid care work” (Kabeer 2012).

While there are differences across these definitions of economic empowerment for women, two major themes emerge. Firstly, economic empowerment for women includes **access to economic opportunities and resources**. Secondly, economic empowerment not only means that women can access economic opportunities, but that they can also **exert decision-making power over these resources**. The International Center for Research on Women (ICRW) provides a definition that succinctly includes both of these factors:

A woman is economically empowered when she has both the ability to succeed and advance economically and the power to make and act on economic decisions. To succeed and advance economically, women need the skills and resources to compete in markets, as well as fair and equal access to economic institutions. To have power and agency to benefit from economic activities, women need to have the ability to make and act on decisions and control resources and profits (Golla et al. 2011).

This is the conceptual definition that our research team has identified as the most compelling, and what we will use in our analysis presented here.

Increasing Economic Empowerment for Women Through Legal Reform

Addressing economic inequality through legal reform can be critical for generating women’s economic empowerment. There is a strong relationship between women’s legal status and her ability to participate in the economy. Kabeer (2012) found, “in the DRC, where women need their husband’s consent to start a business, women run only 18% of small businesses, while in neighboring Rwanda, where no such regulations exist, more than 41% of small businesses are

run by women” (44). This finding clearly speaks to the power of discriminatory laws to impede women’s economic empowerment.

Unfortunately, many countries across the world have codified laws that perpetuate economic inequality for women. In over 100 of the world’s countries, women are legally restricted in what industries they can work in and what types of jobs they can do, which contributes to the gender pay gap (Arekapudi 2018). In 37 countries, women cannot access national passports in the same way as men, which can prevent them from working in positions that involve international travel (Arekapudi 2018; Tyson and Klugman 2017). In some countries, women must have their husbands’ permission to start a business or to work at all (Arekapudi 2018; Kabeer 2012). Sexual harassment in the workplace is unregulated in 59 of the world’s nations (Arekapudi 2018). Ninety percent of the countries analyzed in the World Bank’s Women, Business, and the Law Report had at least one kind of law in place that had an adverse effect on women’s economic empowerment (Vogelstein et al. 2018). Martin and Hashi (1992) reflect, “law has played a major role in enabling the invisibility of women in economic development. However, because the law has been an important part of the problem, it is an important part of the solution” (27). Although the law has been a primary facilitator of women’s economic inequality, it might also be an avenue for empowerment if further reforms were to be undertaken.

Recognizing the barriers law has placed on women’s economic empowerment, many nations have implemented legal reform and seen real change on the ground for women. Vogelstein et al. (2018) note, “in the last two years alone, 65 countries enacted almost 100 legal changes to increase women’s economic opportunities.” Arekapudi (2018) asserts, “countries all over the world are eliminating job restrictions, prohibiting discrimination in access to credit,

providing legal aid and supporting childcare services.” Some countries have even codified female quotas for corporate boards into national law (Tyson and Klugman 2017). Reports indicate that many women experienced real economic empowerment in countries where legal reforms were made. In 2000, Ethiopia made comprehensive changes to its family law, including giving women authority to administer marital property, allowing women the right to work without their husbands’ permission, and increasing the marriage age to 18 years. Researchers found that these changes had a markedly positive outcome on women’s economic empowerment (Hallward-Driemeier and Gajigo 2013). In that same year, Vietnam changed its laws regarding land titling to allow joint titles. Data indicate that this change increased the number of married Vietnamese women who owned land, which in turn increased women’s business activities (Kabeer 2012). India changed its inheritance laws in the 1990s to allow women to inherit equally with their male relatives. As a result, more women opened bank accounts and families experienced greater financial stability (Nagarajan et al. 2010). Legal reform can be a critical tool for increasing women’s economic empowerment.

Unfortunately, however, the literature shows that not all legal reforms create real change for women. Vogelstein et al. (2018) reflect, “legal reforms are just one step on the road to gender parity in the global economy...promoting gender equality on paper will not necessarily improve the situation of women in practice. Genuine progress requires enforcement, which presents its own challenges.” Medie (2013) echoes, “this gap in law enforcement demonstrates that getting...legislation on the statute book is only half the struggle; where progressive policies have been introduced the question becomes how state agents can translate and deliver...policies in ways that will protect and empower women.” Scholars explain that there is a difference in something being illegal *de jure* and it still being practiced *de facto* (Hamilton and Jones 1992;

Htun and Weldon 2018). While there may be laws on the books that ostensibly protect women's economic rights, there may also be other factors that prevent that law from having an effect on women's lived reality. Identifying and explaining the factors that prevent or facilitate legal reform efforts for women having their intended effect is the primary focus of this paper.

Factors Affecting the Efficacy of Legal Reform for Women

The literature presents a wide variety of explanations for why some legal reforms may fail to generate real change on the ground. Hamilton and Jones (1992) purport that ignorance, culture, and lack of adequate funding prevent legal reforms from taking hold in practice. Bartlett and Kennedy (2018) assert that because legal reform does not effectively change social structures and ideologies, it is a poor tool for generating real change. Quast (2008) provides a substantial list of what she perceives as barriers to effective legal reform. She notes,

Competing legal frameworks among various systems: formal, traditional and religious systems; Exclusion of certain segments of society from the reform process; lack of basic resources, which are needed for judicial actors to carry out their jobs...lack of, or dilapidated infrastructure...lack of independence of the judiciary resulting from little or no separation of powers...corruption among judicial actors, including police, judges, prosecutors, court administrators and juries...cultural attitudes and practices, which result in violations of human rights...slow pace of progress.

Evaluating the effectiveness of laws against gender-based violence in Sierra Leone, Meddie (2013) argues that considering the role of various organizational actors is critical to understanding how laws can generate change. Brysk (2018) goes further and provides a fairly comprehensive framework in which she explains that the effectiveness of a law to generate change for women depends on three factors: access, meaning women's ability to file complaints

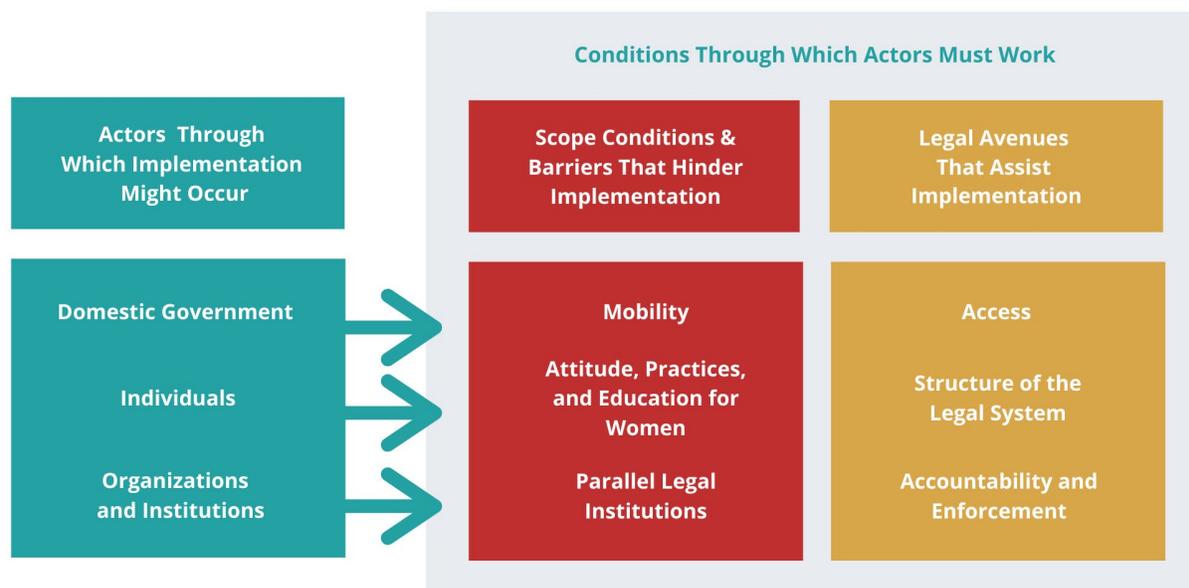
and receive justice; architecture, meaning the structure of the law and the legal system; and accountability, meaning the government's willingness or ability to enforce the law.

From the literature we have reviewed, Brysk provides the most comprehensive and compelling explanation for why some legal reforms are effective and others are not. In the next section, we will detail our theoretical framework, which draws largely on the framework that Brysk provides, with additions from other scholars' work presented in this section. Using our theoretical framework, we probe four country cases of legal reform designed to promote women's economic empowerment, two of which we regard as successful cases of legal reform, and two we regard as failed cases of legal reform. Using these case studies, we analyze what factors contributed to the success or the failure of the reforms to effect real change for women. Implications for our understanding of how to most effectively promote change are then discussed.

Theoretical Framework

Based on our review of the literature, our research team has developed a theoretical framework (illustrated in Figure 1) describing the factors that we are persuaded contribute to the success or failure of a legal reform to enhance women's economic empowerment. Our model contains three main elements: actors, barriers, and legal avenues. This section will describe each of these key elements, and detail how they work together to make legal reforms effective or ineffective.

Figure 1: Factors Influencing Success or Failure of Legal Reform Regarding Women's Economic Empowerment



Actors Involved in Reform

From our understanding of the literature, and Meddie's work on legal reform in Sierra Leone in particular, we assert that the actors involved in generating legal reform are a key factor determining the overall efficacy of the law (Meddie 2013). We have identified three main types of actors are most likely to effect legal change. Domestic government is, of course, the most obvious actor and includes local and federal politicians and government employees. This group can drive legal reform through their law and policymaking responsibilities, and we assert that buy-in from these actors is an important factor that may make legal reform more successful.

The second category of actors we identify in our model are individuals. Actors in this group are not tied to a specific organizational affiliation but work on their own as political

activists to promote legislative reform to affect women's economic empowerment. This may also include grassroots movements. Similar to our theory regarding non-governmental organizations and external institutions, we expect that individuals, especially if they hold a position of eminence in the society, can be important in creating and supporting legal reform, but too much dependence on their actions could lead to a gap in governmental buy-in and enforcement.

The third group of actors we identify consists of non-governmental organizations and external institutions. These actors could include nonprofit organizations, civil society organizations, corporations, inter-governmental organizations, and international organizations. From our review of the literature, it appears that this group is often critical for initiating legal reform to empower women, and the dedication and support from this group can be vital to generating legal reforms. These organizations can also enhance governmental accountability. We theorize, however, that too much dependence on actors from this group could result in governmental failure to properly enforce legal reforms since the reforms may be seen as a means to deflect political pressure without any accompanying dedication.

Scope Conditions/Barriers

The second part of our model describes barriers that serve as an important backdrop for the possibility of effective legal reform. Based on our understanding of the literature, we identified three main categories of barriers to effective legal reform; barriers involving women's mobility, attitudes, practices, and education for women, and parallel legal structures.

Women's Mobility

Mobility refers to a woman's ability to freely move and intermingle with others in public spaces. Women's mobility can be restricted either through legal mandates, such as those which require a woman to have her husband's permission to obtain a passport, or cultural expectations that keep women at home for the sake of family honor. We expect that in countries where women's mobility is restricted either by law or custom, legal reforms aimed at improving women's economic empowerment will not be as effective. For example, even if legal reform mandates equal pay for women, if they are unable to safely commute to the workplace, this legal reform will likely not succeed in empowering women.

Attitudes, Practices, and Education of Women

There are many attitudes towards women that act as barriers to women's economic empowerment. Cultural and sometimes religious beliefs about gender roles can severely limit women's ability to participate in economic activities. For example, in many countries, women are expected to stay at home and perform unpaid caring and domestic labor. In countries where this is the case, even if women's economic rights are legally protected, cultural expectations may be strong enough to prevent women from accessing those rights. Thus, legal reforms aimed at enhancing women's economic empowerment in these kinds of societies may not have as significant an effect on women's economic outcomes. At the same time, legal reform—if enforced—can begin to slowly change attitudes.

Discriminatory attitudes toward women can result in harmful practices that prevent women from experiencing economic empowerment as we have defined it. We include in this category phenomena such as patrilocality, bride-price and dowry, discriminatory inheritance and land rights practices, and differential access to education. Similar to mobility as described above,

we expect that in countries where such harmful practices are present, legal reforms aimed at enhancing economic empowerment for women will not be as effective. For example, even if legal reforms open the way for women to participate in the economy and earn an income on par with men, by definition they cannot be economically empowered if they do not have access to or control over how those assets are used. We also include in this category women's educational attainment relative to men. We argue that education is not only an important indicator of attitudes towards women in society, but is also an important vehicle for economic mobility.

Parallel Legal Structures

The issue of parallel legal structures is the barrier we found cited most frequently in the literature. This refers to countries that have religious or customary courts adjudicating certain aspects of the law separately from national courts. Family law is the area that is most often adjudicated by religious and customary courts and encompasses issues such as land rights and inheritance. In countries with parallel legal structures, national laws may not have the effective legal authority to change realities for women, particularly in areas of family law. We anticipate that parallel legal structures are likely a significant barrier to effective legal reforms for women's economic empowerment.

Legal Avenues

The final group of factors in the model examines the legal avenues open to women in the country that increase the effectiveness of law. These main legal avenues are women's access to the law, the structure of the law and legal system, and accountability and enforcement.

Women's Access to and Redress Under the Law

A woman's access to the law refers to her ability to actually seek legal redress. Although a law may exist, a woman may have trouble seeking redress under that law for several reasons, such as an inability to travel to the courthouse or file a complaint without a male relative accompanying her. Such a lack of access to legal redress is a significant barrier to the effectiveness of law. We expect that in countries that provide women access to redress under the law, legal reforms that aim to increase women's economic empowerment will be more successful than in countries where women's access is limited.

Structure of the Legal System and the Law

There are many ways that the structure of the legal system and laws can influence its effectiveness for women. Factors such as the definition of legal terms, on whom the burden of evidence is placed, and the gender composition of lawyers and judges characterize the structure of the legal system and the law. Laws that contain terms that are clearly defined are more likely to affect real change than those with more ambiguous definitions. For example, laws that do not explicitly define what actions constitute sexual harassment will largely fail to address the problem because victims, perpetrators, employers, and judges will have different conceptualizations of what the term means. Additionally, legal systems that place the burden of proof on victims, particularly in cases of domestic violence or sexual harassment, are less likely to enhance women's economic empowerment. We categorize countries that have more female judges and lawyers as those which have more favorable legal structures in place for women. We expect that countries that have legal structures that are more favorable toward women are more likely to have successful implementation of reforms than countries with less favorable structures.

Accountability and Enforcement

The accountability and enforcement mechanism attached to legal reforms is perhaps the most important factor determining its ability to effect real change. Legal reforms that are not accompanied by effective enforcement policies are going to fall flat in their ability to enhance women's economic empowerment. In order for effective legal reforms to take place, we assert that there must also be accompanying structures and policies in place that outline how the law will be enforced as well as buy-in from national judiciary and law enforcement agencies.

Methodology:

Case Study Analysis: Our overall methodology was case study analysis, with the goal of examining in greater depth cases where legal reform to promote women's economic empowerment did result in greater empowerment over time, and cases where legal reform failed to produce greater empowerment. This methodology required us to first identify countries in the 2009-2016 time period that enacted significant legal reform to facilitate women's empowerment. We chose the time period 2009-2016 in order to allow effects from these laws to manifest in the dependent variable, real economic change for women. From that set of cases, we needed to determine which countries saw real positive change after the legal reform was enacted, and countries which did not. From those two subsets, we would then select two positive cases and two negative cases to research in detail, guided by our theoretical framework.

Identifying Countries that have Enacted Legal Reform

We used the World Bank's Women, Business, and the Law data to identify countries that formally enacted legal reforms pertaining to women's economic empowerment. The Women, Business, and the Law (WBL) report examines 35 indicators in the categories of mobility, workplace, pay, marriage, parenthood, entrepreneurship, assets, and pension. Based on the availability of this data and allowance for effects from these laws to manifest in the dependent variable indicator data available to us, only legal reforms enacted between 2009 and 2016 were identified. Of the 189 countries included in the WBL report, 125 had at least one legal reform enacted that related to women's economic empowerment.

Identifying Countries with Real Improvement in Women's Economic Empowerment

Improvement in women's economic empowerment was operationalized using indicators from the Demographic and Health Surveys (DHS) from USAID. This data source was used due to its longevity, universality, and availability. Of the available indicators with enough data to examine, two indicators were chosen as indicators of meaningful women's economic empowerment:

- Percent women's employment in professional, technical, managerial occupations, and
- Percent women who decide themselves how their earnings are used.

These indicators were chosen to represent a woman's ability to succeed and advance economically and a woman's control over resources, as mentioned in ICRW's definition of economic empowerment.

To gauge improvement, we needed to compare successive DHS reports for the same country. For these two indicators, 29 of the WBL countries had two DHS reports that straddled the 2009 and onward time period, so these became the set of countries from which we hoped to identify countries that actually showed significant improvement in these two indicators. Fourteen

of these 29 countries had significant legal reform related to women's economic empowerment, and 15 countries in the subset did not enact such legal reform. That subset of 14 then became the sample from which we would find countries that saw real improvement after legal reform, and countries that did not.

Fuzzy set theory was then used to identify countries with positive changes that demonstrated improvement beyond any time-related global improvements. In other words, we were looking for countries that saw out-of-the-ordinary positive change over time after legal reform. Change and non-change countries were placed in three categories: low, medium, and high change. These categories were created using quintiles, means, and highest and lowest values of the change and non-change groups. The change and non-change countries and their respective spreads were compared to identify positive cases with changes in either of the two identified DHS variables. Countries with DHS variable values above and beyond the main grouping of change and non-change countries were considered as possible positive cases, and those without were considered as possible negative cases.

We then selected two cases as our positive cases. These countries were the Maldives, whose percentage of women in professional, technical, and managerial occupations increased from 26.1% in 2009 to 45.7% in 2016-2017, and Nepal, whose percentage of women who decide themselves how their earnings are used increased from 30.7% in 2006 to 51.8% in 2016.

Two negative cases were then selected from the list of countries with legal reform but only a categorization of low or medium changes in the two selected DHS variables. The two countries selected were Bangladesh and Malawi. These countries were also selected based on their geographic location: Bangladesh to serve as a comparison based on similar geographic

location as the positive case studies--Nepal and the Maldives--and Malawi as a case study with dissimilar geographic location as the positive cases.

Each of these four cases--Nepal, the Maldives, Bangladesh, and Malawi--were then analyzed using our theoretical framework to determine which factors contributed to the efficacy or lack of efficacy of their respective reforms. The three core sections of the theoretical framework were examined for each of the four countries: economic empowerment through legal avenues, scope conditions and barriers, and actors involved in the reforms. Within these sections, the following questions were asked:

- Actors involved in the reforms
 - Domestic government: Has the domestic government enacted policies or initiatives to support the reforms? Do leaders express support for the reform?
 - Domestic and External Organizations and Institutions: How prevalent are NGOs that lobby for women and their rights in relation to the reform? Do they have substantial influence within the society? What influence do international actors have? Who are these actors? Do they exert pressure on the country in question to implement the reforms?
 - Individuals: Are there specific individuals or activists that are critical in supporting these reforms? Additionally, what do women as individuals do in relation to the reform? What grassroots movements or support is there?
- Scope Conditions and Barriers

- Mobility: Can women move freely? This encompasses aspects including physical security and also formal or informal restrictions on her movement, either by her family or government.
- Attitudes, Practices, and Education for Women: What are the cultural and religious beliefs surrounding women? What roles are they expected to fill? Are there roles that women are de facto barred from? How are women viewed and valued within the family? What is the status of women's education? Parallel Legal Systems: Do parallel legal systems, such as religious or customary courts, exist? How often are problems taken to these courts instead of national courts? What is the status of women in these courts?
- Empowerment Through Legal Avenues
 - Access: Can women seek redress in relation to these reforms? This encompasses issues regarding the availability of legal resources.
 - Structure of the Legal System: Does the legal system have specific resources for women to enhance the effectiveness of the law, like women's courts or the presence of female judges? Additionally, does the reform in question have vague or ambiguous wording that makes enforcement or accountability difficult for women?
 - Accountability and Enforcement: What mechanisms and institutions are in place to support the legal reforms? What is the status of legal enforcement in the country generally? Does the government hold itself accountable for the enforcement of the reform?

These questions are asked in relation to the specific reforms identified through the *Women, Business, and the Law* report. Scholarly, news, domestic government, and NGO/IGO/ sources were consulted in this research, as well as interviews with country experts or country residents. The information from each case is then compared qualitatively and quantitatively to the full set of cases to determine common attributes, including necessary and sufficient conditions, that contribute to the efficacy of reforms.

Positive Case Study: The Maldives

Profile

The Maldives is a newly democratic, Sunni Islamic State comprised of 1,200 small islands in the Indian Ocean (Hope for Women 2012; Fulu 2014). Roughly one-third of residents live on the island capital of Male, and the majority of other islands have fewer than 2,000 residents (UNDP 2019). The Maldivian economy rests primarily on the fishery and tourism sectors (Quinn 2011). Economic success from the tourism industry has caused the World Bank to call the Maldives a “development success story,” with per-capita gross national income growing “from under US \$2,000 in 1998, to US \$10,535 in 2017” (UNDP 2019). Gender biases, however, are present despite this progress; most recent estimates put women’s average gross national income at \$7,454 while men’s average gross national income is estimated at \$15,576 (UNDP 2019).

According to the World Bank, women primarily participate in the education, health and social work, manufacturing, and private household employment sectors (El-Hoor 2016). Twenty-six percent of women are own-account workers, while 69% are employees (National Bureau of

Statistics 2019). The Maldivian Government reports that in 2017, 60% of civil servants were women, with 32% of women in civil service serving in administrative occupations, 26% in teaching positions, 13% in cleaning and maintenance, 11% as nurses, and 3% in accounting & budgeting (National Bureau of Statistics 2019). In 2018, women held seven cabinet positions (of 20), 66% of trained teachers, 6% of local councilors, 10% of police personnel, 39% of registered lawyers, 7% of parliament members, and 4% of judges and magistrates (National Bureau of Statistics 2019).

Why is this a Positive Case Study?

Before the Reforms - Pre 2009

According to data from the 2009 Demographic and Health Surveys (DHS) from USAID, only 26.1% of employed women ages 15-49 were employed in the “professional, technical, or managerial” occupations in 2009 (Ministry of Health and Family 2010). The 2006 Population and Housing Census indicated that 65% of employees within the manufacturing industry were female, roughly 70% of employees within the education sector were female, and roughly 55% of employees within the agriculture & forestry and health & social work sectors were female (National Bureau of Statistics 2006). The 2006 Housing and Population Census indicates that roughly 60% of the employed population working in professional occupations was female (National Bureau of Statistics 2006).

After the Reforms - Post 2016

The 2016-2017 DHS report for the Maldives indicated a very large increase since 2006 of 45.7% of women ages 15-49 employed in the “professional, technical, or managerial”

occupations (Ministry of Health 2018). The Statistical Release: IV Employment from the 2014 Population & Housing Census indicated that 60% of the employees within the manufacturing sector were female, 68% of the employees within the education sector were female, and 65% of the human health and social work employees were female (National Bureau of Statistics 2015).¹ The steady proportions of females in these industries from the pre-reform period to the post-reform period suggest that the increase of females in professional, managerial, or technical positions was not due to changing proportions of women in these industries as a whole.

The 2014 census indicates that 68.3% of Maldivians employed in professional occupations are female (National Bureau of Statistics 2015).

In summary, from the pre-reform period to the post-reform period, we see significant improvements in the proportion of women in professional, managerial, or technical positions within the Maldives.

The Reforms

Four laws pertaining to women's economic empowerment were passed in the time period of interest. The 2008 Employment Act gave "generous maternal leave and [prohibited] dismissal because of sex, marital status, or familial responsibility," (UNDP 2019, 12). The Maldives Pension Act, passed in 2009, stipulates that "everyone who attains 65 years of age shall be eligible for pension on the first day of the month such a person attains 65 years of age," (Maldives Government 2009, 10). According to *Women, Business, and the Law*, the ages at which men and women could retire with full or partial pension benefits were not equal before this reform (World Bank Group 2020). In 2012, the Domestic Violence Act was passed, which,

¹ Gender disaggregated statistics of the agriculture and forest industry were not provided in the 2014 census; instead, data was provided for the agriculture, forestry, and fishing sector.

“[determines] that every act of domestic violence, under any circumstance, in any form or manner, among persons is strictly unlawful,” (UN Women 2012). Finally, in 2014, the Sexual Harassment Prevention Act was passed, which “addresses sexual harassment in the workplace and in educational establishments” (World Bank Group 2019; OECD Development Centre 2019). Since nearly half of Maldivian households are headed by women due to divorce or absentee husbands, it would seem that the 2008 Employment Act eliminating discrimination based on marital status and familial responsibility may have played a significant role in increasing the number of women employed in professional, technical, and managerial positions. Below we will apply our theoretical framework to this set of legal reforms to determine how the various components of our theoretical framework help us explain this improvement.

Application of the Framework to the Maldives Case

Actors Involved in Reform

Domestic Government

In 2008, the Maldives transitioned from decades of autocratic rule to democracy (Hope for Women 2012). The role of the two administrations within our period of focus in relation to the increase in women in professional, managerial, and technical positions demonstrates the critical role of domestic governments in change and that the motivations and priorities of individual actors within the administrations are critical as well.

The newly elected democratic government, headed by President Mohamed Nasheed, served as a critical springboard for human rights, women’s rights, and democracy for the Maldives. The administration undertook several reforms in relation to gender issues. In 2009, a National Gender Equality Policy was created, which “[mandated] all line ministries to

mainstream gender in their policies, plans, programs, and projects” (Asian Development Bank 2014, 28). This policy called for government ministries, “to appoint two gender focal points--one at the deputy minister level, and the other at the technical staff level,” (Asian Development Bank 2014 2014, 28). At the time, President Mohamed Nasheed served as the Gender Focal Point for the National Planning Council, and the President’s Office included a Gender and Social Development Advisor (Asian Development Bank 2014; Quinn 2011; Republic of Maldives 2009).

In 2009, the Nasheed government created a Fund for the Economic Development of Women, with a sum of USD 780,000 (Quinn 2011). This fund was, “designed to encourage economic independence by assisting in the establishment of small and medium-sized enterprises [and] within the fund there [was] a 40% quota for women,” (Quinn 2011, 8). The Nasheed government also introduced a Strategic Action Plan (SAP) 2009-2013, which included a theme on gender with specifications to, “ensure that there is no discrimination in civil service hiring and firing,” (Hope for Women 2012, 8). Nasheed resigned on February 7th, 2012, and claimed on February 8th that “he was forced to give up his office at gunpoint” (Burke 2012). Following Nasheed’s exit, two prominent female activists expressed positive sentiments towards Nasheed’s gender efforts. From one such activist, the Inter Press Service reported the feeling that, “Nasheed understood the issues facing women and tried to address their concerns by coming up with schemes like health insurances and improving transportation to schools and health clinics,” (Samath 2012). Aisath Aniya, “a prominent female activist and former secretary-general of Nasheed’s Maldivian Democratic Party,” explained, “earlier when someone fell ill residents were forced to plead with boat owners for a ride to the nearest clinic or hospital – and often

refused. ‘Today under a state-subsidised system, there are regular ferries between the islands,’ she said. Women being the main caregivers felt the difference in approach,” (Samath 2012).

Between 2012 and 2013, the Maldivian government faced a period of uncertainty: Vice President Mohamed Waheed became president following Nasheed, and in 2013 Abdulla Yameen took the presidency (The President’s Office of the Republic of the Maldives n.d.). Yameen’s administration introduced a 100-day road map for gender issues. Provisionally, this road-map included, “amending the Civil Service Regulation to provide flexible working hours or work-from-home options for women with children under three, creating childcare facilities for working mothers, convening a women entrepreneurs council, creating training opportunities for women who wish to contest elections, and building a framework to combat domestic violence,” (Ritchie 2014, 14-15). As of July 2015, several items of the road map had been implemented or completed, including the, “enactment of the amendment to the Capital Market Development Authority’s Governance Code requiring that two women be appointed to the Board of Directors of every publicly-traded corporation,” and the “Passage of the Sexual Harassment Act” (Ritchie 2014, 14-15). However, these positive developments were undermined by backtracks, including an announcement by the Ministry of Home Affairs in March 2013 that, “it would dissolve approximately 1300 of 1853 legally registered NGOs for allegedly failing to adhere to reporting requirements and elect executive committees,” (CIVICUS n.d.).

The full range of the effects of these two administrations' actions cannot be clearly estimated; however, it appears that some of these policies would have had a positive effect on the number of women in professional, managerial, and technical positions. A representative from the NGO Hope for Women confirms that men and women are selected for civil service positions in the Maldives government based on merit, as stressed in the Nasheed administration, but all

others in public service are political appointees chosen by the president (Hope for Women 2020). One interviewee, who has work experience in the Civil Service and is hereafter to be referred to as Interviewee A, confirms that hiring is based on merit. This interviewee explained that, “[The civil service] policies are that the best candidate or most well-deserving candidate based on experience, educational qualifications, will move through. We do not have any promotions, so if you work for five years, you do not get any [automatic] promotions. A job is advertised and everyone has to apply for the jobs” (Anonymous 2020). It appears that this process could have advantages for women; however, the interviewee also noted the existence of biases within this hiring process (Anonymous 2020). Despite this positive development, these actions did not translate into positions for women in higher-echelon decision making roles. A representative from Hope for Women adds that the Yameen’s administration from 2013-2018 only appointed 3 women to his cabinet, and it was not until the current administration was elected in 2018 that women made up close to 33% of the cabinet (Hope for Women 2020).

Actions undertaken by government ministries are critical to analyze, particularly because “women comprise over half of civil service employees,” in the Maldives (Asian Development Bank 2014, 26-27). The Ministry of Gender and Family was renamed the Department of Gender and Family Protection Services under the Ministry of Health and Family Services (Quinn 2011, 7). In 2012, a Ministry of Gender, Family, and Human Rights was created (Hope for Women 2012). Faizal notes that in the past, “gender portfolios within the ministerial structure have shifted frequently, at times making it difficult to sustain programs, advocacy, and policies aimed at gender mainstreaming” (2020, 224). Thus, these institutional changes may have inhibited progress induced by other positive factors, including the reforms. However, various ministries have enacted policies that are positive. In 2013, the Ministry of Gender and [the] Human Rights

Commission, “convened a group of male gender trainers...to conduct gender equality training and sensitization programs,” after recognizing, “the need for male advocates to help move the national gender action plan forward,” (Ritchie 2014, 14-15). In 2014, UNDP reported that the Civil Service Commission had recently, “introduced a provision in its regulation that allows pregnant women and mothers to be able to have flexible working arrangements including working from home options in the government sector,” (Jaufar 2014, 2).

Organizations and Institutions

Data from the Raajje Foundation indicates that over 700 NGOs and associations were registered within the Maldives in the five years preceding the 2008 democratically elected government (Shaid 2014). An increased presence of NGOs, especially if the organizations tend to focus on fulfilling the same needs, is a common indicator of inefficient government services. It appears that the situation of civil society actors and NGOs in the Maldives is improving, but still has some progress to make. A representative from the NGO Women in Democracy noted that under the current government, which came into power in 2018, NGOs were much more involved in the negotiations and discussions regarding new policies and legislation (Women in Democracy 2020). However, this representative also stated that Maldivians do not see civil society as important, despite its role in advancing gender equality.

There is also evidence that international norms and expectations are observed by the Maldivian government, which is eager to at least put forth the appearance of conformity. “Maldives ratified CEDAW with reservations on Article 7(a) and a blanket reservation on Article 16. However, in March 2010, the Maldives withdrew its reservation on Article 7(a) of CEDAW as the 2008 constitution removed the gender bar that existed in the previous constitution of 1998,

which prevented a woman from holding the position of Head of State,” (Hope for Women 2012, 4). The National Gender Equality Policy and Framework for Operationalisation was developed with technical assistance from UNFPA (Republic of Maldives 2009).

Further evidence of political interest in gender equality can be seen in the fact that the Progressive Party of the Maldives (PPM), the Adhaalath Party (AP), and the Maldives Development Alliance (MDA) each utilize quotas in their party leadership to ensure women’s representation (Ritchie 2014). Civil society has complemented these efforts to increase women’s political participation by offering practical training and resources. From December 2010 to January 2011, four civil society organizations and a private sponsor hosted three workshops titled, “Increasing Women’s Political Participation in the Maldives” in order to aid female candidates running in February 2011 (Hope for Women 2012).

Individuals

Despite barriers at the higher echelons of decision making within the government, Maldivian women are important actors within their communities. The International Foundation for Electoral Systems notes, “anecdotal evidence suggests that women have played a major role in political party activities at the grassroots level, organizing and attending campaign rallies and conducting door-to-door outreach in significant numbers,” (Ritchie 2015, 16). Relatedly, “each of the six largest political parties, women’s membership stood at 40% or higher” (Abdulghafoor 2017, 13). Of the four national elections prior to 2015, “women’s participation [exceeded] that of men in all but one, by about 2 to 4 percentage points,” (Abdulghafoor 2015, 14). This high level of participation is underlined by Women’s Development Committees (WDCs). WDCs have been

present in the Maldives since 1982, and each island has had a WDC since the early 1990s.

According to Transparency Maldives,

“in the absence of Community-based Organisations (CBOs) focused on women’s empowerment, the WDCs were the main platform that promoted women’s empowerment and collective action at the community level. WDCs played an important role in mobilizing women by providing an avenue for women to network, fundraise, collaborate, and implement initiatives for community development” (Transparency Maldives 2015).

In light of these insights, it appears that women within grassroots movements may have served as an important seedbed for the increase of women in managerial, professional, and clerical positions.

Scope Conditions/Barriers

Mobility

The WomanStats Database reports that the Maldives scores a 1 out of 4 on women’s mobility, with a score of 1 meaning there are no legal restrictions on women’s movements, but in practice, women face prevalent harassment when they move in public spaces (WomanStats). In other words, women in the Maldives currently face comparatively few mobility restrictions, but this was not always the case. When asked whether or not women’s ability to physically travel to their jobs played a role in increasing the percentage of women in professional, technical, and managerial positions, a representative from the NGO Women and Democracy replied,

“Yes. Ten years ago, if a woman like me rode a motorbike, which is a normal mode of transport here, I would be stared at twenty to thirty times. But now, there are so many women who have their own modes of transport, mostly motorcycles and cars, so now it’s

a normal thing. People don't really care. Obviously, we can say mobility has improved”
(Women and Democracy 2020).

The tourism sector serves as the most prominent example of mobility restrictions in the Maldives. Men represent 87% of employees in the tourism sector, and stigmas against unmarried women residing on resort islands, the threat of gender-based violence while traveling, and restricted childcare options restrict women from participating more fully in the tourism industry (El-Horr 2016; Executive Board of the UNDP 2019). One interviewee from Maldivian civil society, who prefers to be unnamed, believes that women may also struggle to enter the tourism industry because,

“We are an Islamic country and a lot of young women wear hijab. So if you wear that, they do not see you as fit to represent the tourism industry because the Maldives tourism industry caters to a lot of foreigners - Chinese, Europeans, and Americans. So if you look like a Muslim, you may not get jobs in the tourism sector” (Anonymous 2020).

This interviewee notes that while women in the Maldives are not required to wear hijabs, they believe it is still difficult for women practicing their faith to succeed in tourism. A representative from Women and Democracy notes, “the other question is even for women who make it in the tourism sector, how far do they make it? Even if you see the executive boards or ownership, it’s easy to count the women - there may be one or two,” (Women and Democracy 2020). Since 39% of Maldivian households are female-headed (National Bureau of Statistics 2019), this also negatively impacts women’s ability to succeed in the tourism industry, for as the representative from Women and Democracy explained, “a lot of women are expected to lead their house. It is not easy for women to go into tourism because it requires them to be away from their houses, and that’s one of the biggest things. For example, you have to physically be in the resort and

resorts are 2-3 hours away, if you're lucky maybe just an hour, but still, you cannot just return to your island or your home," (Women and Democracy 2020).

While the intensity of the restrictions present in the tourism sector is not present in other sectors, the general tenor of these restrictions has implications outside the tourism sector. Interviews done by IFES indicate that "if women want to assume a leadership role, they would be taken away from household and childcare duties –traditionally viewed as exclusively a woman's role" (Ritchie 2014, 16). This is further impacted by the distances between Male and outlying islands; juggling employment and childcare becomes much harder when distances are longer and the means of transportation are lacking or are time intensive.

Attitudes, Practices and Education for Women

Maldivian family law is based in Shari'ah law (Asian Development Bank 2014). The UNDP notes that Maldivian "family law permits polygamy, prohibits marriage to non-Muslim men, and requires four male witnesses or confession to convict cases of rape," (Executive Board of the UNDP 2019, 13). The Family Act of 2000 also requires that a male guardian approve a woman's marriage, for "the man to grant his would-be bride a dower that she would name and agree too", and for a man to "obtain the court's permission prior to exercising their right to divorce," with a fine of Rf 5,000 set if the latter is not obtained (Asian Development Bank 2014, 33-34). However, these legal stipulations meet complex interpretations and realities on-the-ground. Jabyn posits that while family law in the Maldives is based in Shari'ah law, this aspect is, "transforming into a normative system that is guided by modern notions of rights of individuals, yet adhering to Islam, although not strictly bound by formalistic Shari'ah rules," (2016). While polygamy is legal, as of the 2016-2017 period, "less than 2% of currently married

women report that their husband has another wife/wives,” (Ministry of Health 2018, 58).

Additionally, the requirement for a male guardian to approve a woman’s marriage is largely seen as symbolic, because “the court can grant the authority of *wali* to an appointed official for purposes of solemnizing a marriage should the legal guardian refuse consent without just cause,” (Asian Development Bank 2014, 33). Fulu also notes that Maldivian family practices have traditionally given women appreciable degrees of freedom; Maldivian society is predominantly devoid of honor and shame notions, practices of polygamy, dowry and early marriage (Fulu 2016). As Hudson et al. note, these practices form the basis of the fraternal and patrilineality syndromes that are the foundation of the subordination of women (Hudson et al 2020).

In recent years, a surge in conservative Islamic interpretations has presented barriers to women’s progression (UNDP 2019). For example, the coalition that brought Yameen to power “was formed by political parties and some civil society groups who rallied on a platform to ‘defend Islam in the Maldives’” (Shahid 2014, 292). The International Foundation for Electoral Systems conducted a field study with 131 Maldivian men and women to examine perceptions about women’s participation in public life. Women within the study expressed constraints with regard to community involvement because of their responsibilities within the home. However, “women’s involvement in community activities was evident, as significant contributors to grassroots level social and political participation,” (Abdulghafoor 2015, 7). Significant concerns still remain surrounding women’s involvement within high-level decision making positions across all sectors and levels of society and government (Abdulghafoor 2015). It appears, then, that the increase in the DHS indicator in question derives mainly from middle-to-lower management positions rather than the high-level management positions.

Another important indicator is Maldivian attitudes towards women's education. By 2010, the Millennium Development Goal of achieving universal primary education was achieved by the Maldives (Department of National Planning 2010). As of 2012, gender parity was also present in secondary education, although enrollment numbers for both boys and girls dropped (Asian Development Bank 2014; Jaufar 2014). In higher education, the proportions of females to males in 2014 are as follows: certificates (67:33); diploma (63:37); first degree (61:39); master's degree (49:51); PhD (45:55) (Faizal 2020). In an interview Dr. Mohammed Faizal, currently the Secretary General of the National Pay Commission, stated, "increases in higher education brings greater awareness and the demand for an equitable platform for women to compete with men" (Faizal 2020). Thus, it appears that women's education is a positive factor in undermining negative attitudes towards women.

Parallel Legal Systems

A majority of Maldivians prefer "to settle disputes out of the courtroom," (Executive Board of the UNDP et al. 2015, 3). This is likely related to low levels of legal infrastructure throughout the country, as previously discussed. However, this does not seem to amount to a parallel legal system, in particular because Maldivian family law is already rooted in Shari'ah law (Asian Development Bank 2014; Jabyn 2016) .

Economic Empowerment Through Legal Avenues

The following section will explain how the legal reforms discussed above address the three legal avenues (access, structure of the law, and enforcement/accountability) that lead to economic empowerment for women.

Women's Access to the Legal System

Following the election of the Nasheed government in 2008, “national institutions, such as HRCM [Human Rights Commission of the Maldives], and civil society became increasingly vocal and involved in the education and propagation of human rights knowledge among the public, state officials, police and prison officers, lawyers, judges, journalists and teachers” (Shaid 2014, 290). Improving access to legal institutions begins with widely disseminating information and expectations about human rights. Since individuals cannot assert their rights as humans if they are unaware of what those rights are, they need support from the necessary public servants who can assist them in pursuing justice.

Alongside these positive educational efforts, however, were deep challenges within the legal system. Jabyn and Sterling emphasize the general “newness” of the legal profession in the Maldives and note the work needed to update and maintain the system in light of the reforms introduced in the 2008 Constitution (2015). Similarly, many Maldivians, “are unaware of the procedures, cannot afford lawyers, and do not trust judges,” (Jabyn 2015, 21). Thus, access to redress within the legal system is restricted for both women and men in the Maldives.

Structure of the Legal System and Whether It Disadvantages Women

The first female judges were appointed to the Maldivian Supreme Court in 2019 (Human Rights Watch 2020). In 2015, 9 of the 185 judges in the country were female (Abdulghafoor 2015). The structure of the Employment Act, which was meant to improve the situation of women, has been undermined by subsequent regulation; for example, while the Act provides for 60 days of paid maternity leave, a subsequent Civil Service Regulation, “specifies that this leave entitlement must be counted inclusive of weekends,” (Hope for Women 2012, 7).

Accountability and Enforcement of the Law

The accountability and enforcement measures of laws in the Maldives, including the laws examined in this case study, are lacking. According to the 2009 Rapid Assessment of The Employment Situation in the Maldives by the HRCM, “law enforcement is generally weak in the country and [there existed a] prevailing attitude of impunity” (Human Rights Commission of the Maldives and Munavvaru 2009, 28). Specifically, the HRCM notes that enforcement measures were effectively nonexistent for the 2008 Employment Act (Human Rights Commission of the Maldives and Munavvaru 2009). The HRCM report attributes this gap in enforcement in part to the fact that “institutions provided for in the Act [had] not started to properly function,” Human Rights Commission of the Maldives and Munavvaru 2009, 28). Additionally, “courts [refused] to accept cases relating to employment disputes and people involved in employment disputes [were] denied justice,” (Human Rights Commission of the Maldives and Munavvaru 2009, 28). These realities were reaffirmed in Hope for Women’s Shadow Report of the 2012 CEDAW State Report. This shadow report notes, “[the state] duly acknowledges the situation of the absence of a ‘monitoring and feedback mechanism’ in the implementation of laws which creates a vacuum where redress for violations is concerned...Therefore, despite the existence of laws in print, the relevant implementation structures do not exist for such laws to positively impact the de facto position of women,” (2012, 12). An Asian Development Bank report from 2014 also notes, “while the passage of the [Domestic Violence Act] is generally lauded by women’s groups, of major concern is the mismatch between available services and facilities and those remedies provided for in the act. Without shelters and repatriation programs, survivors of domestic violence remain vulnerable to revictimization,” (Asian Development Bank 2014, 34-35). For

women who do live with their husbands, the 2012 Domestic Violence Act, if enforced appropriately, would be crucial to ensuring their physical, mental, and emotional health - and therefore their capacity to be employed in the aforementioned positions in greater numbers.

Unfortunately, a representative from the NGO Hope for Women asserts, “[the] domestic violence prevention act and the sexual harassment act enforcement is zero. There’s not much done on that, for many reasons, because patriarchy is ingrained in our society so law enforcement agencies are complacent about it,” (Hope for Women 2020). Interviewee A noted,

“I think the underlying cause or root problem of this whole scenario, especially if you talk about sexual harassment or DV act or gender equality law, the biggest issue here is implementation. Nobody is checking. Nobody is monitoring. And the role of monitoring is given to the Ministry of Gender and Family and Social Services. If you look at that ministry, they have a lot of challenges. They do not have educational or technical staff who can lead a course on domestic violence or even disability.” (Anonymous 2020).

Conclusion

The case study of the Maldives illustrates the complexity involved in promulgating effective legal reform related to women’s economic empowerment. Two of the three individuals interviewed indicated that they did not believe that the improvement in women’s professional, managerial, and technical positions was a result of the legal reforms. Dr. Faizal noted,

“I believe the increase of women in those occupations is not a direct result of those legislation. As stated in my chapter, one of the primary reasons for the increase in women’s participation is attributed to the increase in higher education...If I am to point out one single reason for increases for women in those occupations, it will be the opportunities that both men and women got during the last few decades to travel to developed countries for higher education. That brought in a heightened awareness about women’s rights which

subsequently resulted in legislation such as the Domestic Violence Act and the Sexual Harassment Act” (Faizal 2020).

Dr. Faizal’s sentiment that there were other enabling factors, like education, leading to the increase in women’s professional, managerial, or technical positions appears to ring true. The access, structure, and accountability and enforcement of the reforms and the legal system in general of the Maldives are poor. Additionally, Maldivian family law is based on Sharia law. However, a preponderance of positive factors in the Maldivian case, including strong women’s movements, the influence of the Nasheed government, the presence of strong, well-organized NGOs such as the WDCs, and a lack of contextual factors such as dowry, an honor/shame society, parallel legal systems, or prevalent practices of polygyny, seem to have gradually led to the increase of women in professional, managerial, and technical positions. While a direct tie cannot be placed between the reforms and this outcome, we can tentatively suggest that these reforms, combined with this preponderance of positive factors, contributed to the positive outcome.

In reference to our theoretical framework, the Maldives conforms with our expectations. We identified few barriers in the form of mobility constraints, poor attitudes and practices towards women, and a parallel legal system, and the absence of these factors has seemingly enabled the noted positive improvements of women in professional, managerial, and technical positions. While the factors of access, structure, and accountability and enforcement are lackluster, they do not actively discriminate against women as versus men. Furthermore, Maldivian women’s active political participation and the positive actions of the Nasheed government seem to have also propelled these improvements. In sum, two of the three main factors explaining the success of legal reform are present in the Maldivian case.

There are several caveats to this case study. Clearly, the emergence of a democratic government after decades of authoritarian rule is a unique factor that will not be present in many countries. Additionally, the unique geographic nature of the Maldives may prove to be a complicating factor in translating the Maldives' relative success to other countries.

Positive Case Study: Nepal

Profile

Nepal is a landlocked country situated in the southern region of the Himalayan mountains and nestled between India and the Tibet Autonomous Region of China. Covering an area of about 56,287 square miles, the country has a population of around 29 million people with about 53.5% being women, and 125 castes/ethnic groups (BBC News 2018; Central Bureau of Statistics 2018; World Bank 2019; Becker 2015). About 63% of the population lives in urban areas (Central Bureau of Statistics 2018). Most people in the country practice Hinduism or Buddhism, the major language is Nepali, and the country recently transitioned from a monarchy to a republic in 2008 (BBC News 2018). The country has also experienced a decade of armed conflict from 1996 to 2006 (Colombini et al. 2016). Nepal is one of the poorest countries in the world with 25% of people living below the poverty line according to a Nepalese government report in 2011 (Becker 2015). The overall unemployment rate is 11.4%. In the same year, the national estimate for women's labor force participation rate was 26.3%, whereas the ILO's modeled estimate was 82.712% (Central Bureau of Statistics 2018; World Bank 2019). In 2018, women's representation in Parliament was 32.7%, even though the law mandates 33%, and while there is a female President, the rank is considered ceremonial (World Bank 2019; Becker 2015).

Why is this a Positive Case Study?

Nepal was chosen as a positive case study due to much-better-than -average positive changes in one of the two DHS indicators our team selected--the percentage of women that control their own earnings. According to *Women, Business, and the Law* (World Bank Group 2019), the country also had changes in legislation between 2009 and 2016 that touched on women's economic empowerment, so we investigated what role those reforms might have played in the large increase in women controlling their own earnings.

We are aware that Nepal still has a long way to go before women reach economic empowerment or equality and equity with men. However, we want to understand how these improvements came about in a country with so many barriers to women's empowerment.

DHS Indicators Before and After the Reforms

In the following two sections, we will discuss the state of women before and after the reforms above using the DHS indicators we used in our methodology--the number of women in managerial, technical, and professional positions and the percentage of women that choose how their earnings were used. We see that in 2006, USAID's Demographic and Health Survey reported that about 2.3% of Nepali women were in professional, technical, and managerial positions (Ministry of Health and Population et al. 2007). This number increased to 4.3% in 2011, and then to 5.7% in 2016 (Ministry of Health and Population et al. 2012; Ministry of Health et al. 2017). According to our methodology, this is a medium significant change, and is not substantially different from countries where no legal reform was enacted.

Next, when looking at the percentage of women who decide themselves how their earnings are used, USAID's Demographic and Health Surveys also indicate an increase: 30.7%

of women in 2006, 52.6% in 2011, and then a striking 51.8% in 2016 (Ministry of Health and Population et al. 2007; Ministry of Health and Population et al. 2012; Ministry of Health et al. 2017). According to our methodology, this is a high, significant increase compared to other countries. Using our framework, we will now explore how the setting for legal reform might have led to this extraordinary change.

The Reforms

Domestic Violence (Offence and Punishment) Act, 2066 (2009) & Domestic Violence (Offence and Punishment) Rules, 2067 (2010)

The Domestic Violence Act (2009) defined domestic violence as “any form of physical, mental, sexual, and economic harm perpetrated by a person with whom he/she has a family relationship and this phrase includes any acts of reprimand or emotional harm” (Ministry of Law and Justice 2009, 1). Perpetrators could now be punished with fines up to 25,000 rupees (~\$340) or six months in prison (Ministry of Law and Justice 2009). The punishment is doubled with every subsequent act of domestic violence.

In 2010, the Domestic Violence Rules were introduced, and they included more rules of protection, such as temporary living arrangements for the victim; however, the victims are still expected to provide evidence or “reasonable grounds” (Ministry of Law and Justice 2010, 3). These laws also emphasized the need for services for women suffering from domestic violence, opening up opportunities for the health sector to become involved (Colombini et al. 2016). Many health care workers were already aware of the next steps that women could take after abuse, and now they could more readily help them locate the help they needed (Joshi et al. 2008).

Sexual Harassment at Workplace Prevention Act, 2015 (2071)

The Sexual Harassment at Workplace Prevention Act (2015) recognizes “physical contact and advances; showing or displaying of pornographic material; expressing sexual motives by way of written, verbal, or non-verbal means; demand or proposal for sexual favors; and flirting or harassing with sexual motive” to be acts of sexual harassment (Pioneer Law Associates 2016). The Act purposefully leaves the term ‘workplace’ vague so the provisions can apply to various physical locations. In order to utilize the provisions of the Act, the workplace’s internal avenues of reporting sexual harassment must first be used, then the assailant could be fined 50,000 rupees (\$500) and/or imprisoned for six months (Bureau of Democracy, Human Rights and Labor 2015).

Application of the Framework to the Nepal Case

Actors Involved in Reform

Domestic Government

In 2002, the National Women’s Commission of Nepal was created, and the 2015 constitution gave it the responsibility of “Gender equality, Women empowerment and to carry out research on any women related legal provisions and strengthen the rules and regulations to minimize social malpractices against women and promote women rights” (Development Aid 2019). This body was reorganized by the National Women’s Commission Act, 2074 in 2017. According to the ILO (n.d.), this new act continues to ensure the protection of the rights of women as well as providing representation for women in the State Assembly and Parliament in accordance with the 2015 Constitution.

The National Women's Commission (NWC) consists of six divisions: "legal aid and counseling; women's rights; planning, monitoring, and publication; program and coordination and two administrative divisions (NWC 2011). The NWC works with other NGOs to prepare Nepal's CEDAW Report. According to an interview with the Chairperson of the NWC, Naina Kala Thapa, the organization has been hosting "interaction[s], discussion[s], advocacy and public hearing programmes about women's participation in every organ of the state" (INSECOOnline n.d.). Thapa also states in this interview that the NWC has not met the expectation of the people due to the country's "transitional phase" and political parties focused on "dilly-dallying and blame-game[s]" (INSECOOnline n.d.). The NWC does not have the power to change laws, but it does have the power to research discriminatory laws, lobby political parties, and receive complaints from the public.

In 2011, Nepal became the first country in South Asia to enact a National Action Plan (NAP) on Women, Peace, and Security "with the goal of ensuring meaningful participation of women in all stages of peacebuilding in the post-conflict period" (UN Women 2011; Mawby and Applebaum 2018). The process of developing the NAP was highly participatory at all levels of government and included consultations with women and girls as well as NGOs and CSOs that had large networks and were trusted by the community (UN Women 2015). In a mid-term report on the NAP, Saathi, an NGO that addresses violence and discrimination against women, noted progress in awareness of the WPS agenda in mainstream policymaking, women's participation in peacekeeping and human rights activism, and women assuming nontraditional leadership roles (Saathi 2014). However, challenges were revealed, such as a lack of a dedicated budget, inefficient coordination between responsible agencies, and missing data on women in conflict-affected areas (UN Women 2015). Nepal is currently developing the next phase of its NAP.

From our research, it appears that the Nepalese government is an ambivalent actor, willing to pass laws, but more in response to women's civil society organizations (CSOs) and non-governmental organizations (NGOs) which are, however, very active in gathering information on the ground and lobbying the government to make sure women's voices are heard.

Organizations and Institutions

Women's NGOs had a significant role in bringing the topic of gender-based violence to the forefront of Nepal's policy agenda and lobbying for change. Pradhan Malla (2010) points out that NGOs were successful in pushing for further assessments of the implementation of CEDAW in Nepal after submitting a report to the Expert Committee on CEDAW. Colombini et al. (2016) further show that by framing gender-based violence (GBV) as a public health issue for mothers, NGOs were able to give GBV "policy visibility," thus making it easier to demonstrate the need for legal reform (498). NGOs and international non-governmental organizations continue to work in conjunction with the protections offered by the domestic violence reforms.

Our research suggests that Nepali NGOs have played a critical role in helping women engage with the judicial system. While the laws are in place to help women file complaints and pursue court cases, it is still very difficult for women to amass the resources they need to do so. One of the largest NGOs focusing on women's rights is Women for Human Rights - Single Women Group, or WHR. This group has achieved significant legal change, specifically for widows, by providing a support structure that effectively engages with Nepal's judicial system (Becker 2015). Additionally, WHR hosts large workshops that focus on education and awareness of women's rights. WHR has had a history of success due to several factors. The group is well-funded by a large number of partners, supporters, and donors; WHR can then channel this

funding into educational programs-- not only for the public but for the government and media (Becker 2015). WHR also has a good working relationship with Nepal's government; it is a relationship built on mutual support. The Women's Rehabilitation Center (WOREC) also has been successful in engaging Nepal's supreme court. In 2007, it petitioned that rape victims under 16 years of age should be the responsibility of the government, and in 2015, the court ruled in its favor (Mawby and Applebaum 2018).

When justice cannot be obtained from the government, women's CSOs also help victims, specifically of sexual violence, by convening tribunals with human rights experts. For example, "WOREC, the National Alliance for Women Human Rights Defenders, Nagarik Aawaz, and Advocacy Forum convened the Women's Tribunal on Sexual Violence on Women During Conflict, which was hosted by the National Human Rights Commission of Nepal" in 2014 (Mawby and Applebaum 2018, 21). This tribunal served to hear the women's testimonies and then resulted in policy recommendations from the human rights experts. This tribunal also helped to bring women's cases to the government's attention.

Women's organizations also help channel women's voices to government officials at all levels of government (Mawby and Applebaum 2018). WOREC fulfills this role by documenting cases of violence against women and then reporting these cases to the NWC (Mawby and Applebaum 2018). Saathi has also partnered with the Ministry of Women, Children, and Social Welfare to work on a mitigation program focusing on GBV (Mawby and Applebaum 2018). At the local level, Nagarik Aawaz works with women volunteers in the Ward Citizens Forum to provide the government with advice at the ward level, and organizations with networks at the local level, like WHR, WOREC, and Women Security Pressure Group, train members to engage in lobbying or provide other workshops on economic skills (Mawby and Applebaum 2018).

CSOs were also involved during the writing of the 2015 constitution and the National Action Plan (Mawby and Applebaum 2018). CSOs and NGOs in Nepal also monitor government programs to make sure they are effective. For example, according to Mawby and Applebaum (2018), the 1325 Action Group that is led by Saathi works to make sure Nepal implements United Nations Security Council Resolution 1325.

International organizations also play a key role in creating and assisting with social change. These organizations gather data on women's issues that can then serve as a springboard for NGOs to fight for women's rights. For example, Nepal's labor court has referenced ILO research that has shown the negative impact on women's economic participation due to sexual harassment. Mawby and Applebaum (2018) report that women often cited certain international documents as useful in their organizations, such as the "1995 Beijing Conference, CEDAW, [and] UN Security Council Resolution 1325 on Women, Peace, and Security" (29).

Public Interest Litigation (PIL) cases have also been useful in social change (Becker 2015). While there is no state-funded legal aid for PIL cases, the Nepal Bar and human rights lawyers are active in these types of cases (UNODC 2016). One example of a landmark PIL case is *Sarmila Parajuli and others vs. HMG/N and others*, which resulted in Nepal's Supreme Court demanding the appropriate Ministries to create law addressing workplace sexual harassment (Pradhan-Malla 2005; *Sarmila Parajuli and others v. HMG/N and others* 2002).

Women's NGOs and CSOs play a significant role in Nepal in promoting women's rights due to their many access points to the government, resources, and international organizations. According to the Social Welfare Council of Nepal (SWC), which is the regulating body of CSOs in the country, there are about 50,550 registered associations as of 2019. Unofficially, though, the number hovers closer to 84,000 CSOs. There are an additional 245 international CSOs

working within Nepal (ICNL 2020). The focus and work of each CSO vary. For example, there are 23 organizations working specifically on prevention and 20 that work to provide support services such as helplines and referral services to victims (Asia Foundation 2010). Despite the variety of issues CSOs address, there is a significant number of organizations working to advocate for and protect the rights of Nepal's citizens.

Individuals

We identified but few notable individuals that enacted significant change on behalf of women, their rights, and economic empowerment. For example, Bidhya Devi Bhandari, the first female president to be chosen by parliamentary vote back in 2015, is in a position of power that could create social change and improvements for women (BBC News 2018). She noted in an interview that “the first priority right now for Nepal is the implementation of the Constitution...[it] guarantees all economic, social, and political rights for women. Women can make significant progress only if all these provisions of the Constitution are implemented effectively (Mawby and Applebaum 2018). Other women have also risen to high positions of power, including Onsari Gharti Magar, who became speaker of parliament in 2015 (Mawby and Applebaum 2018). In 2016, Sushila Karki became the first female to be chief justice of the supreme court, but she retired at 65 in 2017 as stipulated by the constitution (Mawby and Applebaum 2018). As of this writing, women represent no more than the required 33% of parliament (World Bank 2019).

Scope Conditions/Barriers

Mobility

Though women are legally allowed to travel outside of the home and apply for a passport in Nepal, social norms often prevent women from doing so (Gharib 2016). When a woman wants to go to the market to sell her wares, to provide services, or to participate in community meetings, she must first get the permission of the eldest member of the family (Pandey and Shrestha 2014). Therefore, if a woman is living in a nuclear family, and she is the eldest female in the house, then it is easier for her to appear in public (Gram et al. 2018). Mothers-in-law typically are less restricted in their movements. Gram et al.'s (2018) study revealed that mothers-in-law "frequently took out loans, shopped at the market, or participated in savings and credit groups as part of their role as financial guardians." However, even when a woman is able to leave her home, she can face harassment before she even arrives at her destination. Simply walking to work or taking a bus can be dangerous (Coyle, Shrestha, and Thapa 2014). According to a study by Neupane and Chesney-Lind (2013), 97% of female respondents reported having experienced sexual harassment on public transport. This abuse and violence are only exacerbated by the sexual harassment women can experience in the workplace of which 50.83% of respondents reported in a 2018 study (Nepali 2018). Our research showed that harmful perceptions exist surrounding working women, such as the belief that a man can do anything he pleases with them, and that women often must resort to leaving work early, traveling to and from work in groups, or simply finding work that is close to home (Coyle, Shrestha, and Thapa 2014). Unfortunately, reporting is still low for sexual harassment in the workplace.

Attitudes, Practices and Education for Women

Nepal is a patrilocal society where the bride goes to live with her groom's extended family after the wedding. Women are expected to stay at home and perform unpaid household

and childcare labor. Only 9.6% of wage and salaried workers in the labor force are women (World Bank 2019). A study conducted in 2013 found that Nepalese women spent on average 268 minutes/day on housework while men only spent 58 minutes/day on the same tasks (Budlener and Moussie 2013). According to Ghosh and Chopra (2019), this unequal distribution of work hurts women's ability to enter the economic sphere. The woman is also expected to eat last at meal time, after feeding the whole family (Pandey and Shrestha 2014). Additionally, although women and girls have largely achieved gender parity at all levels of education, adult women still have a literacy rate 19 percentage points below that of adult men (World Bank 2019). This is a significant barrier to participation in the economy.

Domestic violence, although outlawed, is still prevalent. The USAID reported that in 2011, 23.1% of women experienced physical violence from their spouse in the past, and this number only shifted to 22% in 2016 (Ministry of Health and Population et al. 2012 and Ministry of Health et al. 2017). However, the number of family violence reports did increase from 968 in 2009 to 1,355 by April of 2012 (Bhattarai 2012). While improving, the number of family violence reports is still incredibly low (Shrestha 2020).

Another outlawed cultural practice that often leads to violence is the practice of dowry. If the wife does not pay enough, she could be subject to violence from her new family. The practice of dowry also makes the woman a burden on her own family--effectively making her the lowest-ranked member of the household. Although women can now inherit land from their ancestors and control their own property, it is still not customary practice (World Bank Group 2018). According to the Bureau of Democracy, Human Rights, and Labor (2015), many women in Nepal are still unaware of their rights or afraid to challenge social norms. Women are also

unlikely to speak with friends or other family members about their experiences, especially if their rights are threatened within the family (Rahaman and Jahan 2015).

Sexual harassment in the workplace is also common. This form of abuse affects women's economic participation. A study conducted in 2018 to investigate sexual harassment experienced by women in the workplace, indicated that 50% of the respondents had experienced harassment and 52.92% felt discriminated in the work place (Nepali 2018). Shrestha also reiterates that women suffering from sexual harassment at work experience the social stigma and fears of retaliation; thus, reporting remains low (2020). She also noted that the 2015 Act did not capture the whole picture of harassment at work and that women still shoulder the burden of proof (Shrestha 2020). There are still debates over the legal definition of "harassment" and uncertainty over the rights to which women are entitled in the workplace (Coyle, Shrestha, and Thapa 2014).

There are also widespread societal beliefs that women who are out at night, alone in public, or more outgoing are "sexually liberal" and men continue to believe they can take advantage of them (Shrestha 2020). According to Mona Sherpa, a thirty-four-year-old development worker in Nepal, "Things are changing slowly, but men still treat women on the street as if they are someone at their disposal" (Gharib 2016).

In Nepal, arranged marriages are common, divorce is rare, and many people live with their extended family (Pun et al. 2016). According to the 2015 constitution, women have equal rights in the household, but cultural expectations still restrict a woman's activities (Bhattarai 2017). Since maintaining domestic harmony is considered to be of the utmost importance, women tend to first try to solve family problems within the home (Pun et al. 2016). Since women are often driven from their homes if they divorce their husbands, pursuing a court case

against an abusive family member could undermine their economic stability (Pandey and Shrestha 2014).

In Nepal, patrilocal marriage hampers women's economic empowerment. Newlywed women who move into the husband's home with extended family are at the bottom of the family hierarchy, and they often come into conflict with their mother-in-law. The dynamic between the mother-in-law and daughter-in-law is typically one of competition due to the conflict of interest that arises when the newlywed son becomes financially responsible for both his wife and mother (Gram et al. 2018). In the beginning, the new couple is still under the dominion of the husband's parents who function as financial guardians, but this power dynamic changes over time, especially with the birth of grandchildren (Gram et al. 2018).

Fortunately, these traditions might be changing. According to a study by Gram et al. (2018), rising numbers of women with financial autonomy could be due to shifting intergenerational dynamics. Their study examined young, married women in rural Nepalese families. They discovered that newlywed wives and husbands often team up and work together to fight for control over resources against the mother-in-law (Gram et al. 2018). This teamwork can lead to husbands supporting their wives' financial independence (Gram et al. 2018). Therefore, in Nepal, it is important to consider how women must fight for control both from husbands and mother-in-laws. UN Women's Priti Shrestha stated that education of the family is central to her organization's strategy (2020) because in common practice, daughters-in-law are not allowed to have their own money and must ask the mother-in-law for whatever they need, so education is imperative if more women are to gain financial autonomy (Gram et al. 2018).

Women's control over their own earnings could also be related to male migration to India and other countries for work, leaving women as heads of their own households (Shrestha 2020).

According to the World Bank using DHS indicators (Ministry of Health et al. 2007, 2012, and 2017), female-headed households increased from 23.4% in 2006 to 28.2% in 2011 and then to 31.3% in 2016. However, according to a 2017 study consisting of interviews with migrant wives, while women's social participation might increase, women's unpaid work tends to increase as well when men migrate to work, which could hinder them from pursuing formal employment (Rajkarnikar). On the other hand, depending on the socio-cultural norms of the area, if the husband leaves to work, the wife might be left under the supervision of the in-laws, which could further restrict her movement (Rajkarnikar 2017). While there has been some positive change, attitudes and practices towards women in Nepal remain a barrier to women's economic empowerment.

Parallel Legal Systems

Parallel legal systems do exist in Nepal. The *Muluki Ain* is an earlier, more conservative civil code that categorizes women more as property than as individuals. In addition, community courts exist where, according to Pandey and Shrestha (2014), decisions are reached by community members, and they are considered to be as legitimate as formal court orders. This often creates more problems for women since communities and their courts tend to heavily favor men (Pandey and Shrestha 2014). Delaney (2011) noted that Amnesty International found that police often avoid investigating domestic violence or sexual harassment cases by coercing women into going through traditional community courts, where bribes are common, and the severity of the crime is dampened.

Even in formal courts, Hindu norms and values are still ingrained in the court proceedings and there is a reluctance to forgo these norms (Becker 2015). Despite new laws on

the books prohibiting domestic violence, some members of the court might still justify the beating of wives. According to Guillet (1998), when approaching a legal environment with more than one legal order, one code cannot be evaluated in isolation. The orders are intertwined and influence each other, often changing through interpretation and as cases are brought to court. The reforms that laid out definitions for sexual harassment and domestic violence that are absent in conservative, informal courts could help shift interpretation if women's cases are increasingly brought to formal courtrooms.

Economic Empowerment Through Legal Avenues

Women's Access to the Legal System

The 2009 and 2010 domestic violence laws helped women better access the court systems for their needs since they legally defined "domestic violence." These laws also described how a woman could come forward to file a complaint on her own against her abuser, seek help, and go to court. A caveat here is that the victim carries the burden of evidence. She must be the one to prove to the Complaint Hearing Body that she needs protection, and this Body could be the "Police Office, National Women Commission, [or a] local body or Court" (Ministry of Law and Justice 2010, 1). By helping women go to the police or courts to defend themselves from their abusers, they might be more likely to pursue economic interests. There are organizations in Nepal that provide women with legal aid, and this also serves to increase their access to the legal system. For example, only 48.84% of women in Nepal are literate, and low education has been linked with increased reports of violence against women; therefore, most of the women coming to police stations to report abuse will need significant resources (O'Hara-Glaspie 2019; Paudel 2007).

The 2015 Sexual Harassment in the Workplace Prevention Act aided women's access to the economic sector and the legal system by introducing immediate, tangible changes such as the institution of jail times and fines for violations of these reforms. This law attempts to remove barriers like fear of sexual harassment at work and to motivate women to come forward to report. Perhaps knowing that these punishments are waiting for their abusers, women might be more likely to come forward. Unfortunately, in an interview with the authors, Priti Shrestha, a Program Officer of the Economic Empowerment Unit at UN Women, the number of women coming forward to report their harassers is still low, as the stigma against reporting remains high and women fear retaliation (2020).

In addition, in the same year as the sexual harassment act (2015), a new constitution was adopted by Nepal. This constitution further solidified women's economic rights and equal status before the law, expanding women's rights to pursue and hold occupations in various sectors and their ability to decide how to spend their earnings.

All of these recent reforms build on a prior legal foundation. Since the year 2000, women were already allowed to sign their own contracts, start businesses, and open bank accounts (FAO 2020a). Discrimination based on gender and marital status when applying for credit was also prohibited in 2007 (FAO 2020b; World Bank Group 2018). We conclude that the above reforms removed barriers for women so that they could further take advantage of their rights that were already in place.

Structure of the Legal System and Whether It Disadvantages Women

The 2009 and 2010 reforms affected the structure of the Nepalese legal system by making women more equal with men before the law. Even though women and men were already

considered equal under the law, the government went further in making this a reality by addressing the prevalence of domestic violence. Legal reforms defined domestic violence and set punishments for perpetrators in 2009. The reforms also replaced the term “intimate partner violence” with the term “domestic violence;” these laws captured other perpetrators of violence in the home, such as mothers-in-law, since it is common for married Nepali women to live with extended family (Pun et al. 2016; Neupane and Chesney-Lind 2013).

In addition, by prohibiting domestic violence, the government had now set itself in open opposition to the earlier versions of the *Muluki Ain* (later updated in 2018), the Nepalese civil code that largely abided by Hindu norms (National Civil Code 1963). In the *Muluki Ain*, women were not seen as individuals, but as subject to the rights of fathers and husbands. Now, with these legal reforms, women had more tools at their disposal to work in the legal system. By manipulating the language about women and by naming their abusers, women’s rights as individuals began to come to the forefront, and NGOs now had the vocabulary to help women to go to court. Becker (2015) calls this the shift away from the Nepalese notion of the “good woman” to the “rights-bearing individual” (261). This represents a shift for women in the economy as well.

Laws that help women’s economic empowerment are on the books, but overall the structure of the law system in Nepal disadvantages women due to the lack of enforcement, which we will dive into in the next section. Fortunately, there are many avenues of accountability.

Accountability and Enforcement of the Law

The above laws improved accountability and enforcement for women’s rights by assigning punishments to perpetrators of domestic violence and sexual harassment at work. They

also mandated that resources be available for victims. According to the Bureau of Democracy, Human Rights, and Labor (2018), “service centers in 17 districts, rehabilitation centers in eight districts, and hospital-based one-stop crisis management centers in 17 districts to provide treatment, protection, and psychosocial and legal support for survivors of gender-based violence” were established, and marked improvement has been shown between these centers, government, and civil society.

As of 2018, the Nepal Police force is about 8% women, and the government released the Nepal Police Gender Policy and the Code of Conduct Against Gender-Based Violence in order to mainstream gender equality and justice to create a better environment for female police officers (Racovita 2018; Nepal Police 2012). The Nepal Police also created women’s cells with female officers in all 77 districts, which is really quite an accomplishment. These cells helped women and girls when reporting domestic violence or trafficking. These cells are called Women, Children, and Senior Citizen Service Centers (WCSC), and they are meant to give women, children, and senior citizens specialized help as well as to compile disaggregated data on crimes committed against these groups (CID Nepal Police, n.d.). For example, according to the Nepal police website, district offices have recorded climbing numbers of domestic violence--increasing from 1,800 cases six years ago to 14,774 cases today (CID Nepal Police n.d.). While improving recording and registering of cases, it is true these cells are often underfunded, and many male officers tend to not approach domestic violence as a criminal offense despite federal guidance (Bureau of Democracy, Human Rights, and Labor 2018).

The Nepal government also joined the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse (PSEA) By Your Own Staff. This task force was established in 2011 to address sexual harassment in the workplace and supports UN and NGO

policies (PSEA Task Force n.d.). The PSEA Task Force continues to enforce and support the provisions and protections established by the 2015 Sexual Harassment at Workplace Prevention Act. Thus, Nepal has the mechanisms to hold employers accountable while the country itself is also being held accountable to enforce the policies of the international community that participates in the PSEA task force.

Another mechanism of accountability is the Commission for the Investigation of Abuse of Authority (CIAA). This organization, which was founded in 1992, is constitutionally mandated to investigate corruption involving public officials (Anti-Corruption Authorities 2010). In 2018, the CIAA “conducted 97 sting operations which facilitated the arrest of 154 civil servants, including a senior civil servant,” (Bureau of Democracy, Human Rights, and Labor 2019). The systems-based approach aims to eradicate corrupt behavior while simultaneously engaging in cultural and institutional reform. Nepali women can benefit indirectly from the efforts of the CIAA; as politicians and officials who work against the implementation and enforcement of women’s rights reforms are removed from office so are the barriers to women’s economic empowerment removed from society.

Conclusion

The percentage of women that control their own earnings, increased significantly from 2006 to 2016 for Nepalese women, and we conclude that there are many factors contributing to this change. Shrestha stated in an interview with the authors that as a result of male migration to India and other countries for work many women are left in Nepal as the heads of their own households (2020). As heads-of-households, women have more control over their earnings, but we also must consider how a woman’s responsibility increases as does her time poverty when a

husband leaves. This could hinder her ability to explore other economic pursuits. Finally, according to the World Bank using DHS indicators (Ministry of Health et al. 2007, 2012, and 2017), female-headed households only increased from 23.4% in 2006 to 28.2% in 2011 and then to 31.3% in 2016, and this percentage change of just a few points is not as large as the percentage change for women controlling their own earnings. Thus, males migrating out of Nepal does not completely explain the percentage change of women with control over their earnings.

Nepal's 2009 and 2010 Domestic Violence laws, the 2015 Sexual Harassment in the Workplace Act, and the 2015 Constitution attempted to break down the existing barriers in Nepal's society that had created systemic disadvantages against women's pursuit of economic empowerment. Each reform increased women's accessibility to opportunities and protections, provided legal mechanisms for women to better navigate the country's legal structure, and implemented accountability and enforcement mechanisms to ensure women's rights were protected.

In the Nepali case, two of the three major elements of our framework were present. First, Nepal has a wide variety of actors interested in promoting the empowerment of women. We conclude that foreign and domestic NGOs and activist groups that help women take their cases to court, spread awareness of women's rights, and provide workshops contributed to increasing Nepali women's economic empowerment. CSOs have the expertise and experience in addressing the needs and rights of women, and these groups can fill the gaps that the government is either unable or unwilling to address (Mawby and Applebaum 2018). NGOs and CSOs can also serve as checks on the government by assessing the differences in the actual law and what is practiced within Nepal's society; as a result, these organizations can call for greater accountability and

enforcement from the government (Mawby and Applebaum 2018). These organizations provide platforms for women at the local and national level to have their voices heard.

Second, Nepal has impressive accountability mechanisms in place that promote enforcement, such as the PSEA task force and the CIAA. That there are female police units in all 77 districts of Nepal is quite an achievement. The existence of enforcement mechanisms within Nepal has been an important step forward in the protection of women's rights, though the impact of them can still improve, especially with the work conducted by NGOs and CSOs.

However, the third component, a favorable background context, was not present in Nepal, as it was in the Maldives. Patrilocality and lack of women's mobility are huge barriers to women's economic empowerment in Nepal, for example. The presence of a parallel legal system also undermines women's position.

The legal reforms outlined in this case study were not perfect. Traditional and cultural practices, such as the patriarchal society, continue to disadvantage women and their efforts to become economically independent and empowered. An additional limitation of these reforms is the lack of awareness campaigns in rural areas. Women remain unaware of the protections and rights that are outlined in and promised by these legal changes.

As stated earlier, the police can act as an enforcement mechanism, especially when women are included in police cells, but the police often reinforce the barriers women have to overcome, especially when there is little to no gender-awareness training for law enforcement. Feelings of distrust, low education, and societal expectations of women as peacekeepers in the home prevent women from utilizing a resource that should protect their rights.

Other contextual aspects to consider that were absent from our framework are the fact that Nepal transitioned into a republic relatively recently in 2008, and that the country is still

recovering from internal conflict and a devastating earthquake in 2015. Recovery efforts are still underway, and many communities are still lacking resources to address basic needs (Mawby and Applebaum 2018). The decade-long conflict and natural disaster left many women alone as head-of-households, pushing many into the agricultural sector (Mawby and Applebaum 2018). State mandates also kept women from being able to register as widows for twelve years after the fact or to claim land for six years (Mawby and Applebaum 2018). On the other hand, women have been very active in organizing relief efforts and advocating for women's rights through "national and international bodies focused on disaster relief" (Mawby and Applebaum 2018, 24).

While we view Nepal as a positive case, it emerged as such in spite of a background context heavily weighted against women. Through a combination of highly engaged actors, a strong accountability system that may augur well for enforcement, and the fact Nepal is a migration-based economy, legal reforms were more successful than one would have originally imagined they would be.

NEGATIVE CASES

Negative Case Study: Malawi

Profile

Located in southern Africa, the Republic of Malawi is one of the world's least developed countries and has a population of 21,196,629. (CIA World Factbook 2020). The country has a diverse religious composition, with 33.5% of people being Protestant, 17.2% Roman Catholic, 26.6% other Christian, and 13.8% Muslim (CIA World Factbook 2020). While the country is rich in agricultural land, economic growth has historically faced multiple obstacles. While 59.2% of the land is used for agriculture, 50.7% of people live below the poverty line due to financial instability, policy inconsistency, lack of infrastructure, and issues with health and education. (CIA World Factbook 2020). Malawi is a presidential republic with executive, legislative, and judicial branches of government.

There are legal protections for women's rights outlined in the Malawi constitution. The Constitution's Bill of Rights covers a range of socio-economic rights, including rights extended to women. Section 24 (1) states, "women have the right to full and equal protection by law and not to be discriminated against based on their gender or marital status" (Chirwa 2005, 227).

Why is this a Negative Case Study?

Malawi represents a case of mixed results for women's empowerment. Before Malawi enacted reforms intended to protect women's rights, the country experienced severe economic disparities based on gender. The majority of women work in agriculture, while 2% worked in professional, technical, or managerial positions in the year of 2010. (National Statistical Office (NSO) and ICF Macro 2011, 292). Also in 2010, the decision-making over a woman's earnings

was predominantly carried out by men. Only 37% of married women reported the ability to control their earnings, while 40% of married women stated that such decisions are made primarily by husbands (National Statistical Office (NSO) and ICF Macro 2011, 224). Physical violence in 2010 was experienced by 28.2% of women (National Statistical Office (NSO) and ICF Macro 2011, 240). The World Bank Report of 2000 indicated that the unemployment rate among women was 10.7% compared to 6.1% among men. (World Bank 2020).

The current financial status of women shows minor improvements in women's access to managerial rights. According to the Demographic and Health Survey 2015-2016, 7% of women are employed in professional, managerial, or technical occupations, compared to 2% in 2010 (National Statistical Office (NSO) [Malawi] and ICF 2017, 35). While this indicator illustrates an improvement, the control over women's earnings dropped. In 2016, 28% of women reported that they can solely make decisions about their earnings, compared to 37% in 2010 (National Statistical Office (NSO) [Malawi] and ICF 2017, 251). This is a fairly substantial drop, and is very discouraging. Too, gender violence increased, with 34% of women experiencing physical violence in comparison to 28.2% in 2010 (National Statistical Office (NSO) [Malawi] and ICF 2017, 279). Women dominate the smallholder agricultural sector with 70% of the rural poor working in smallholder farming but their role is undervalued (Mbilizi 2013, 148). Women are more likely to join the informal sector and represent 10.7% of the formal, non-agricultural sector in comparison to 30.6% of men in the same field. (Joint CSOs Shadowing the CEDAW in Malawi 2015, 37). The government's reforms, which were substantial, were not effective in changing women's lives.

The Reform

Malawi has made progress in implementing legal changes aimed at women's empowerment. The Gender Equality Act of 2013 was an overarching reform that addresses several issues of gender inequality ranging from gender violence to public service positions. The purpose of the Act is, "to promote gender equality, equal integration, influence, empowerment, dignity, and opportunities, for men and women in all functions of society, to prohibit and provide redress for sex discrimination, harmful practices, and sexual harassment..." (Malawi Parliament 2013, 2). Part II of the act prohibits sexual discrimination and sexual harassment, including the occurrences in the workplace, and forbids harmful practices. A violation of such provision is punishable by 1,000,000 Kwacha (~\$1,300) and imprisonment of five years. Part IV established a quota for public service jobs, requiring the inclusion of no less than 40% and no more than 60% of women (Malawi Parliament 2013, 6). Part V instituted equal rights to education and established the same quota for access to educational institutions. Part VI declares that everyone has a right to access reproductive health services and must respect such rights of other people. (Malawi Parliament 2013, 9).

An additional reform relating to women's rights was the Marriage, Divorce, and Family Relations Act of 2015. The Act established the equal rights of parties to the marriage and set the universal minimum age of marriage to eighteen. According to the Section 14, "two persons of the opposite sex who are both not below the age of eighteen years, and are of sound mind, may enter into marriage with each other," (Malawi Parliament 2015, 10). Such a reform intended to eliminate child marriage and further reinforce the elimination of harmful practices. The legal reforms targeted gender inequality issues in multiple levels and sectors of society. However, women's economic empowerment continues to lag.

Application of the Framework to the Malawi Case

Actors Involved in Reform

Domestic Government

The government of Malawi tries to be involved in the promotion of gender initiatives through such programs as the National Gender Program, the National Initiative to Combat Gender-based Violence, and National Gender Policy. A National Gender Policy has existed since 1998 and has been conducted under the Department of Gender in the Ministry of Gender, Children, Disability, and Social Welfare (MoGCDSW). The policy has been renewed by the government every two to five years, but the policy's programs lack serious consideration and funding. For instance, "in the 2015/16 fiscal year, the budgetary allocation for the Ministry of Gender is the lowest of all ministries, with less than 0.36 percent of the national budget." (Chasukwa 2016). While the initiatives suffer from the lack of funding, poor coordination can also contribute to the slow progress. A representative from the Ministry of Gender explained that there are currently guidelines and regulations on the table for the Ministry's approval, but the implementation of the Act is in the hands of the Human Rights Commission (MoGCDSW Representative interview, 2020).

The government has been successful in listening to the public demand for gender policies. However, without the coordination and proper guidelines, the implementation of the Act is lacking in progress. Considerations of gender are not integrated in other ministries, which can complicate the effort of incorporating women into other government programs. A representative from the Malawi Violence Against Women and Girls (VAWG) Prevention and Response Programme funded by the UK Department for International Development (FDID) Malawi stated:

“We don’t have a clear rule out plan of the Gender Equality Act. We have the aspect around for instance for the public institutions that when appointments are being made, there needs to be the 60:40 ratio of either sex so that you don’t have one sex being disproportionate represented. But again, we haven’t really been effective at applying that and there has been advocacy around it but not resources. A lot of provisions in the act just don’t have a clear outline on how we need to do that without money or technical support.” (VAWD Representative interview, 2020)

A representative from the Ministry of Gender agreed that awareness about the Act has been a major obstacle in the implementation of the reform and brought an example of the university professors being unaware of the 40:60 quota for education access in the Act (MoGCDSW Representative interview, 2020). The government also implemented various safety net programs, but they suffered from corruption and reflected a preference for men. For instance, the Social Cash Transfer Scheme was created for the poor communities, but the program did not prioritize women and was eventually flooded with corruption. An additional program was the Farm Input Subsidy Programme. The initiative also failed to identify women as a special category (Joint CSOs Shadowing the CEDAW in Malawi 2015, 45).

Organizations and Institutions

The driving influence behind implementing the Gender Equality Act was international organizations. There are several non-governmental organizations that aim to fight for women's justice, but most organizations lack funding and overall support from the government. The activities of women’s movements are known to be disrupted by gender violence. In 2019, during a women-led protest against gender violence under the United Transformation Movement, one of

the women was stripped by two men (Chisala 2019). The incident illustrated a lack of tolerance for gender movements. However, the civil movement was successful in decreasing the prevalence of child marriage. According to the VAWD representative, while there has been an Act passed in 2016 that established the age of marriage at eighteen years old, a decrease in child marriage was due to social movements like "Girls Not Brides." In such initiatives, activists worked with traditional leaders to influence positive changes in social norms (VAWD Representative interview, 2020).

The driving forces behind the gender equality agenda in Malawi have been international organizations. The United Nations Population Fund of Malawi has been the most active in assisting Malawi with implementing the Gender Equality Act. In 2015, the organization and the government launched a Gender Equality and Empowerment project with the purpose of accelerating the gender equality initiatives. As a result of this project, the village communities created a village savings and loans club (UNFPA Malawi 2016). In 2016, the UNFPA launched an implementation and monitoring plan for the Gender Equality Act (UNFPA Malawi 2016).

Individuals

Malawi had a female President whose primary goal was to promote gender equality. Before being a president, Banda worked on creating the Domestic Violence bill that became law in 2006. It was also under Banda's government that the Gender Equality Bill passed, but it faced major opposition from traditional and religious leaders who claimed that the bill did not reflect the understanding of Malawians (Kayisi 2013). The female presidency was a result of the political calculation of President Mutharika. Aiming for reelection, President Mutharika picked Banda as a running mate to appeal to women voters as a progressive candidate (Kamwendo

2015, 78). However, Banda became the president when Mutharika unexpectedly died. While there were hopes for the progression of women's rights, President Banda faced internal political opposition. Even before she became the president, "there were attempts to silence Joyce Banda and eventually drive her into resigning from the office of vice-president. One of the strategies included a plot to arrest her on trumped-up treason charges," (Kamwendo 2015, 80). Banda's interview indicated how difficult it was to circumvent the patriarchy. The female president's advice on women's empowerment indicates the challenge: "Men feel nervous, so you have to find a way of massaging that ego. The best way is by engaging and involving men" (Africa at London School of Economics 2014).

Scope Conditions/Barriers

Mobility

Impeding women's mobility can also impede gender reform. Malawi has had occasions of public gender violence, but overall the country has improved mobility for women. According to WomanStats, Malawi has a score of 2 out of 4 for the indicator of traveling freely outside the home, meaning that even though there are some legal protections for women's mobility, occasionally they still face harassment on the streets (WomanStats Project 2017). There are also concerns about the persistence of sexual abuse and harassment of girls by peers and teachers on the way to and from school (UN Committee on the Elimination of Violence Against Women 2015). Women can be at risk of harassment when they participate in public demonstrations. A march against gender-based violence led to the arrest of a woman, who was charged with insulting modesty (WomanStats Project 2019). Such occasional stories about violence against women on the streets are disturbing but not prominent. Overall, more and more women (78%)

make independent decisions about visiting their relatives (National Statistical Office (NSO) [Malawi] and ICF 2017, 261). While mobility barriers appear to be of moderate intensity, the overall rise in gender violence cannot be ignored. As was mentioned earlier in the research, Demographic and Health Survey of 2016 shows that physical violence against women rose by 5.8% since 2010 (National Statistical Office (NSO) [Malawi] and ICF 2017, 279). Women can travel without a man's permission, but the violence some women face at home could contribute to the overall lack of women empowerment.

Attitudes, Practices and Education for Women

Cultural views on women can influence the successful implementation of women empowerment reforms. Patriarchy dominates the society of Malawi, pressuring women to accept their stereotypical roles in conducting domestic work. Even in the formal economy, sexual discrimination is prevalent, which is, "a reflection of socially constructed roles and images that exist in Malawian society," (Joint CSOs Shadowing the CEDAW in Malawi 2015, 52). Although girls have achieved parity in primary and secondary education, there is a steep divide between men and women's enrollment in tertiary education, with the gross enrollment ratio for women being .64 and that of men being 1.01 (World Bank 2019). The literacy rate for women also lags behind that of men by 15 percentage points (World Bank 2019). Women in Malawi clearly have differential access to education, which affects their ability to compete in the formal job market.

Discriminatory attitudes towards women are further exacerbated by harmful practices. Even though the Marriage, Divorce, and Family Relations Act established the age of marriage to eighteen years old, some Malawian communities still use puberty as a marker for preparedness for marriage. Such tradition leads to the ritual where communities, "prepare girls for marriage by

training them on how to engage in sexual acts, where some as young as 10 years old are forced to have sexual relations with older men," (OECD 2019). A majority of harmful practices happen in rural areas where people are unaware of legal changes and repercussions for violations. Some women's economic empowerment is also undermined by the practice of 'widow cleansing'. Upon the death of a husband, some women can be offered to the male relatives of the husband. If nobody is interested, then her property is taken away by male relatives (Kateta 2018). As one 28-year old widow explained, "I was allowed to live on the land that we had acquired ... for only six months before my in-laws finally moved me from the land after the [funeral] ceremony," (Kateta 2018).

Lack of women's intra-household bargaining power can be attributed to the lack of land rights. An expert from the Ministry of Gender said that "with the subsistence agriculture most women do not control the means of production such as land and the other means, productive assets at the household level..." (MoGCDSW Representative 2020). While the majority of women work the land, not many possess ownership rights of that land. Malawian culture has both patrilineal and matrilineal lineages. Matrilineal custom allows for a woman to stay at the matrilocal household with her husband or to move to the husband's household. However, regardless of the lineage, women lack decision-making roles due to customary practice. For instance, even though women in matrilineal lineages can own land, they need to consult uncles and brothers about the sale of the property (Kathewera-Banda et al. 2011, 12). Therefore, the lack of rights to own land diminishes women's opportunity to make independent decisions. Women can pursue a divorce, but once divorced she has no opportunity to claim joint ownership of the property with a husband in patrilineal culture. While the Gender Equality Act attempts to promote equality between men and women, such equality cannot be achieved until women have

equal access to property rights. Section 24(1)(b)(i) holds that women are entitled to "a fair disposition of property that is held jointly with a husband" after the divorce. However, the property is defined as "joint" only if parties made a financial contribution to acquire the property (White 2007, 47). Due to cultural constructs, women are responsible for domestic work, but such work would not be considered a financial contribution.

Parallel Legal Systems

Informal legal systems operate in Malawi despite the creation of local courts intended to remove the traditional tribunals. Due to the shortcomings of formal justice systems, traditional tribunals serve as the most accessible form of justice. The British Department for International Development (DFID) confirmed that "most people in Malawi depend on non-state institutions, of which the most frequently used were found to be traditional family counselors (*ankhoswe*), traditional leaders," (Kaunda 2011, 11). These courts are known to lack legal training and express bias towards women. Many of the traditional chiefs have not received formal legal training, and they are in the position of chief solely by their bloodline. There is also tension between the traditional courts and formal courts since chiefs are often offended by the existence of magistrate courts (Ubink 2016, 765). The pressure to use informal courts operates to the women's disadvantage.

In making decisions in traditional tribunals, customary practices are applied in such a way that ignores the legal prescriptions given by the state. A CEDAW report stated, "most of these tribunals are operated by people who are not gender-sensitive and are not inclusive in relation to participation of women," (Joint CSOs Shadowing the CEDAW in Malawi 2015, 51). Traditional chiefs employ customs and their own opinion in resolving the disputes. Such practice

allows chiefs to ignore legal provisions and discriminate against women. Many rural disputes are over land rights. One example includes a chief being confronted about the lack of enforcement of women's land rights. The chief attempted to justify this gap of enforcement by simply not taking responsibility for its existence. One leader said that women themselves often give up the land due to the difficulty of managing it (Kathewera-Banda 2011, 24). This example illustrates that the resolution of cases is at the personal discretion of traditional leaders because traditional tribunals are often the only alternative for rural women.

Legal Avenues

Women's Access to the Legal System

One of the obstacles in accessing the legal system for women is a lack of knowledge about the law. Reforms are more effective when women are aware of their legal rights. However, there is still a lack of public knowledge about the changes. We conducted an online interview with a representative from the Malawi Violence Against Women and Girls (VAWG) Prevention and Response Programme, funded by the UK Department for International Development (DFID). The representative stated, "since the Gender Equality Act came into being in 2013, there is not really a lot of legal awareness or just general awareness of it and what it intends to do, not only amongst the women and girls that we are talking about but even amongst the judges, awareness amongst those that you would really expect for them to give effect to that particular Act," (VAWD Representative 2020). The task of legal education becomes essential in rural areas. Eighty-three percent of Malawi's population resides in rural communities. (World Bank 2018). Magistrate courts are in a position to teach communities about legal reforms. However, the courts illustrated a lack of commitment to explaining legal provisions because the community

is unaware of the legal changes to gender policy. This situation is exacerbated by the literacy gap between men and women, documented above.

Geographical distance is also an issue for accessing justice. The majority of the magistrate courts are located far from the rural areas so women must walk long distances to access the courts. In an interview with a representative from the Malawi Ministry of Gender, Children, Disability, and Social Welfare (MoGCDSW), the representative confirmed this issue of physical distance (2020). When asked what prevents women from accessing justice, the public servant replied, "qualified Magistrates are located in district Headquarters and Cities. Long-distance for women from rural areas or lack of finances remain key barriers for women to access justice," (MoGCDSW Representative 2020). The system thus better serves those who have financial opportunities and those who lack physical disabilities. The legal system is more accessible to men than women because Malawian men have more financial opportunities. Finances are also necessary to expedite the judicial process. Corruption is the biggest challenge to accessing justice because both formal and informal courts expect bribes (Joint CSOs Shadowing the CEDAW in Malawi 2015, 50). Given differences in property rights, men may be in a better position to pay such bribes than women.

Structure of the Legal System and Whether It Disadvantages Women

Malawi's judicial branch provides a court system in all regions. The mere existence of the courts cannot be effective without proper law enforcement capabilities, however. Regional access to justice is legally available through either magistrate or local courts. Magistrate courts, however, have limited jurisdiction. Their jurisdiction covers mostly criminal matters and civil cases regarding customary law, and the courts can instill a maximum penalty of twelve years of imprisonment (International Bar Association 2012, 32). Another limitation of these courts is a

language barrier; most judges do not speak the language spoken in the local communities (International Bar Association 2012, 32). Also, judges tend to express prejudice against women. The issue is especially prominent in the cases of gender violence because men dominate the judicial profession and express a bias in favor of men. "According to the Women Judges Association (WOJAM) of Malawi research in 2018, male judges (magistrates) were passing small penalties while female judges and magistrates were passing long sentences for sexual violence offenses such as rape and defilement," (MoGCDSW Representative 2020).

Local courts legally replaced traditional tribunals but ultimately failed to remove the informal justice system. The Malawi government created local courts in 2009 in an attempt to formalize traditional courts (Kaunda 2011, 32). Local courts are more widespread than the magistrate courts but suffer from the lack of appropriate jurisdiction. Many disputes in rural areas happen over land issues. "Disputes regarding land, inheritance, custody, witchcraft, and chieftaincy have, however, been excluded from the local courts' civil jurisdiction...." (Ubink 2016, 762). Since the local courts cannot address many of the most serious problems women face, women are often forced to pursue justice through informal legal systems such as informal courts.

Accountability and Enforcement of the Law

The government of Malawi has admitted that much is not being done to eliminate the gender gap in accordance with the Gender Equality Act. Three years after the passage of the law the Director of Gender in the Ministry of Gender, Children, Disability, and Social Welfare stated, "We have not really done much apart from just orienting the public sector institutions and other recruitment institutions." (Sangala 2016). Due to such passive enforcement, Malawi experiences

a lack of women representation in public service as well as a lack of female applications for educational programs (Sangala 2016). In a culture where the question of gender violence is sensitive, it would be important for a woman to have a safe way of addressing violations. However, Malawi court procedures can take a long time, causing women to settle for any resolution. A Ministry of Gender representative told us, "cases take too long to conclude, yet women bear the cost of participation alone while they have to struggle to look after themselves and children. The law profession is dominated by men. The legal procedure is tedious and makes most women uncomfortable to reveal hidden truths about themselves. Women lack assertiveness. This makes them abandon [sic] and settle out of court where they have no negotiation power and leave them worse off, " (MoGCDSW Representative 2020).

The Gender Equality Act also lacks enforcement mechanisms to ensure protections for women. While the reform calls for the elimination of harassment, it does not prescribe the avenues through which women can safely report the violations. For instance, the reform prohibits sexual harassment in all forms. However, women often feel pressured to avoid reporting the offense in a fear of losing their jobs (OECD 2019). Employers would be less inclined to address sexual harassment measures at the workplace if they knew of these fears. Similarly, the Act is supposed to protect women from discrimination in the workplace. The majority of women, however, work in the informal sector; the act's provisions and social protections do not extend to this sector (OECD 2019).

The police forces of Malawi include women. Women have been recruited since 1972 and constitute 23% of Malawi police, but women continue to face discrimination. For instance, Malawi Police Service has a system of allocating housing to the officers, but women married to civilians are barred from accessing police-owned houses (Southern Africa Development

Community 2017, 252). Also, the Malawi Police Service acknowledges that female officers lack commitment to duties because of the widespread discriminatory tendencies towards women (Malawi Police Service 2016). There is also a lack of trust in using Malawi police to address cases of gender violence. MoGCDSW representative explained, “in 2018, WOJAM conducted evaluation of its legal awareness project and found that male police officers had limited regard on sexual violence cases and some believed women were raped or abused because of dressing and indecent conduct,” (MoGCDSW Representative 2020).

Conclusion

Malawi has undertaken legal reform by passing a Gender Equality Act in 2013, but the actual practice of the law has yet to experience the same amount of progress. Under the guidance of the United Nations Fund for Population Activities, the government adopted a National Gender Policy that aims to eliminate gender violence and promote gender equality. The challenges that the Act faces are centered around the attitude towards women. There are still harmful cultural practices that have not been completely abolished, such as widow cleansing or sexual initiation of girls. As we have seen from the research, culture is also an obstacle in women's access to justice, especially when judges tend to express prejudice towards women. Such an attitude must change on the domestic level in order to make a difference on the national level. However, patriarchy is still one of the primary aspects of society in Malawi. The patriarchy is thus responsible for the decrease in women's decision-making power over their own earnings. During the discussion about what is the cause of the lack of women empowerment in Malawi, representative from the VAWD Malawi stated:

"The underlying aspect would still be the fact that it is the social norms that are actually dictating who has the ownership of decision-making powers, because you find that the most of the effort that goes into the production of food, which this country Malawi is largely focused on agriculture and farming, most of what you find is that women are the ones who are heavily invested in producing food, but when it comes to benefiting from the earnings, it changes and becomes the man who has the decision-making powers of what needs to be done on the earnings." (VAWD Representative interview, 2020).

Cultural constructs make gender equality difficult, and such difficulty is reinforced by the lack of accountability in and for the law. The legal system provides the local and magistrate courts as a means to access justice. However, magistrate courts, which have more jurisdiction than the local courts, are usually located far from the rural areas. The Ministry representative that we interviewed explained, "qualified Magistrates are located in district Headquarters and Cities. long distance for women from rural areas, or lack of finances remain key barriers for women to access justice," (MoGCDSW Representative interview, 2020). The distance from rural areas is also a challenge for creating legal awareness. As the research illustrated, three years after the passage of the Act the government is still at the stage of spreading the information about the reform into the rural areas. Women cannot pursue fair justice and defend their rights if they are not aware of what those rights are. Educational inequalities for women exacerbate this situation.

The Gender Equality Act would benefit from addressing the needs and ensuring the rights of the rural women. The Act's provisions against discrimination in the workplace ignore the fact that majority of women work in the informal sector and cannot be covered by the Act's protections. Such women can be vulnerable to unfair treatment by the employers. Rural areas

still heavily rely on informal systems to resolve disputes. Justices in the informal courts tend to express prejudice against women because the decisions are guided by the customary law and personal wisdom. As the shadow CEDAW report indicated, these traditional court leaders often lack legal training and gender sensitivity. Despite these issues, the government attempts to promote gender sensitivity through various programs.

Effective legal reform for women has not yet come to Malawi. Though civil society actors are interested, as are international actors, the government is less interested. Furthermore, Malawian women face tremendous barriers due to the cultural context of the society. Finally, legal avenues for redress are not readily available, especially given the reliance on a parallel legal system that discriminates against women.

Negative Case Study: Bangladesh

Profile

The country of Bangladesh was established as a secular people's republic in 1971 (UN Women 2020). Specifically, Bangladesh's government is classified as a Parliamentary Republic Government (Central Intelligence Agency 2020). In December 2008, the Bangladeshi government held democratic elections, leading to the election of Prime Minister Sheikh Hasina (Moody's Analytics 2020). Currently, Bangladesh is the most densely populated country in the world, with an approximate population of 162 million people (Central Intelligence Agency 2020). Bangladesh's religious makeup consists of 89% Muslim and 10% Hindu (Central Intelligence Agency 2020).

Despite Bangladesh's GDP per capita being only \$4,200 and with over 24.3% of the population, approximately 39,366,000 people, being below the poverty line (Central Intelligence

Agency 2020), the economy has grown at an annual average of about 6% per year. Additionally, Bangladesh reached World Bank lower-middle income status in 2015 (Moody's Analytics 2020). Additionally, the World Economic Forum's *Global Gender Gap Report 2020* report provided a score of 72.6% for Bangladesh, and "is the only one of the seven South Asian countries studied to feature in the top 100 of the Global Gender Gap Index" (World Economic Forum 2019).

While facing political instability and corruption, poor infrastructure, and slow implementation of economic reforms, Bangladesh's industrial sector continues to grow due to the garment industry, which accounts for 80% of the total exports in Bangladesh (Central Intelligence Agency 2020), in which 85% of the total garment industry workforce--approximately three million people--are women (Alam, Blanch and Smith 2011).

Why is this a Negative Case Study?

From the available DHS reports on Bangladesh, 2007 and 2014, respectively, our team found little to no change in our selected indicators. We know that career-wise, women in Bangladesh find themselves working in the increasingly growing garment industry, and although men represent just 15% of the workforce in the garment industry, they obtain more lucrative positions such as general managers, production managers, line managers, and supervisors. This disparity illustrates the gendered division of labor within the industry, with women only able to access lower-paid jobs (Alam, Blanch and Smith 2011). For our second chosen indicator which quantifies a woman's ability to spend her money as she chooses, we found a small, but insignificant increase from 30.5% in 2007 to 31.8% in 2014.

The Reforms

During the time period under consideration, two specific legal reforms took place. One concerned domestic violence, and one concerned sexual harassment in the workplace. These are described below.

Domestic Violence Reform for Bangladeshi Women

In October of 2010, Bangladesh passed the Domestic Violence Protection and Prevention Act (DVPP), which criminalizes violence from a partner (Immigration and Refugee Board of Canada 2011). The Domestic Violence Act of 2010 defines this violence as "physical, emotional, or sexual abuse, as well as financial damage, inflicted on a woman or child by any member of the family" (Immigration and Refugee Board of Canada 2011). Before the Domestic Violence Protection and Prevention Act, the Women and Child Repression Prevention Act of 2000 addresses offenses such as rape, acid violence, and kidnapping, but only extended jurisdiction over domestic violence solely under matters concerning dowry demands (Huda et al. 2016). The Domestic Violence Protection and Prevention Act is the only legislation in Bangladesh that "legally recognizes violence within the home as an offense and a violation of human rights" (Huda et al. 2016).

The Supreme Court Directive Concerning Sexual Harassment

There is no law in Bangladesh regarding workplace sexual harassment, but there is a Supreme Court directive in the form of guidelines. It offers some legal provisions that are to be treated as law in educational institutions and the workplace (Farhin 2018). In 2009, the Bangladesh Supreme Court issued this eleven-point directive on the prohibition and prevention

of sexual harassment after a petition was filed from the Bangladesh National Women Lawyers Association (BNWLA). The court drew upon Bangladesh's written obligations under CEDAW (Huda 2019). Expressly, the Bangladesh Supreme Court referred to articles 19(1), 26, 29, and 31 of the Bangladesh Constitution and observed that the principle of gender equality found in the Bangladesh Constitution encompasses prevention of sexual harassment, especially if relevant provisions are read in light of international law (Compendium of Court Decisions n.d.). Thus stating, "it is now an accepted rule of judicial construction to interpret municipal law in conformity with international law and conventions when there is no inconsistency between them, or there is a void in the domestic law. Protection from sexual harassment and the right to education and work with dignity is universally recognized as basic human rights" (Compendium of Court Decisions n.d.).

The directive explicitly defined sexual harassment by providing eleven circumstances that would constitute acts of sexual harassment. These circumstances include coerced sexual relations, unsolicited sexual remarks, as well as sexual advances and gestures, whether in writing, in person, or through telephone (Huda 2019). The Supreme Court directive, issued on May 14, 2009, makes it mandatory for workplaces to form a harassment complaint committee, headed by a woman to investigate allegations of sexual misconduct. However, most offices in Bangladesh either do not have such committees or the committees remain ineffective (Farhin 2018). The former Executive Director at Bangladesh National Women Lawyers Association, Salma Ali, said the Supreme Court guideline is now used as the law since there is no explicit law to deal with sexual harassment (Farhin 2018). Indeed, according to Taqbir Huda, a legal research specialist for the Bangladesh Legal Aid and Services Trust (BLAST) and the Bangladesh Society

for the Enforcement of Human Rights (BSEHR), "unfortunately, there is no legislation specifically incriminating 'sexual harassment' in Bangladesh" (Huda 2019).

Application of the Framework to the Bangladesh Case

Actors Involved in Reform

In the following section, we will discuss the actors involved in these reforms: domestic government, internal and external organizations, and individuals.

Domestic Government

While the government does seem interested in the plight of women, it is fair to say the government is less interested than it might seem. To see this, consider the situation of domestic workers, the vast majority who are female, in Bangladesh. There are at least 420,000 domestic workers in Bangladesh, of which 83% of those domestic workers are women (Khan 2016) and 33.6% are children under the age of 15 (Tithi 2018). Because domestic workers are considered informal laborers, domestic workers do not have legal protections--legal rights in Bangladesh for domestic workers are excluded from the Labor Act of 2006. Domestic workers also do not receive a fixed wage rate or fixed working hours. Additionally, the Domestic Workers Protection and Welfare Policy of 2015 seeks to protect domestic workers and ensure their welfare via the registration of domestic workers, fixation of salary and wages, provision of an employment contract, issuance of identity cards, agreement of the amount and method of payment, and agreement on the nature and duration of their works, amongst other provisions (Islam and Al Amin 2016). Despite these provisions, the situation of domestic workers has not significantly

improved and the policy has not been enforced for domestic workers who are suffering from the lack of protection (Chowdhury 2016).

In addition to policy on domestic workers, the Bangladeshi government has also introduced several policies to address gender gaps in asset ownership, as an increasing number of women are seeking to obtain land rights to enhance their economic futures. The National Women Development Policy 2011 aims to establish gender equality in all spheres of life, including resources from income, loans, and credit. Also, Prime Minister Sheikh Hasina recently called for the protection of women's property rights, explicitly calling for the words "son" and "daughter" in the inheritance laws to be replaced with the word "child," so that regardless of child's gender, they acquire their due portion of their parents' property (Kotikula and Solotaroff 2019). Additionally, the Bangladeshi government is in its seventh five-year plan to further integrate gender equality issues into their policy and legal framework (UN Women 2020).

In addition, although the Bangladesh National Women Lawyer Association sued the Bangladeshi government in 2009 to implement legislation for sexual harassment, which led to the aforementioned Supreme Court Directive, the World Bank found that no "criminal penalties or civil remedies" for sexual harassment in the workplace exist for Bangladeshi women. The government, in essence, seems to pay only lip service to its stated goal of gender equality in Bangladesh.

Organizations and Institutions

The bulk of the legal reforms in Bangladesh manifest from the work of women's movements. Bangladesh "has a significant history of women organizing movements to claim their rights" (UN Women 2020). Throughout Bangladeshi history, women's movements have

made strides in numerous gendered issues, including "violence against women, gender equality in securing economic opportunities and participation, equal representation in politics, reproductive rights, family law reforms and gender mainstreaming in public policies" (UN Women 2020).

Among the approximately 2,350 registered NGOs in Bangladesh, a significant portion of NGOs focus on issues related to women and children. Many NGOs work on the issue of domestic violence, and some provide legal assistance directly to survivors (Huda et al. 2016). Bangladeshi NGOs, including the Bangladesh Women Lawyers Association (BNWLA), Mahila Parishad, and *Ain O Shalish Kendra*, are active in providing diversified forms of assistance, including shelters for women and children (Huda et al. 2016). Similarly, the Bangladesh Mahila Parishad (BMP), Bangladesh Legal Aid and Services Trust's (BLAST), Manabadhikar Bastabayon Sangstha, and Manusher Jonno Foundation offer legal support to survivors of violence and assists them in accessing the courts (Huda et al. 2016). In addition, the BNWLA hosts training on gender issues for legal practitioners. Practitioners are trained in the legal practices of the Domestic Violence Act of 2010, Muslim Family Laws Ordinance of 1961, Muslim Family Courts Ordinance of 1985, Guidelines of Sexual Harassment of 2009, Human Trafficking Act of 2012, Children Act of 2013, and the informal systems (*Salish* and village court). The BNWLA provides these services at a minimal honorarium or pro-bono (BNWLA 2019).

Individuals

Other than esteemed scholars in the field of women empowerment, such as Farah Chowdhury, Jamila Chowdhury, Shahnaz Huda, and Taqbir Huda, Bangladesh does not have individuals who greatly or significantly impacted the laws for women in Bangladesh. However, Prime Minister Sheikh Hasina Wajed, who held the position from 1996-2001 and from 2009 until present, is currently the longest-serving prime minister in history (Zeidan 2020). Additionally, Prime Minister Khaleda Zia served as the first female Prime Minister of Bangladesh from 1991-1996 and once again in 2001-2006 (Zeidan 2020). Indeed, the World Economic Forum has reported that Bangladesh is one of “countries with the most years with a female head of state in the past 50 years” (World Economic Forum 2019). Although these women served in some of the highest offices of Bangladesh, their time in office has not inherently made a substantial improvement in the lives of Bangladeshi women. In addition, women are behind in terms of participation in politics compared to their male counterparts. Almost all registered political parties are slated to miss their target of ensuring 33% representation of women in their committees by 2020. The Representation of the People Order 1972 orders all registered political parties have 33% of female representation in their committees by 2020. However, according to Bangladesh Election Commission officials, 38 of the 40 political parties registered with the commission have yet to ensure even 20% representation of women in their committees (Foyez, 2019).

Scope Conditions/Barriers

Mobility

Although the World Bank's *Women, Business, and The Law 2020* report indicates that Bangladeshi women share the same rights as men in terms of mobility (World Bank Group 2020), the scholarly literature exhibits that is the case in regards to *de jure* practice and not in *de facto* practice. Bangladesh embraces a traditional culture with patriarchal values secluding women from the outside world, known as *purdah* (NIPORT, Mitra and Associates and ICF International 2016). Bangladeshi women are restricted from leaving their homes without permission. However, due to the growing garment industry which employs predominantly women workers, more women leave the home to produce garments (Murshid and Ball 2018). Traveling for work in the garment industry often means women "find themselves navigating masculine spaces, such as public buses" (Murshid and Ball 2018). However, structural barriers, such as lack of options for transportation, lack of sidewalks, and lack of public toilets, leave women extremely vulnerable, especially for women who may have physical or mental disabilities (Murshid and Ball 2018). To tackle these challenges, garment workers travel to and from work in large groups to navigate structural barriers (Murshid and Ball 2018).

One 2018 study examined women's mobility by surveying a sample of 6150 Bangladeshi women between the ages of 15 and 49. The researchers found that when women have access to mobility (and can overcome the consequences of acting against social and cultural norms because of their mobility), they are 12% more likely to engage in microfinance efforts. Additionally, women who reported having physical mobility were more likely to reside in urban areas, have media exposure, be older, and have an education.

However, "mobile women reported owning fewer wealth assets" (Murshid and Ball 2018). Murshid and Ball argue that although microfinance operations are indeed empowering,

restrictions in mobility “hamper women's agency, which is, arguably, disempowering” (Murshid and Ball 2018). Murshid and Ball recommend that microfinance operations should collaborate with the Bangladeshi government and large NGOs to provide structural protections for Bangladeshi women, including proper transportation, streetlights, and public toilets, all with separate sections for women (Murshid and Ball 2018). In addition, 70% of women reported that they go alone or with their young children to a medical practitioner, and 10% of women who do not go to a medical practitioner said that they could go to these health facilities alone or with their children. Compared to the 2011 DHS report, a higher proportion of women reported going alone or with children to a health facility in 2014 (NIPORT, Mitra and Associates, and ICF International 2016).

Attitudes, Practices, and Education for Women

Attitudes and practices towards women in Bangladesh are still heavily patriarchal in nature. For instance, in Bangladesh law, immodesty can get a woman arrested. This leaves laws such as Section 509 of the Penal Code 1860 and Section 10 of the *Nari-O-Shishu Nirjatan Daman Ain* 2000 (which focus on violating a woman's modesty) up to "sexist biases and unwarranted discussions about a woman's 'modesty' which can end up victimizing her rather than offering protection" (Huda 2019).

Domestic violence is another area of concern: social structures, patriarchal structures, and religious structures in Bangladesh have traditionally considered domestic violence strictly within the private sphere of life, in which the state has little control over what goes on in the home (Huda et al. 2016).

The most prevalent form of domestic violence in Bangladesh continues to be from the spouse or partner. According to a Bangladesh Bureau of Statistics study conducted in 2015, more than 80.2% of married women have experienced some form of violence at the hands of their spouses, whether it is physical, sexual, economic, or emotional abuse (Huda et al. 2016). Furthermore, a 2017 survey of 1143 Bangladeshi women recorded that some of the most common causes behind acts of violence against Bangladeshi included “dowry (32.72%), familial conflict (32.54%), sexual assault (19.16%), extramarital relations (11.20%), and domestic violence (1.31%)” (Khan et al. 2017). In addition, the survey found that most of the aggressors were the “husband (64.65%), followed by known persons (14.00%), neighbors (13.30%), lovers (3.15%), house master and mistress (2.62%), and lastly, in-laws and others (2.27%)” (Khan et al. 2017).

In 1981, Bangladesh acceded to CEDAW in 1984 and currently maintains reservations to Articles 2 and 16(1c) (UN Women 2020). Article 2 of CEDAW calls on ratifying states to take policy measures toward eliminating discrimination against women while article 16 addresses the equal rights of women in marriage, family relations, and divorce (Khan 2019). To justify the reservations, the government asserted that articles in CEDAW conflicted with “Sharia law based on Holy Quran and Sunnah” (Khan 2019). Consequently, women in Bangladesh “are not allowed to get divorced, and outdated inheritance laws remain in place which deprive women from their right to property” (United Nations Development Programme 2019). 28% percent of women agree with one or more reasons justifying wife-beating, and 20% of women think wife-beating is justified if she argues with her husband (NIPORT, Mitra and Associates, and ICF International 2016). In addition, although the Bangladesh National Women Lawyer Association sued the Bangladeshi government in 2009 to implement legislation for sexual harassment, the World

Bank found that no “criminal penalties or civil remedies” for sexual harassment in the workplace exist for Bangladeshi women.

Concerning the safety of women in Bangladesh, the rates of violence against women remain at a high level. Approximately 72.6% of Bangladeshi women report experiencing some form of partner violence in their lifetime (UN Women 2020). In Bangladesh, marriage, divorce, custody of children, and inheritance are subject to religious law and often work against Bangladeshi women (UN Women 2020). From birth, Bangladeshi are disadvantaged. For example, women are often seen as akin to property due to the Bangladeshi dowry system (Huda et al. 2016). And Bangladeshi women may also confront challenges in asserting property rights. For example, with reference to inheritance, Bangladeshi women may "fail to demand their share of paternal property in order to have the option of returning to their natal family in cases of marital separation or divorce" (Huda et al. 2016). Families are organized primarily around male interests, as these customary practices illustrate.

This is also the case with regard to marriage. For example, there is no concept of community property in Bangladesh. Therefore property acquired during marriage immediately is entitled to the husband. If a woman attempts to access the formal court system to assert a right to this property, the husband "often immediately seeks divorce, which is quite easy for him to obtain" (Huda et al. 2016). Upon divorce, Bangladeshi women are entitled to their *dower* and "a small maintenance allowance for three months of the *iddat* period" (Huda et al. 2016). Of course, once those funds are depleted, divorced women often end up impoverished (Huda et al. 2016).

According to CEDAW, women have the legal right to "enjoy equal rights in terms of mobility, choice of residence and domicile" (UN Committee on the Elimination of Discrimination Against Women 2016). However, according to a report from the United States

Department of State in 2011, there has been a reported 395 cases of dowry-related violence, which include torture, acid attacks, and murders--an increase from 227 in 2010 (United States Department of State 2011). According to K.M. Rahman Mustafizur, "Bangladesh is generally a male-dominated society: males head about nine of every ten households" (Mustafizur Rahman 2013).

Additionally, Mustafizur writes, "the life of a woman is dominated by a patriarchal and patrilineal social customary system . . . such a system upholds a rigid division of labor that controls the mobility, roles and responsibility and sexuality of women . . . the roles of a woman include the maintenance of her family as a social institution as well as an economic entity" (Mustafizur Rahman 2013). According to CEDAW, women in Bangladesh cannot "enjoy their rights under existing laws owing to the lack of awareness, lack of enforcement, and persistence of patriarchal attitudes, which leads to women's exclusion" (UN Committee on the Elimination of Discrimination Against Women (CEDAW) 2016).

Bangladeshi women are considered "minor players" in the Bangladeshi economy, in addition to being "secondary players" in the labor market (Mustafizur Rahman 2013), despite Bangladeshi women working *en masse* in the garment industry, the primary export for Bangladesh. Religion also plays a role in the limited equity Bangladeshi women possess. In Bangladesh, male religious leaders interpret the religious texts to underscore the inferiority of women (Chowdhury 2016). This religious interpretation also exacerbates views regarding wives as property of their husband. In addition, Bangladeshi women are being told by their religious leaders that submission in the home "promises paradise for women" (Chowdhury 2016).

Concerning careers and education, the Bangladeshi State has acknowledged that improvements are needed in the areas of technical education and tertiary education (UN

Committee on the Elimination of Discrimination Against Women 2016). The gender parity index score for enrollment in tertiary education is .71, indicating that for every 100 men attending university, only 71 women are attending (World Bank 2019). The Bangladeshi State takes note that there is an "insufficient number of women teachers and women in school management" (UN Committee on the Elimination of Discrimination Against Women 2016), which has shown Bangladeshi women's low interest in STEM studies and limited growth in women's literacy rates (UN Committee on the Elimination of Discrimination Against Women 2016). As of now, the literacy rates for men in Bangladesh are 76.7% and 71.2% for women (UN Women 2020). The average literacy rate for the world is 89.8% for men and 82.8% for women (Central Intelligence Agency 2020). An expert interviewee stated that the reason Bangladesh sees a comparable literacy rate amongst men and women is due to the first fourteen years of Bangladeshi education being completely paid for by the Government of Bangladesh.

Parallel Legal Systems

Bangladeshi Law is a mixture of laws that support some individuals and disadvantage others. For example, Bangladeshi Law is a complex system of English Common Law and Islamic Law (Central Intelligence Agency 2020). Additionally, these laws affect people of different religions differently. According to CEDAW, the laws for Muslims, Hindus, and Christians "contain discriminatory provisions with regard to marriage, divorce, inheritance, and guardianship" (UN Committee on the Elimination of Discrimination Against Women 2016). Under the Domestic Violence Protection and Prevention Act of 2010, the Judicial Magistrate or the Metropolitan Magistrate hear domestic violence cases. These magistrates have unlimited

jurisdiction in granting compensation orders. In Bangladesh, each district has several Magistrate and Metropolitan Courts (Huda et al. 2016).

At the local level, Alternate Dispute Resolution sessions are conducted in different ways and by different agencies. For example, arbitration by members of the Union Parishads at Village Courts under the Village Courts Act of 2006, or through NGOs facilitating mediation as well as by village elders or other influential persons at informal *Shalish* (Huda et al. 2016). Indeed, a substantial number of the total ADR-adjudicated cases relate to domestic violence and other similar abuses. Huda et al. recommend that all Alternate Dispute Resolution institutions be gender and child rights sensitized as well as acquire training on how to conduct such sessions, for women are often discriminated against by these parallel courts.

Economic Empowerment Through Legal Avenues

The following section will explain how the legal reforms discussed above address the three legal avenues (access, structure of the law, and enforcement/accountability) that lead to economic empowerment for women. One significant recommendation made by *Upazila* Women Affairs Officers officers, or *County* Women Affairs Officers, and judges at varying jurisdictional levels is that the Bangladesh family courts may be more suitable to deal with cases under the Domestic Violence Act of 2010 than the magistrate courts. The management of cases by the family court would reduce overall case review and settlement time and, thus, more suitably involve family members in the adjudication process.

However, there are those who assert the contrary, as considerations of personal religious laws may reduce the support available to survivors (Huda et al. 2016). Khan et al. also propose several key changes that would further increase equity for women in Bangladesh: (1) The

removal of remaining reservations on CEDAW Article 2 and 16.1(c). (2) The family court governed by Family Law Ordinance 1985 should be led by a first class magistrate or judge with the same authority. (3) Assault and battery within marriage and marital rape should be recognized in the Women and Children Repression Act of 2000. (4) Training for law enforcement personnel with curriculum on how to handle cases of violence against women.

Women's Access to the Legal System

Huda et al. provide numerous recommendations on how to protect Bangladeshi women from their spouses, one of which is recommending that the Bangladeshi State recognize the poverty and economic insecurity amongst women in the country. Poverty contributes significantly to the pervasiveness of domestic violence in Bangladesh. The majority of women in Bangladesh cannot afford to leave an environment in which domestic violence exists.

In Bangladesh, women and children lack access to legal aid after acts of domestic violence, incest, mental torment, torture, or abuse of dower. Legal services are rarely available at the community level, and women are discouraged from seeking legal assistance since traditionally, domestic abuses are considered “family affairs;” this scenario is especially prevalent in the rural areas of Bangladesh (Huda et al. 2016). According to the Bangladesh Bureau of Statistics Violence Against Women Survey of 2015, only 2.6% of women at the national level have taken legal action against the violence committed against them. Additionally, despite the existence of a government helpline for survivors, only 2.4% of women at the national level, 1.9% in rural regions, and 3.8% in urban areas are even aware of the helpline (Khan 2016).

Additionally, the Bangladesh Bureau of Statistics found that one of the reasons for women not accessing the law was the prevalent cultural belief that a husband had a right to abuse

his wife. The culture of shame and silence surrounding domestic violence is the most significant barrier faced by women in accessing justice (Huda et al. 2016). Mannan notes that the underlying rationale for the abuse towards women is a husband's perceived right to control his wife and a social structure that legitimizes the practice thereof. Therefore, without a cultural shift, this system is bound to continue. However, NGOs are making incremental differences in this regard (Huda et al. 2016).

Regarding legal reforms concerning domestic violence, the Ministry of Women and Children Affairs (MoWCA) has shelter services in six places: Chittagong, Dhaka, Khulna, Sylhet, Rajshahi and Barisal where women can stay, along with two children under the age of twelve (approval for sheltering more than two children requires action from the court), for six months up to a year. Additionally, under the Department of Social Service (DSS) and the Ministry of Social Welfare, there are also eight drop-in centers, short term safe homes, and long term shelter homes (Huda et al. 2016). The Manusher Jonno Foundation (MJF) is working with the Department of Social Service in collaboration with partner organizations to ensure sustainable services providing: healthcare-related support and counseling, legal aid, income-generating support, and social reintegration support (Huda et al. 2016).

However, the shelters run by the Government of Bangladesh and those run by the Bangladeshi government and its partners are not effective in their pursuits to shelter women from domestic violence. Therefore NGOs and their shelter services are required to make up for what the Bangladeshi government lacks (Huda et al. 2016).

Furthermore, there is little to no legal aid funding for women engaged in a legal battle, especially in regards to family cases; in fact, almost all legal aid funds go toward criminal cases (Chowdhury 2012). Additionally, when legal aid funds are available, attorneys are provided

insufficient payment in order to perform *pro bono* work. Due to this, attorneys become negligent in their duties. Clients may never meet the lawyers they have been assigned, or lawyers will not appear on the assigned court date (Chowdhury 2012). Concerning legal aid specifically from NGOs, the data shows that "leading NGOs provide legal aid to 14.3% of cases" (Chowdhury 2012). For context, out of the 3685 family law cases filed, only a total of 528 cases were granted legal aid (Chowdhury 2012). When legal representation is accounted for, only 18.9% of family law cases are filed in Bangladesh (Chowdhury 2012). These issues regarding legal aid funding and access to representation cause incredible disadvantages to Bangladeshi women, especially for Bangladeshi women who live below the poverty line.

Structure of the Legal System and Whether It Disadvantages Women

On November 4, 1972, the Constitution of Bangladesh was adopted. The Constitution of Bangladesh originally proposed a parliamentary form of government, but when the Constitution was amended in 1975, the Presidential form of government was adopted (Karim 2018). Women's rights are addressed and protected in Article 10 of the Constitution as well as Articles 26-29, affirming equality for all citizens of Bangladesh. Due to Bangladesh being a primarily English common law country, the Supreme Court of Bangladesh has the power to interpret the Constitution's laws, but may also declare them null and void if the legislation is inconsistent (Karim 2018).

The Domestic Violence Act is equipped with a provision guaranteeing equal treatment of men and women (Afrin 2017). However, the first responders, such as police, that are called upon to enforce the legislation are poorly trained (Afrin 2017). Furthermore, nothing in the Domestic

Violence Act suggests that the officers would be provided training to deal with domestic violence issues or be gender-sensitive in their approaches (Afrin 2017).

The Domestic Violence Act has been criticized for using broad terms such as “humiliation,” “degrading,” “dignity,” and “abuse.” In addition, Huda et al. found that in many cases, the courts abstain from dealing with an allegation of domestic violence because the aggrieved person has been divorced and is no longer considered part of the family. To date, the law in Bangladesh has failed to take into consideration the need to adjust its definition of an “aggrieved” person (Huda et al. 2016). This broad language makes it extremely hard for the survivor, for the burden of proof is on the individual reporting the crime.

Because of this vague verbiage, the United States Department of State reports that there is skepticism about the effectiveness of the domestic violence legislation (Immigration and Refugee Board of Canada 2011). According to Huda et al., a majority of cases filed under The Domestic Violence Protection and Prevention Act were brought to court with assistance from NGOs, as opposed to being filed privately. It appears that Bangladeshi lawyers are not interested in pursuing cases under The Domestic Violence Protection and Prevention Act, as they are "not lucrative" (Huda et al. 2016).

Accountability and Enforcement of the Law

An excellent example of the lack of accountability and enforcement in the Bangladeshi legal system is the fact that although the Domestic Violence Protection and Prevention Act came into force in December of 2010, the rules which administer procedures for filing cases under the Act were not established until 2013. Furthermore, Huda et al. exhibit that although the number of filed cases continued to rise from 2010-2013, only 102 cases were filed under The Domestic

Violence Protection and Prevention Act. However, according to the Documentation Unit of *Ain O Shalish Kendra* (ASK), from January to November 2015, a total of 292 cases of domestic violence were recorded. Of that number, 28 women were tortured by their husbands, and 5 women were tortured by their husbands' families. Additionally, 167 women were murdered by their husbands and 31 by their husbands' family. Furthermore, 16 were killed by their family members, and 45 committed suicide (Huda et al. 2016).

It is difficult to enforce laws that protect women in Bangladesh. For example, Bangladeshi women are generally reluctant to report cases of violence because of a fear of social stigma or the traditional mindset of law enforcement (UN Committee on the Elimination of Discrimination Against Women 2016). As a result, the Bangladesh National Women Lawyers' Association has argued that the focus should be prevention as opposed to prosecution (Immigration and Refugee Board of Canada 2011). Although the Domestic Violence Act came into effect in 2010, it has yet to be sufficiently enforced. Huda et al. states that the main causes of a lack of enforcement and accountability include, lack of national awareness, lack of community investment, limited access to legal services, poverty, absence of sufficient data, and limited legal terminology.

The Domestic Violence Act creates the position of an Enforcement Officer (EO), who is responsible for aiding in the daily implementation of the Act. The Enforcement Officer is most often an *Upazila* Women Affairs Officer (UWAO), who works under the umbrella of the Ministry of Women and Children Affairs, Department of Women Affairs (Huda et al. 2016). However, according to Huda et al.'s study, the UWAO enforcement officers themselves state that they do not receive sufficient training or logistical support to enforce the Domestic Violence Act. However, from 2008-2014, the participation of women in the Bangladesh Police force

increased from 1.8 to 6.04 percent. As of December 2016, there are 11,130 women in the Bangladesh Police force out of the total 1,49,778 members of the Bangladesh Police force (Basak 2018). In addition, Victim Support Centers (VSCs) have been established in cooperation with the Bangladesh Police and numerous NGOs, including Bangladesh National Women Lawyers Association, to implement emergency aid and living facilities to domestic violence survivors (Clear Horizon Consulting 2015). In 2016, only eight Victim Support Centers (VSC) were reported. Each VSC provided shelter for a maximum of five days.

Women's organizations in Bangladesh have shown severe frustration with the Bangladeshi government concerning how slow and inefficient the Bangladeshi governments have been in enforcing DVPP laws. According to Huda et al., stakeholders of the Domestic Violence Act of 2010 as well survivors of domestic violence, state that the DVPP Act is plagued by widespread non-implementation and therefore, has produced disappointing results. However, areas in which NGOs are found, such as Plan International and the Bangladesh National Women Lawyers' Association, have concentrated performance efforts to ensure implementation of the Act. Huda et al. state that it is "imperative that the [Government of Bangladesh], principally through the Ministry of Women and Children Affairs, invest far greater financial and human resources in executing the DVPP Act to improve both prevention of and prosecution for cases of domestic violence" (Huda et al. 2016).

Huda et al. questioned nine police stations in Bogra, Dinajpur, Chittagong, and Dhaka as to whether the register and forms required under the DVPP Rules of 2013 were available, the answer was negative in seven out of the nine police stations. An earlier study conducted by the Bangladesh National Women's Lawyers Association had shown insensitivity and general lack of knowledge on the part of the police regarding the DVPP Act of 2010 (Huda et al. 2016). Many

members of the police force are uninformed of the law and its provisions. Some asserted to be more interested in encouraging survivors to file complaints under stricter laws such as the Women and Children Repression Prevention Act of 2000 since those laws provide them with more opportunities of making money through bribes (Huda et al. 2016). Furthermore, even when survivors of domestic violence manage to access the law, they often experience additional trauma within their legal recourse. Incidents of harassment from the Bangladeshi police force are common, along with having to pay bribes to register cases. Transparency International Bangladesh's national household survey of 2015 identified Bangladeshi law enforcement agencies as the second-most corrupt among various service sectors within Bangladesh (Transparency International Bangladesh 2016).

Regarding legal battles, wealthier Bangladeshi women who decide to file charges only do so when the situation has so strongly deteriorated that they have nothing to preserve within the house. At that stage, it is generally understood that they seek to punish the abuser since keeping the family intact has ceased to be an option. Once an allegation reaches the court via laws such as the Dowry Prohibition Act of 1980, the Women and Children Repression Prevention Act of 2000, and in some cases under the Domestic Violence Act of 2010, the likely scenario is that the husband will pronounce a divorce. Even if a case is not filed, the fact that a husband is called to appear before the District Legal Aid Committee office within the court premises, may be grounds for divorce (Huda et al. 2016).

For poorer Bangladeshi women, the reasons for not accessing the formal judicial system are usually more pragmatic. Involving outsiders, especially the judicial system, is very often considered to be the last resort since the perception is that after doing so, there is little chance of the family remaining together (Mannan 2002). Additionally, legal counselors tend to lean toward

mediation. Therefore, women are often not informed of all of their legal alternatives. This approach compromises the women's safety and agency, as they are not provided the tools to make decisions over their own lives (Barr, Hassan and Islam 2014).

However, with the assistance of NGOs like the Bangladesh National Women Lawyers' Association, women are better able to file cases. For example, in 2011, the BNWLA filed 1721 cases relating to violence against women, and over 6000 reports of violence against women (Central Intelligence Agency 2020). Due to a lack of government interest in holding law enforcement accountable, it has primarily been the responsibility of women's movements and institutions like the Bangladesh National Women Lawyers' Association to assist Bangladeshi women in finding safety and justice.

Conclusion

Bangladesh lacks all three main components for successful legal reform. While Bangladesh is home to many active women's organizations, its government is not particularly interested in the plight of women, the background social context is heavily weighted against women, and the legal system is no friend to women. These negative factors are compounded in the case of poor women: many are so heavily impoverished that it becomes increasingly challenging to afford access to legal systems. Impoverished women cannot afford to pay the bribes that place their case into the correct judicial court, and attorneys reportedly become negligent in their duties or will outright relieve themselves from duty due to an inability to afford their services. Furthermore, the legal aid that is available is often unfairly disbursed, as almost all of Bangladesh's legal aid is administered to criminal cases, leaving Bangladeshi women who are fighting a civil case at a disadvantage.

The Domestic Violence Protection and Prevention Act of 2010 is a pivotal piece of legislation for Bangladeshi women to obtain justice when they have been abused within the home. However, because of the aforementioned poverty and corrupt legal practices, Bangladeshi women are often unable to make use of this legislation. Furthermore, as Bangladeshi women do gain access to legal systems in Bangladesh, these women are often halted by the parallel legal structure of Bangladesh, as Bangladesh Law is a combination of Islamic Law and English Common Law. Furthermore, *de facto* customs in Bangladesh often deter women from pursuing legal recourse in the first place. For instance, domestic violence is often seen as a private matter within the home, one which should not be acknowledged by outsiders.

Additionally, reports indicate that up to 48% of Bangladeshi women agree that wives deserve to be beaten for at least one reason or another (NIPORT, Mitra and Associates, and ICF International 2016). Lastly, Bangladeshi women fear losing their families, as legal battles often cause the husband to file for divorce, allowing the husband to obtain the household assets and custody of the children.

The legal system seems indifferent to the situation of women. For example, there are no official laws to combat sexual harassment in Bangladesh. Instead, the Supreme Court of Bangladesh has created guidelines that workplaces and educational institutions are meant to follow. However, due to a lack of formal legislation, these guidelines are often ignored, leaving Bangladeshi women vulnerable to sexual harassment.

This means that NGOs are virtually the sole means for Bangladeshi women to access the law and achieve legal reform. For instance, the Bangladesh National Women Lawyers Association (BNWLA) is the foremost organization leading the charge of providing legal aid to Bangladeshi women. Also, their collaborative work with the Bangladeshi government,

specifically the Ministry of Women and Children Affairs as well as fellow NGOs has allowed them to provide shelter to domestic violence survivors. The Bangladesh National Women Lawyers Association was also the pioneer for bringing issues of sexual harassment to the attention of the Bangladeshi government in 2009. Although the Supreme Court only provided guidelines for mitigating occurrences of sexual harassment, the work of the BNWLA has placed the issues Bangladeshi women face right in front of the Bangladeshi government for the purpose of reform. Due to NGOs' ability to hold the Bangladeshi courts accountable in addition to providing women with shelter and legal aid, the literature exhibits that Bangladeshi NGOs are performing the majority of the work required for women's empowerment and legal reform in Bangladesh. While the work of these NGOs is laudable in the extreme, it is not enough. Bangladesh possesses none of the three ingredients required for successful legal reform. Despite an extensive and energetic set of NGOs fighting for women's rights, Bangladesh has not seen meaningful success from its legal reforms because of cultural barriers for women, a lack of enforcement mechanisms, a parallel legal system that discriminates against women, and indifference at the highest level of government.

Concerning the future of legal reform in Bangladesh, in an interview with an on the ground expert, it was stated that the next significant legal reform demand is slated to be policies to protect domestic workers. As more Bangladeshi women are escaping abusive situations and returning in large numbers to Bangladesh from their domestic worker positions in the Middle East, it can be expected that rights for domestic workers will be highly demanded from the Government of Bangladesh. In addition, our on the ground expert stated that the law simply cannot preemptively stop those who desire to do harm to women. There has to be a social reform in Bangladesh, and there has to be significant participation from the people of Bangladesh to

shift the culture and practices toward empowering women. Furthermore, our experts state that NGOs and government entities can only do so much, but it is up to the religious leaders to rise up and participate in these reforms.

Synthesizing the Findings from the Four Case Studies

To undertake a more systematic analysis of the four case studies, we ranked the four countries with reference to the indicators in our theoretical framework. We generated the following matrix of component scores and overall scores (Figure 2):

Figure 2: Relative Quantitative Scores Concerning Our Framework				
	Nepal	Maldives	Malawi	Bangladesh
Highly Engaged Actors	1	1	2	2
<i>0 - Two or more non-government actors and government involved 1- One non-government actor is significantly involved as well as government actors 2 - Only one non-governmental actor is significantly involved *Barriers to mobility include needing a husband's permission to work, being sexually harassed in public spaces, expectations that women will stay at home, etc.</i>				
Women's Mobility	3	0	1	2
<i>0 - No barriers to mobility in law and few in practice 1 - No legal barriers to mobility but some barriers in practice 2 - Moderate barriers in law or practice 3 - Severe legal restrictions or extreme discrimination in practice</i>				
Attitudes, Practices, and Education for Women	2	1	3	3
<i>0 - No harmful attitudes towards women present 1 - Some harmful attitudes towards women present 2 - Moderately harmful attitudes towards women 3 - Extremely harmful attitudes towards women</i>				

<i>*Indications of harmful attitudes towards women include expectations for unpaid household labor, limitations in law or practice to only work in certain sectors, low age of marriage, perception of women as "inferior" etc. Harmful practices include patrilocality, acceptance and presence of domestic violence, inability to inherit land/assets either in law or in practice, the existence of dowry/bride price etc.</i>				
Parallel Legal Systems	2	0	2	2
<i>0 - No parallel legal structures in place 1 - Parallel legal structures in place, but limited in its power to adjudicate 2 - Powerful parallel legal structures in place</i>				
Access to the Law	1	1	2	2
<i>0 - Women have complete access to the law 1 - Women have full legal access to the law but have some barriers in practice 2 - Women face moderate barriers to accessing the law because of legislation or practice 3 - Women face extreme barriers to accessing the law *Barriers to accessing the law include low female literacy rates, lack of access to financial resources to pay for legal aid, sexual harassment from law enforcement, lack of ability to physically reach a courthouse, etc.</i>				
Structure of the Legal System	2	1	3	3
<i>0 - Structure of the legal system is completely equitable for women 1 - Structure of legal system has slight disadvantages for women 2 - Structure of legal system has moderate disadvantages for women 3 - Structure of legal system has extreme disadvantages for women *Problems with the structure of legal systems that disadvantage women include placing burden of proof on the victims, inadequate definitions of terms in laws, lack of female actors in the legal system (female lawyers, judges, courthouses)</i>				
Accountability and Enforcement	1	2	3	3
<i>0 - There are specific and effective mechanisms and policies for accountability and enforcement in the law 1 - Mechanisms for accountability and enforcement in the law are present, with some problems in practice 2 - Mechanisms for accountability and enforcement are largely insufficient 3 - Mechanisms for accountability and enforcement are almost or entirely absent</i>				

Based on the scores for each country represented in this scale, combined with a qualitative analytical comparison of our country cases, we have come to some tentative conclusions about the factors that contribute to successful legal reforms for women. These conclusions will need to be more extensively probed with additional case studies for corroboration and nuance, but we present them as a springboard for that effort:

- 1. Intuitive as it is to say, if legal reform builds upon a less oppressive cultural foundation for women, it is more likely to result in real progress for women.*

The foundation for this conclusion is our analysis of the Maldives, as compared to the situation in the other three countries. Despite having a new and underdeveloped legal system with which to enforce reforms, the women in the Maldives experienced meaningful change in the percentage of women in managerial positions because the country had a more favorable baseline context for women with fewer barriers identified in our theoretical framework. According to our ordinal scale as seen in Table 1, the Maldives scored markedly better than the other three countries for the Attitudes, Practices and Education for Women, Parallel Legal Systems, and Women's Mobility. To dive more deeply into what particular dimensions were markedly different in the Maldives as versus Nepal, Bangladesh, and Malawi, we compiled the data presented in Appendix 1. We find that the Maldives had better physical security for women, particularly with regard to the prevalence of domestic violence, murder, and rape, did not have as prevalent levels of brideprice/dowry as the other countries, provided more equitable access to land for women, and thus was a society that does not revolve as tightly around patrilineal clans. The comparatively better status of the Maldives' baseline social context for women is also supported by additional DHS indicators, also presented in Appendix 1. The Maldives had the highest percentage of women reporting that the decision-maker about her own healthcare was either herself or her husband; conversely, the Maldives had the lowest percentage of women who reported that the decision-maker of her own healthcare was mainly her husband (DHS). These indicators, like decisions about own healthcare, also support the finding that the Maldives has better background characteristics for women.

It is important to note that on a global scale the situation of women in the Maldives cannot be considered equitable. However, compared to the situation of women in Nepal, Bangladesh, and Malawi, the Maldives' background characteristics regarding women are considerably more equitable.

Negative attitudes and practices towards women greatly impede women's economic empowerment in Nepal. According to an email message from Women's Rehabilitation Center (WOREC) to the authors, one of the largest setbacks is the refusal in political parties to accept the leadership of women (WOREC 2020). While women are supposed to represent 33% of every political structure, political parties often do not meet this requirement when appointing Chief Ministers for different provinces (WOREC 2020). Additionally, while girls have reached parity at all levels of education, literacy rates for adult women still lag behind men by 19 percentage points (World Bank 2018). Domestic violence is also still very prevalent with over 70% of women being affected according to WOREC and Nepal police data, and divorce is still quite rare and often ends with the woman being forced out of the home (WOREC 2020). Sexual harassment in the workplace is widespread with few women coming forward to report. Patrilocal marriage is still widely practiced with dowry despite it being outlawed. Parallel legal systems are present in male-biased community courts and conservative Hindu values are still used to interpret the law, often putting women at a disadvantage. These issues of negative attitudes towards women, violence in the home and at work, and biased courts combine to discourage women from reporting to police and holding perpetrators accountable.

Like Nepal, Malawi has unfavorable background characteristics for women that prevent legal reforms from having success. Patriarchy characterizes society, and a man is viewed as the main decision-maker and women's roles are largely relegated to the domestic sphere. Although

there is gender parity at the primary and secondary level, women attend postsecondary institutions at almost half the rate as men and have literacy levels 15 percentage points below that of men (World Bank 2019). The physical security of women and girls is compromised by harmful practices such as widow cleansing, the forced sexual initiation of young girls, and sexual harassment in public spaces. Women's ability to access and control resources are severely restricted as well. Despite being a matrilineal society, it is ultimately a woman's uncle and brothers who control any property she inherits from her deceased father, and she is required to ask for permission from her uncle before she can sell the land. All of these harmful attitudes and practices and the lack of mobility are compounded by a parallel legal structure, in which legal issues are adjudicated by tribal and customary courts that often discriminate against women.

Women in Bangladesh also face unfavorable background characteristics that prevent legal reforms from enhancing their economic empowerment. Harmful attitudes and practices toward women in Bangladesh contribute to significant levels of violence against women. Dowry related violence is common. Up to 48% of married women interviewed for the DHS 2014 survey reported that they agree with at least one reason as to why a woman should be beaten within the home. Women also face mobility restrictions because of the high incidence of sexual harassment and assault in public spaces. Additionally, although women have achieved gender parity at the primary and secondary levels of education, men outnumber women at the tertiary level. The gender parity index score for tertiary education was .71 (World Bank 2019). Compounding these harmful attitudes and practices, Bangladesh also has a parallel legal structure that disadvantages women. Some laws enacted at the state level that are put in place to assist women may not be enforceable under Islamic law.

These background characteristics represent deeply embedded beliefs and practices which are not easily reformed by external actors or even domestic governments. Without these significant barriers to overcome, the Maldives seemingly had a “headstart” on the other three case studies.

2. *Strong accountability and enforcement mechanisms can create opportunity for successful legal reform even in a context of relatively unfavorable background characteristics.*

Less intuitively, one of our case studies, Nepal, with a fairly unfavorable baseline social context for women, also showed tremendous improvement in an important outcome indicator after key legal reforms. Our case study of Nepal, from which its ordinal score is taken, indicates that Nepal had a substantially better score for the Accountability and Enforcement category than the other three case studies. For example, of the four case studies, Nepal is the only country to have enacted a National Action Plan on Women, Peace, and Security before or during the period we examined. The government also established the National Women’s Commission in 2002, and it was mandated by the 2015 constitution to continue conducting research on women-related legislation and issues. In 2017, the National Women’s Commission Act went further in protecting women’s rights and ensuring representation in the federal government, although it did not live up to expectations. Additionally, the existence of women’s cells with female officers in all 77 districts sets Nepal apart from our negative cases of Malawi and Bangladesh. Currently, women comprise about 8% of the Nepal Police Force, and the government released an updated Gender Policy in 2013 to improve the workplace for female officers to encourage applications (Racovita 2018; Nepal Police 2012). The women cells in each district are called Women, Children, and Senior Citizen Service Centers (WCSC), and they are meant to give women,

children, and senior citizens specialized help as well as to compile disaggregated data on crimes committed against these groups (CID Nepal Police, n.d.). For example, according to the Nepal police website, district offices have recorded climbing numbers of domestic violence--increasing from 1,800 cases six years ago to 14,774 cases today (CID Nepal Police n.d.). Even though these cells are often underfunded, their existence and the Nepal government's desire to encourage women to become police officers indicate the potential towards greater enforcement and accountability.

Nepal's participation in the UN Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse (PSEA) By Your Own Staff and the existence of the Commission for the Investigation of Abuse Authority (CIAA) have also contributed to stronger accountability and enforcement in Nepal. These, in combination with the extensive, highly organized efforts of Nepal's women's CSOs that lobby decision-makers, spread awareness about women's rights, and provide research and feedback to every level of government, have provided avenues of accountability that have contributed to women's stronger bargaining power within the home; however, according to a CEDAW shadow report (2018), "Nepali women still remain vulnerable due to weak enforcement of laws, policies and plan of action, and poor performance of state mechanisms...mostly because of state's unwillingness to invest enough resources for the protection of women and their rights" (National Alliance of Women Human Rights Defenders, Nepal 2018, 4).

There are also a number of NGOs and CSOs present in Nepal that vigorously work to ensure women's rights and hold the government accountable for protecting those rights. These organizations can work in conjunction or in opposition to the government in order to better assist women in their pursuit of justice and protection. NGOs and CSOs work to fill in the gaps the

government has yet to fill, specifically by providing resources for legal aid, literacy, and healthcare among other services. They also serve to channel women's voices to the government. However, we note that while there is more work to be done, Nepal has still achieved more in accountability and enforcement, despite present barriers, than Malawi and Bangladesh.

In Malawi, lack of awareness is a major issue in implementing reforms, because the government struggles to deliver information about women's legal rights into the rural areas. This is an issue noted in Bangladesh and Nepal as well. In an interview conducted by the authors, a representative from the Malawi Ministry of Gender provided an example that illustrates consequences of such lack of information about the rights:

“Most women are not aware of the gender equality act. In a case of Anniva vs. State (in Nsanje) it was observed that most women in Nsanje were being abused by their husbands, stepfamilies, community leaders and clan heads because of lack of understanding of forms of discriminations and harmful practices.” (MoGCDSW Representative, 2020).

A lack of awareness surrounding the gender equality act is compounded by a seemingly weak civil society. Although there are nonprofit and civil society organizations operating in the country, our research suggests that they face inadequate funding and an overall lack of support from or collaboration with the national government. This is different from Nepal's case where many NGOs and CSOs have supportive relationships with the government.

Promoting Malawi's Gender Equality Act requires money, but the Ministry of Gender suffers from underfunding. For instance, "in the 2015/16 fiscal year the budgetary allocation for the Ministry of Gender is the lowest of all ministries, with less than 0.36 percent of the national

budget." (Chasukwa 2016). The legal system is also poorly funded, and some magistrate courts are even non-operational. Lack of support for the legal system as well as lack of awareness for women's rights leads women to seek justice through the informal system. Traditional leaders apply custom in making decisions. Custom, however, is dominated by patriarchy. "Even in the matrilineal system, it is actually the uncle from the woman's side who has most of the decision-making power. Women would be heavily involved in the production of land, but patriarchy within the society would still dictate that a man is a decisionmaker" (VAWG Representative 2020). In an interview with a representative from the VAWG Prevention and Response Program, a professional noted that the largest barrier to successful legal reform is implementation. She indicated that Malawi has been highly effective at enacting legislation to promote the status of women, but that it is rarely accompanied by specific policies and enforcement mechanisms.

Bangladesh suffers from a similar lack of accountability and enforcement mechanisms. The Domestic Violence Prevention and Protection Act especially suffers from vague legal definitions for domestic violence that make it difficult to enforce. Additionally, Huda et al. (2016) questioned nine police stations in Bogra, Dinajpur, Chittagong, and Dhaka as to whether the register and forms required under the DVPP Rules of 2013 were available, the answer was negative in seven out of the nine police stations. An earlier study conducted by the Bangladesh National Women's Lawyers Association had shown insensitivity and general lack of knowledge on the part of the police regarding the DVPP Act of 2010 (Huda et al. 2016). Many members of the police force are uninformed of the law and its provisions. Some asserted to be more interested in encouraging survivors to file complaints under stricter laws such as the Women and Children Repression Prevention Act of 2000 since those laws provide them with more opportunities of making money through bribes (Huda et al. 2016). Furthermore, even when

survivors of domestic violence manage to access the law, they often experience additional trauma within their legal recourse. Incidents of harassment from the Bangladeshi police force are common, along with having to pay bribes to register cases. Transparency International Bangladesh's national household survey of 2015 identified Bangladeshi law enforcement agencies as the second-most corrupt among various service sectors within Bangladesh (Transparency International Bangladesh 2016).

Also, because there is no formal law against sexual harassment in the workplace, Bangladeshi women are left completely vulnerable. The Supreme Court of Bangladesh has only legitimized a set of guidelines that are expected to be adhered to in the workplace and within educational institutions. However, because these guidelines are not a formal law, they are not widely followed, and Bangladeshi women are suffering from it. Lastly, because legal access for women is extremely difficult, NGOs have had to step up and assist survivors in their legal battles, further indicating that the Bangladeshi government simply is not handling cases concerning Bangladeshi women effectively.

Despite having many of the barriers identified in our theoretical framework and sharing many background characteristic similarities with our two negative cases, we posit that women in Nepal experienced meaningful change in the “percent women who decide themselves how their earnings are used” DHS indicator because there were stronger accountability and enforcement mechanisms in place and a highly organized effort on the part of women's organizations, leading to greater confidence on the part of women that their rights would be safeguarded by the legal system if threatened. Fieldwork would be needed to more firmly corroborate that thesis, but this is the conclusion we reached on the basis of our case study.

3. *We postulate that we may be seeing a sequencing dynamic concerning level of success with regard to legal reform for women.*

We believe that countries that ameliorate the background social context for women are better positioned to create positive change for women, but such amelioration may itself be the product of prior enforcement of women's existing rights. Countries like Nepal can see important changes for women, but unless those changes eventually create real alterations in the baseline social context for women, further success may be unlikely. In order to promote the change of unfavorable background characteristics, the Nepal government should continue legislating against harmful and discriminatory practices towards women. While perpetrators of abuse and violence can be subjected to fines or imprisonment, cases of abuse are rarely taken to court. Currently, many cases for abuse are settled via mediation; however, a recent CEDAW Shadow Report (National Alliance of Women Human Rights Defenders 2018) recommended moving immediately into prosecution for these cases.

We feel the Nepali government should also prioritize the training of police officers to help women report and ensure the protection of women. Increased penalties and prosecutions, improved training programs of law enforcement entities, and expanded awareness campaigns will ultimately make women feel comfortable to come forward to report. Unfortunately, other factors contribute to women's fear of reporting, such as her subjugated role within the family and the belief that domestic violence or sexual harassment are private matters. Therefore, awareness campaigns should target all members of communities in order to educate families about the benefits of women's economic empowerment. Nepal should also enact legislation to officially incorporate into existing labor law the informal sector. Informal employment in Nepal is defined as, "the total number of informal jobs, whether carried out in formal sector enterprises,

informal sector enterprises, or households, or as the total number of persons engaged in informal jobs during a given reference period,” (Central Bureau of Statistics 2018, 28). This survey also indicates that 90.5% of females in Nepal, compared to 81.1% males, are informal employment workers (Central Bureau of Statistics 2018, 29).

Recommendations

Based on the conclusions we have drawn, we propose the following recommendations to policymakers in the State Department:

- 1. Perform an analysis to determine which of our outlined actors and scope conditions are absent and present within a country.*

This analysis has brought to the fore two particular components that suggest how close to successful legal reform a nation is. These two components are the background characteristics relating to women, and an assessment of the accountability and enforcement mechanisms and institutions of the society.

With regard to background contextual variables of most interest, our case study of Malawi suggests that physical security for women--particularly with regard to the prevalence of domestic violence, murder, and rape--brideprice/dowry, and access to property rights for women were the three most determinative aspects of the background context distinguishing the Maldives from Bangladesh and Malawi. Research on these factors should include extensive data on the practices involving these factors.

Second, an in-depth look at accountability and enforcement mechanisms will be a critical first step as well. The accountability and enforcement mechanisms that exist in Nepal, such as the women police cells and commissions to investigate and eradicate corruption among officials,

distinguish Nepal from Bangladesh and Malawi. Research should be conducted on the presence of accountability and enforcement mechanisms during all stages of legal reform implementation.

Additionally, while all four countries had active civil society organizations, and therefore this is obviously a necessary but not sufficient condition for effective legal change, if there were no active civil society sector, that would be important to know, as it would probably preclude such change. Specifically, the research would take into account the number of NGOs and civil society organizations, the level of cooperation between these organizations, their relationship with the government, and how they are perceived by the public. As demonstrated by the Nepal case study, actors like NGOs and civil society have the potential to enhance the accountability and enforcement mechanisms relating to women's economic empowerment reforms with a society.

Following this analysis, the information could then be used to determine where a country is in its "susceptibility" to effective reforms relating to economic empowerment for women. As the background characteristics for women improve, the efforts of NGOs/CSOs may also become more effective, for example. As enforcement mechanisms improve, background context may begin to improve as well. As the civil society sector of the country becomes stronger, barriers relating to accountability and enforcement may be overcome. In short, while there is a definite sequencing, it is also true that improvement in one critical dimension identified by our theoretical framework may well lead to improvement in other such dimensions.

2. *Support initiatives that target improving background context for women.*

No matter what factors are present in a nation as identified by our theoretical framework, improving the background context within which women must operate is always a useful

undertaking, though it will be far more difficult in countries where this background is worse. Background context is outlined in our ordinal scale by the Attitudes, Practices and Education for Women, Parallel Legal Systems, and Women's Mobility. The individual factors that we found to have contributed the most to effective legal reform included the physical security of women, brideprice/dowry, and women's property rights - all areas where the Maldives scored significantly better than the other countries. Investing in women's mobility is also a smart decision. It is almost impossible to succeed as an economic actor where mobility is strongly curtailed.

A key difference that was noted by our interviews with in-country experts was women's level of educational attainment and literacy. There is gender parity in primary and secondary education in all countries studied, but a severe imbalance at the tertiary level for both of our negative cases, Bangladesh and Malawi. Further, literacy rates are equal for men and women in the Maldives, but substantially lower for women in Bangladesh, Malawi, and Nepal. This would suggest that two important elements in the background context between positive and negative cases are educational attainment and literacy rates for women.

We also note that one important initiative to improve background context for women would be programs that support women's tertiary education and literacy. Given over 60% of the population of all countries studied live in rural areas, it seems physical access to attend school or literacy programs offered is an issue. We suggest more mobile educational resources and programs might experience greater success in reaching women who, paired with barriers to their mobility, are unlikely to be able to travel into the city to attend classes. Our studies also reveal women in the Maldives, Bangladesh, Nepal, and Malawi experience time poverty and significant care burdens. Any programs that aim to increase women's tertiary education - that is, any

education beyond high school - should also offer childcare services, scholarships for materials, and flexible instructional hours.

Addressing parallel legal systems is also a critical element of any drive to improve women's situation. Family law in many nations is jealously guarded by forces that are not friendly to women. Initiatives to compel family law cases to be adjudicated in regular courts of law may be profoundly emancipatory for women. Parallel legal systems are present in each of the case studies. The local and informal courts in which many disputes are resolved are inherently biased to disadvantage women. Despite the disadvantages they face, many women are only able to settle disputes outside of the formal legal structure because they lack the necessary funds, knowledge, and access. Women's rights cannot be protected if they are unable to access and navigate a country's formal legal system.

3. Provide funding and support to governments to improve accountability and enforcement mechanisms.

Efforts to improve the background social context for women are likely to take a considerable amount of time. In the meantime, programming to improve accountability and enforcement of existing law pertaining to women may actually hasten improvements in background social context, or at least give women alternatives to the parallel legal systems, which are often the bane of their lives.

Examples of the kind of accountability and enforcement mechanisms that resulted in a good score for Nepal are women's cells staffed with female police officers in every district and an inter-agency task force to handle sexual harassment and exploitation in the workplace. Both of these mechanisms also play a role in improving background context for women by providing

safer ways for women to report abuse, domestic violence, sexual assault, and sexual harassment, as well as receive support. If women do not feel it is safe to report abuse at home or in the workplace, holding abusers accountable and enforcing policies that are not being followed is impossible.

We believe the best way to combat this is by supporting governments making a demonstrated effort to integrate women into their police forces. We also recommend providing funding for training, staffing, and establishment of centers for women, children, and senior citizens to safely report abuse. This funding and support should be conditional, based on regular monitoring and evaluation of sexual assault and harassment within and by police officers. Measures to decrease corruption in law enforcement, which according to our research has also been shown to impede accountability and enforcement, should also be pursued.

Additionally, a focus should be placed on supporting multi-sector collaborations. As seen in the Nepal case, civil society organizations can be critical actors in holding governments accountable and partnering in raising awareness of legal reforms and enforcing them. Although our research indicates that the work of civil society organizations on their own is not sufficient to facilitate successful legal reforms, we assert that their partnership with the government can enhance accountability and enforcement.

4. Provide funding and support to governments to collect data on the status of women.

As noted in our methodology section, the selection of countries for our case studies was severely limited by the data available. We were unable to complete robust quantitative analysis due to lack of consistent metrics across countries. While an examination of all the causes of this lack of data is beyond the scope of this paper, policymakers should feel that lack keenly for it

hampers the very research that would be most helpful in making budgeting decisions. We assume that the lack of consistent data across countries is related to inadequate governmental funding as well as a lack of political will from governments to collect data on women. Funding or other forms of encouragement from the State Department may provide incentives for governments to participate in data collection programs such as the DHS.

Through our research, we also found large data holes that the State Department may consider filling. In particular, we could not find metrics for non-OECD countries that showed the gender pay gap over time. After developing our theoretical framework, we determined that the gender pay gap would be a critical outcome indicator to determine the success or failure of a legal reform for enhancing women's economic empowerment. We were unable to use this, however, because this data is simply not collected or reported. Additionally, we were forced to eliminate many countries from our dataset because they only had one data point for a particular variable. Funding for data collection should be focused on efforts that enhance countries' ability to collect multiple pieces of data over time. Supporting these data collection efforts will allow for richer empirical analysis in the future.

In conclusion, successful legal reform for women is not impossible. However, it is contingent on either an amelioration of the background social context for women or the creation of a strong set of accountability and enforcement mechanisms in the absence of such amelioration. A vibrant civil society sector is also necessary, though not sufficient, for this purpose, as well. Policymakers should carefully assess where on the path to these desiderata a country lies, and then tailor a programmatic response most likely to result in progress. Our case studies of the Maldives, Nepal, Malawi, and Bangladesh provide insight into the details of this

dynamic, but more research would be invaluable. Overcoming data gaps will be essential to increasing the number of cases that can be examined for insight into this important topic.

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