



# EMPOWERING WOMEN MAKING LEGAL RIGHTS WORK

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DECFP and PRMGE

# Challenges businesswomen face in developing countries

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- Women and men identify the same issues that pose particular challenges for women in business:
  - ▣ Access to finance (collateral)
  - ▣ Police/protection of property rights
  - ▣ Corruption

All have roots in the legal system – what women's formal rights are, how they are enforced and how the broader regulatory system works.

# WHERE ARE DISCRIMINATORY LAWS FOUND?

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- **BUSINESS AND COMMERCIAL LAWS ARE GENERALLY GENDER NEUTRAL**
  
- **DISCRIMINATORY LAWS ARE FOUND IN LAWS USUALLY SHAPING **THE PRIVATE SPACE****
  - Family
  - Inheritance
  - Land
  - Labour

# Autorisation Navitale

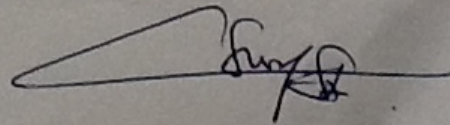
Je soussigné, [REDACTED]

[REDACTED], autorisée par la présente, mon  
épouse, Madame [REDACTED] Navita  
à obtenir les documents nécessaires en  
vue de l'exercice des activités commerciales

En foi de quoi, la présente lui  
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Fait à Kinshasa le 20/11/2020

[REDACTED]  
SHAMPA KAPUKU Dina



# EMPOWERING WOMEN: LEGAL RIGHTS AND ECONOMIC OPPORTUNITIES IN AFRICA

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- **MAPPING OF LEGAL CONSTRAINTS** IMPACTING WOMEN ACROSS ALL 47 COUNTRIES IN SUB-SAHARAN AFRICA
- **IMPACT ACCESS AND CONTROL OF ASSETS**
- **LINK LEGAL CONSTRAINTS TO ECONOMIC OUTCOMES** - FEMALE LABOR FORCE PARTICIPATION AND TYPES OF FEMALE ENTREPRENEURIAL ACTIVITY

# WOMEN-LEED AFRICA DATABASE OF LAWS

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## ❑ **FAMILY LAWS**

### ❑ Constraints can trigger on marriage

#### ▪ **Head of Household**

➤ Decide where to live

➤ Permission to work outside of the household, open a bank account

#### ▪ **Marital Regimes**

➤ Division of marital property during and on divorce or death of husband

➤ Control of marital assets

# WOMEN-LEED AFRICA DATABASE OF LAWS

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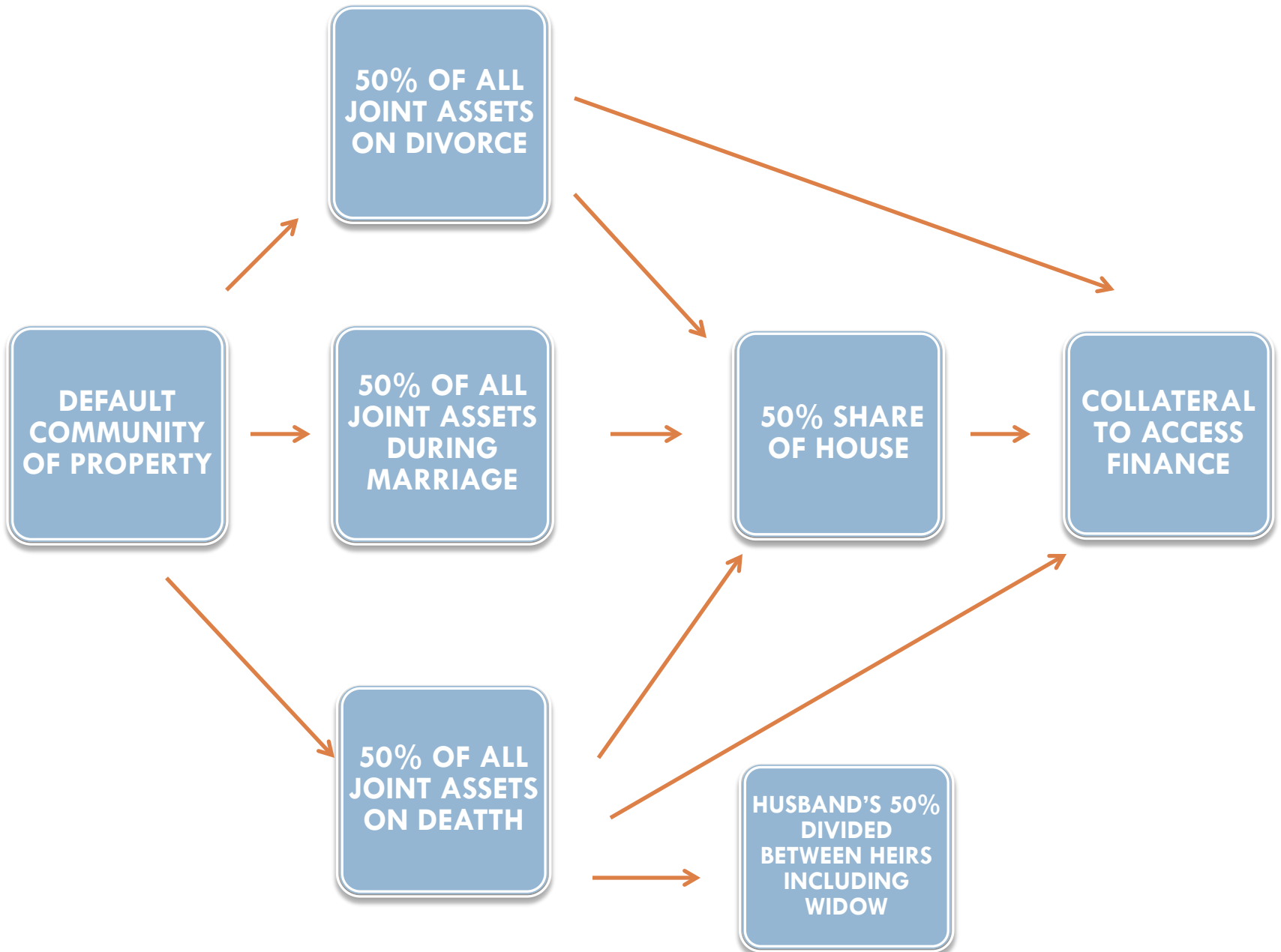
- ❑ **INHERITANCE LAWS** (NO WILL IS WRITTEN- INTESTACY)
  - Division of estate on death of husband – widow left with nothing or next to nothing
  
- ❑ **LAND LAWS**
  - Joint titling - is it mandatory?
  
- ❑ **LABOR LAWS**
  - Restrictions on sectors and hours that women work
  - Equal pay for Equal Work
  - Maternity Benefits

# MARITAL REGIMES ARE IMPORTANT

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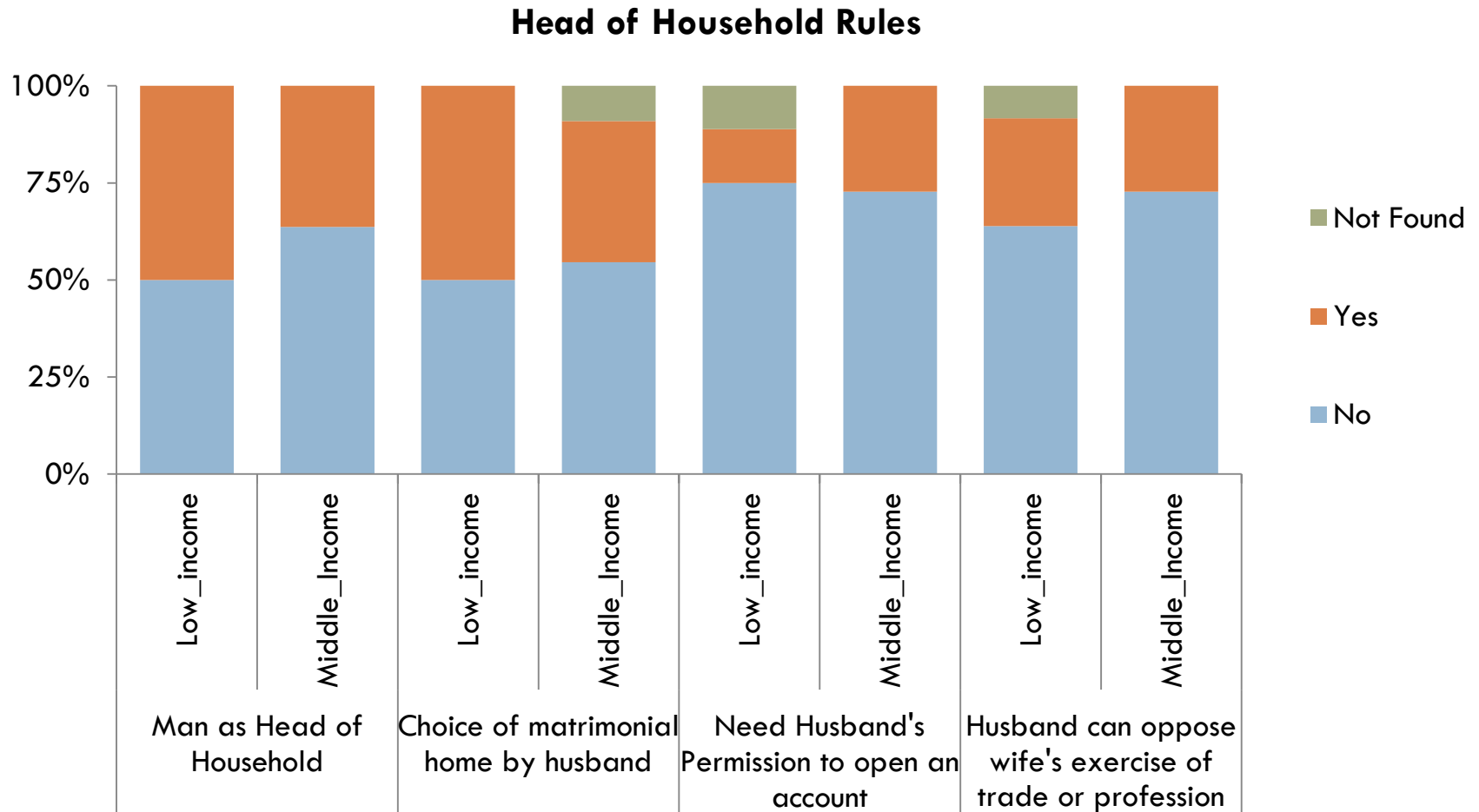
- **Partial Community of Property Regime**
  - All property and income earned by the spouses after the date of marriage is **joint marital property**. (Inheritance and/or specific gifts are exempted)
  - Benefits women who have no independent assets or income of their own and contribute to the household by e.g. looking after children
  - Can only apply to monogamous marriages





# Gender gaps in legal rights do not necessarily close with income (SSA)

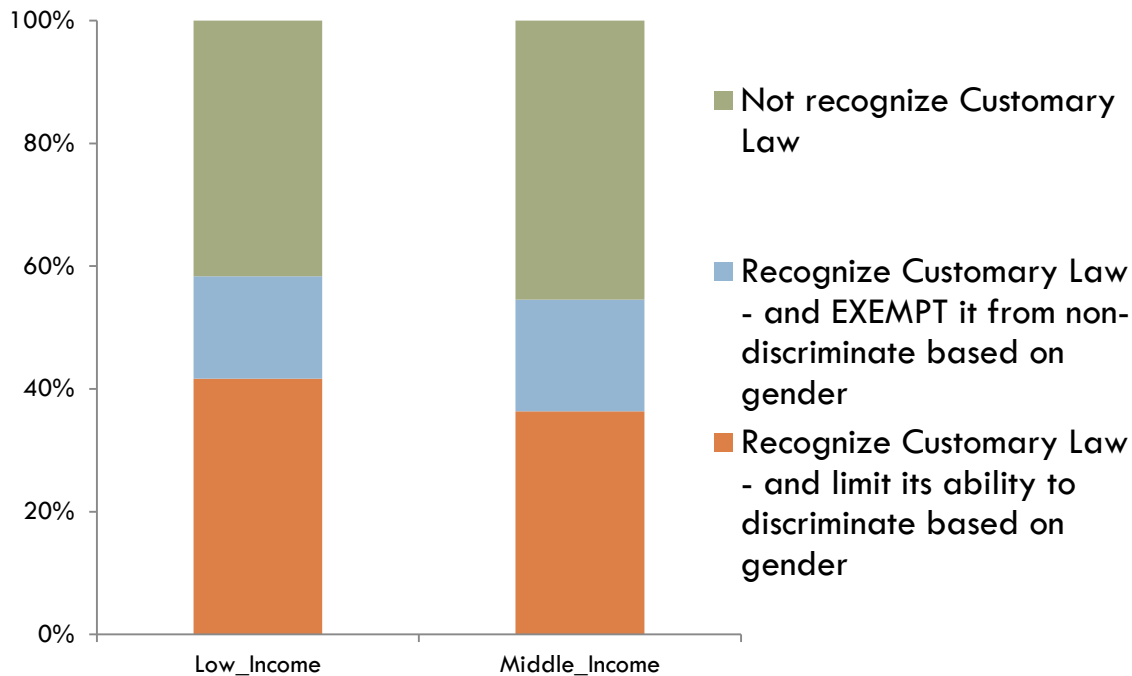
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# Gender gaps in legal rights do not necessarily close with income (SSA) con't

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## Constitutional recognition of customary law



Among the countries that recognize customary law as prevailing in areas of marriage, property and inheritance – and exempt customary law from non-discrimination provisions are:

- Botswana
- Lesotho
- The Gambia
- Ghana
- Mauritius
- Zambia
- Zimbabwe

*Kenya came off the list with its new constitution.*

# PLURAL LEGAL SYSTEMS

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- All Constitutions have non-discrimination clauses
- Approximately 50% of these constitutions formally recognize customary law and 33% recognize religious law
- A third of these constitutions specifically exempt customary law from principles of non-discrimination in family and inheritance laws
  - Over 80% of land in Zambia is customary law that falls outside scope of statutory inheritance laws.
  - Customary marriages generally do not benefit from beneficial statutory laws

# CASE LAW – POSITIVE AND NEGATIVE

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- APHANE DOO (2010) Swaziland
  - Married women married in community of property can register joint property in their name.
  - Discriminatory statute was unconstitutional
  
- MOJEKWU (2004) Nigeria
  - Customary law favoring male heirs was upheld
  - Customary law could not be rejected just because it did not recognise a role for women.

# How Does Reform Happen?

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- Collective campaigns by women's networks
  - e.g. Kenya, Botswana, Ethiopia
  - Shadow reports to CEDAW committee
- Impact Litigation
  - e.g. *Unity Dow (1995)* and *Mmusi (2012)* in Botswana
- Pressure by international donor community
- Membership of regional treaties

# Implementation of laws is essential

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- Women and men have know their rights
  - e.g. awareness building through media outlets, community radio and theatre
- Access to justice system
  - e.g. provision of legal services, reduced legal fees
- Participation in legal system
- Gender-sensitisation of decision-makers
- Dissemination of laws and cases

# 5 TO DO's

- ☑ REGISTER YOUR MARRIAGE
- ☑ CHOICE OF MARITAL PROPERTY REGIME
- ☑ REGISTER PROPERTY IN YOUR NAME OR JOINTLY WITH SPOUSE
- ☑ REGISTER BUSINESS IN YOUR OWN NAME
- ☑ WRITE A WILL
  - ☑ AND HAVE YOUR HUSBAND WRITE A WILL TOO



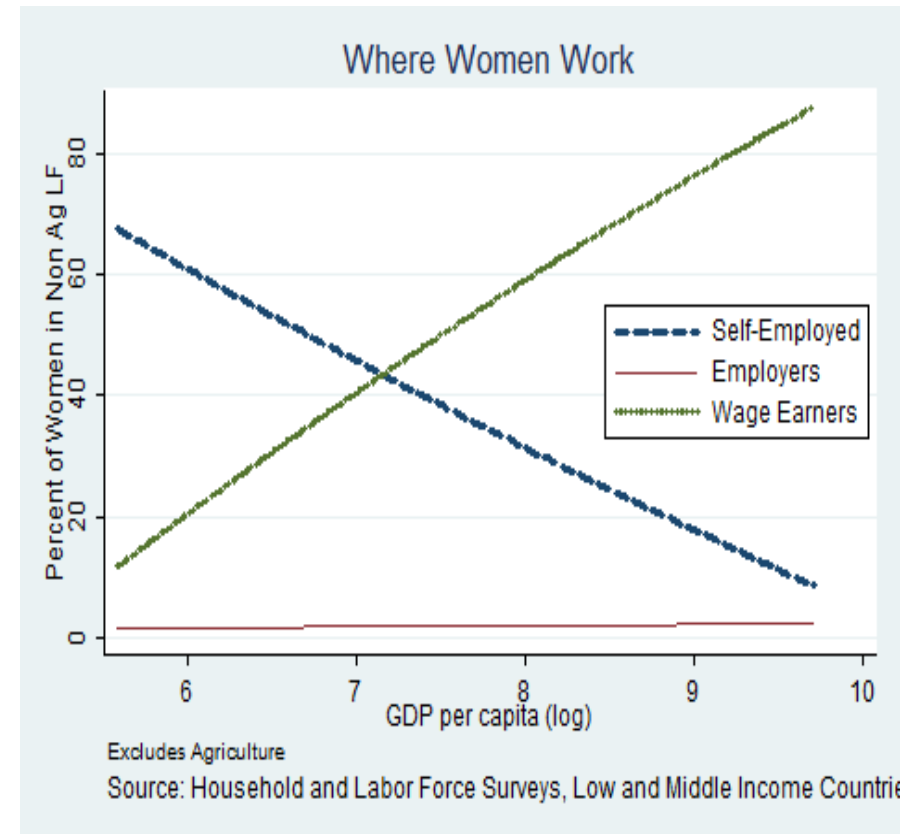
# How do these laws impact women's economic empowerment?

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- Do patterns of women's entrepreneurship differ in countries with more or less legal rights for women?
- Do reforms that close gender gaps in legal rights lead to improved economic outcomes over time in the same country?
- How does enforcement vary across types of enterprises and gender?

# Where do women work?

## Where women work



Patterns emerge by income, across regions:

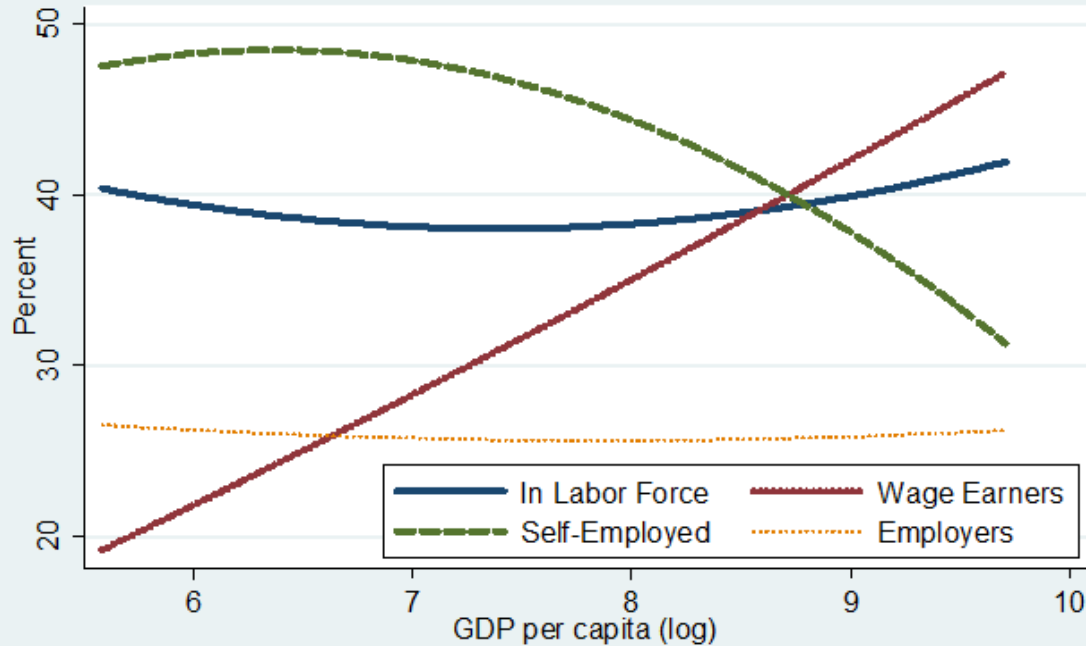
- Labor force participation is high in lower and higher income countries ('U' shaped)
- Agriculture and self-employment are highest in lower income countries
- Wage employment rises with income level
- Little variation with share of employers by income (although average firm size rises)

# Percent of women in different types of work

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Women's share in non-agricultural employment averages 38 percent – across income levels

Within Employment Categories, the Percent that are Women



- At low levels of income, women are disproportionately in self-employment.
- Greater relative participation of women in wage work as income rises
- Women's share of employers remains constant
  - But 10 percentage points lower than women's share in the non-agric. labor force

Excluding agriculture

Source: National Household and Labor Force Surveys

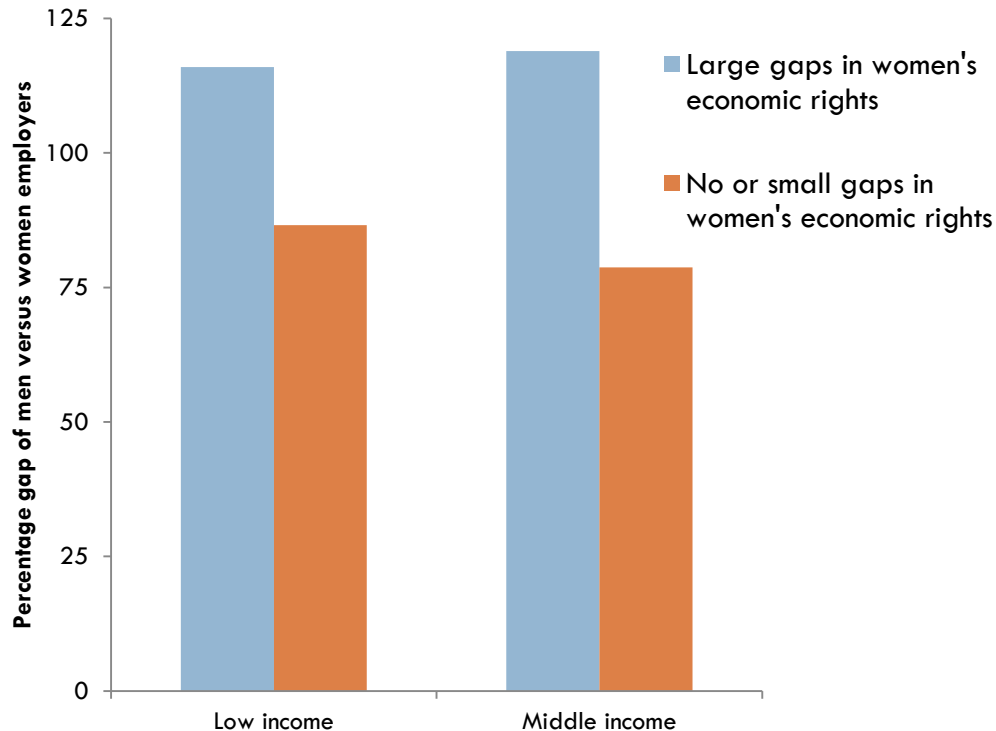
Source: Hallward-Driemeier et al. (2011)

**WEE is not so much about women's participation per se – but to help more women move into higher value added activities**

# Stronger economic rights affect share of women who expand their businesses and become employers

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- The gap between the share of men and share of women who are employers is 30 percent lower when there are fewer gender gaps in economic rights (percent)
- Patterns are similar regardless of the level of income



## Legal reforms matter:

Ethiopia changed its family law, giving women greater say over assets with a marriage and removing the ability to deny working outside the home. Exploiting variations in the reform across locations and time shows it raised the share of women working outside the home and in higher value added activities.

Source: Hallward-Driemeier and Gajigo, 2010.

# Enforcement: leveling the playing field?

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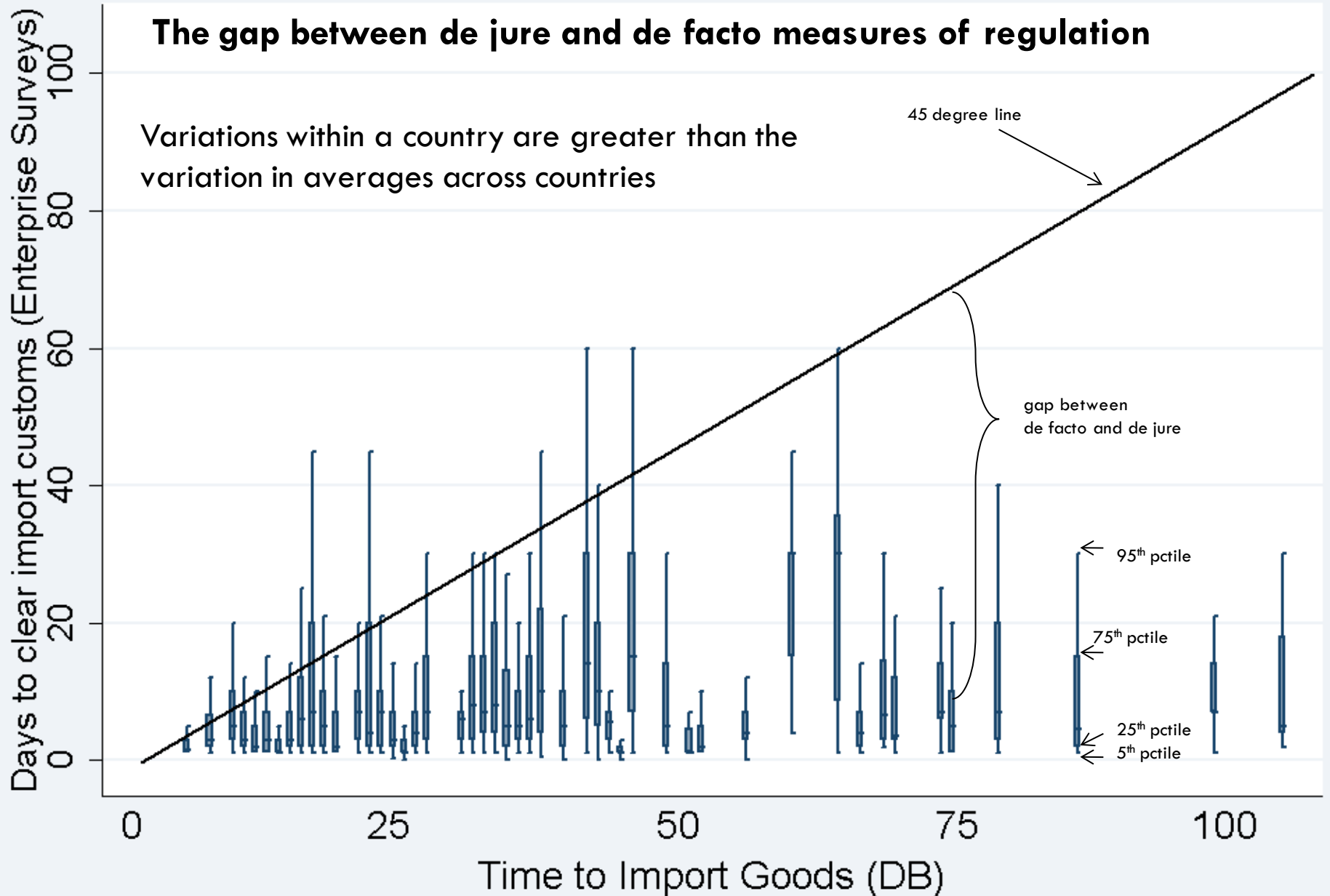
- Most work has focused on the LEVEL of business regulatory environment
  - ▣ Number of procedures, time or costs to comply with regulations
    - Doing Business indicators

Most conditions vary more by firm size and formality than gender

- But VARIATION is also costly
  - ▣ Introduces uncertainty that is associated with lower investment and hiring
  - ▣ Opens the door to more corruption
    - Detrimental effects are larger on smaller firms
    - Women's enterprises are less likely to be 'favored firms'

There is a gender entrepreneurship dimension to the governance agenda

# The gap between de jure and de facto measures of regulation



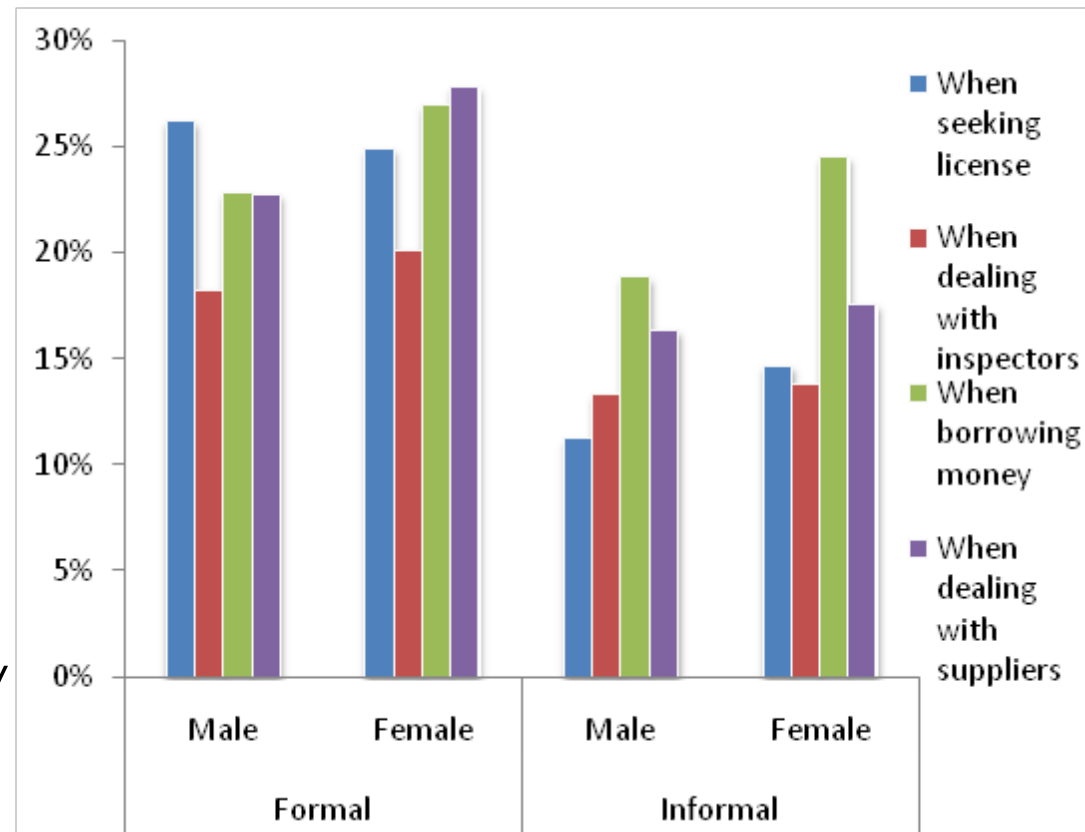
excludes outside values

Women are more likely to be in 'less connected' firms and in smaller firms that face greater delays

# Additional gender dimension to 'corruption'

- What is asked for is not always money; 'sextortion'
  - Not a topic covered in most PSD work.
  - However it must be handled sensitively; there could be unintended consequences if:
    - Strengthens husbands' resistance to wives working outside the home
    - Raises concerns about how successful women succeed

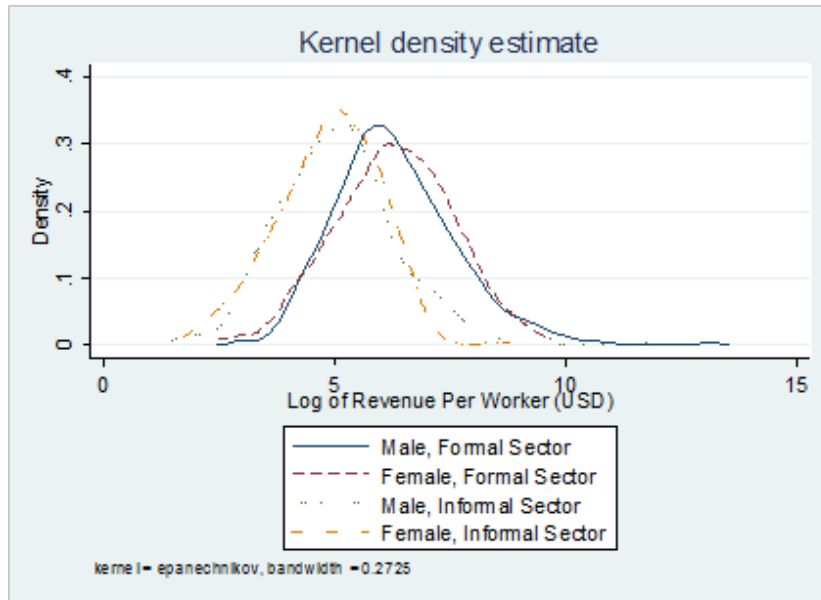
Shares that have 'frequently' heard of sexual favors being raised in certain transactions



# Where you work matters: Differences are greater across sectors than by gender within a sector

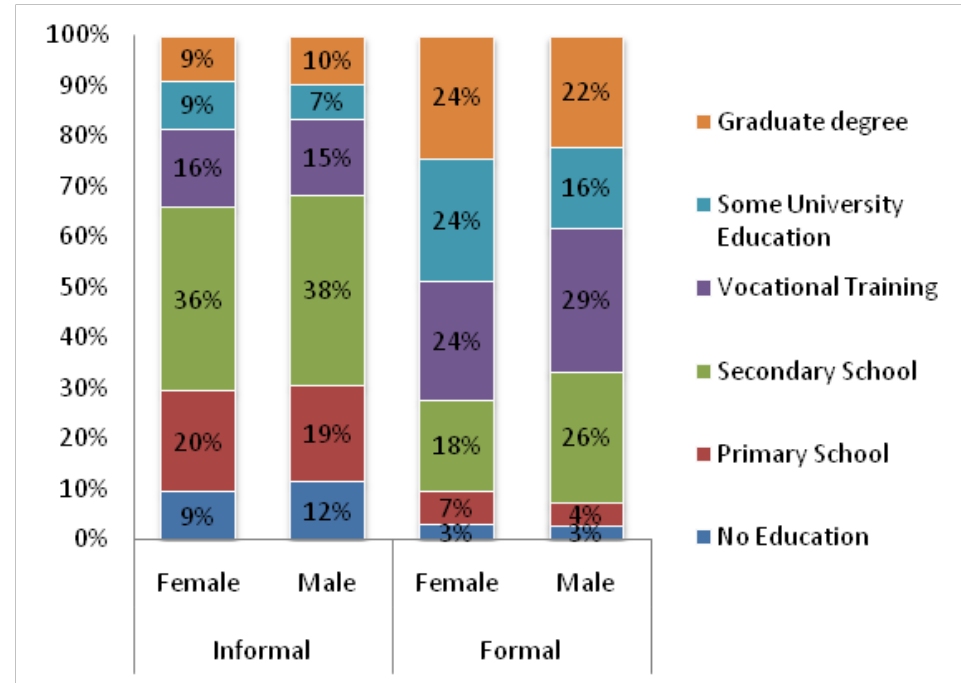
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## Labor Productivity



Source: Hallward-Driemeier and Gajigo (2010)

## Education of the entrepreneur



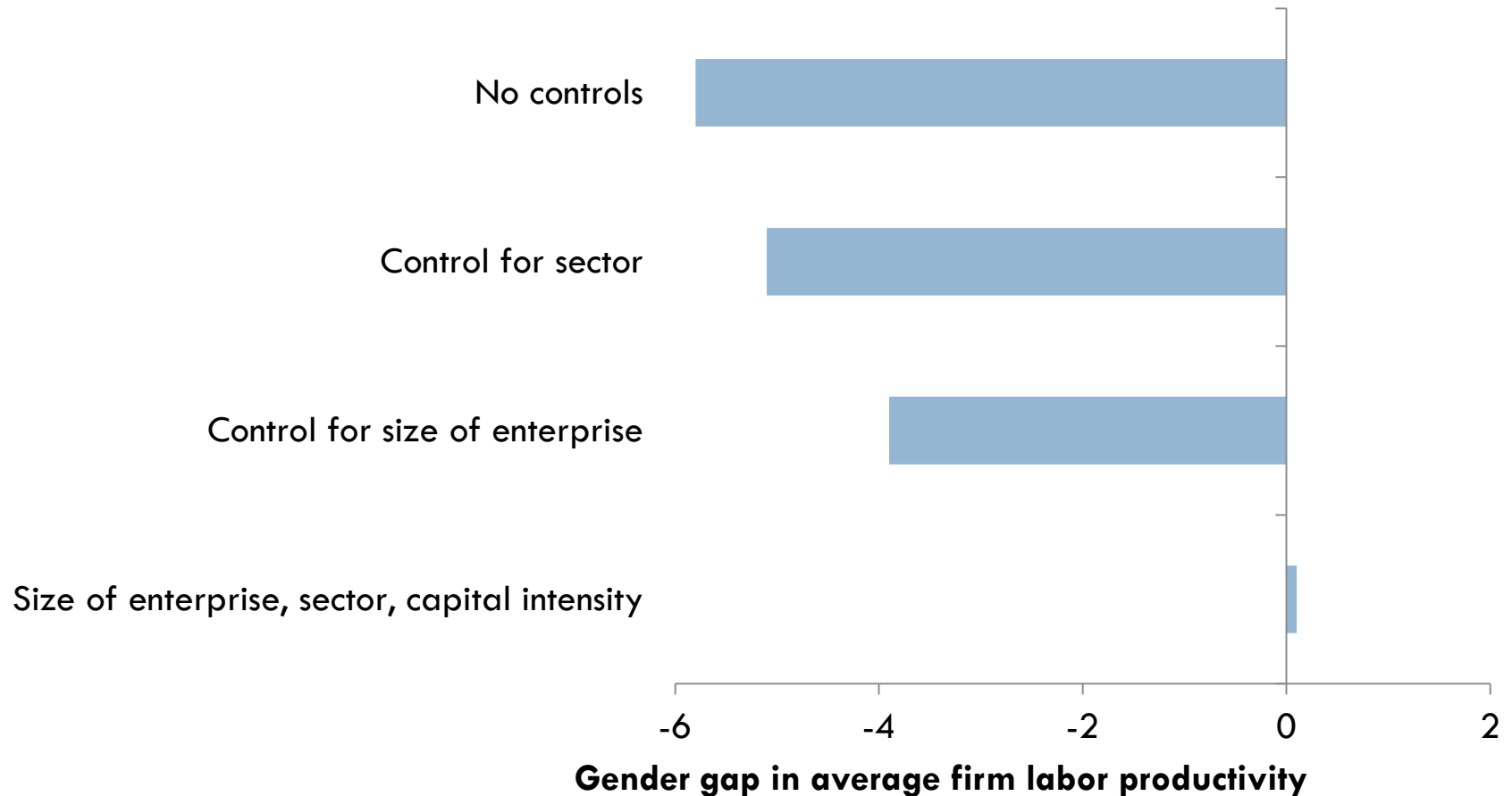
Source: Hallward-Driemeier et al. (2011)

**So it is critical to focus on factors affecting women's choice of activity /formality / size of enterprise in shaping their opportunities**



# Controlling for enterprise characteristics removes the gender gap in productivity

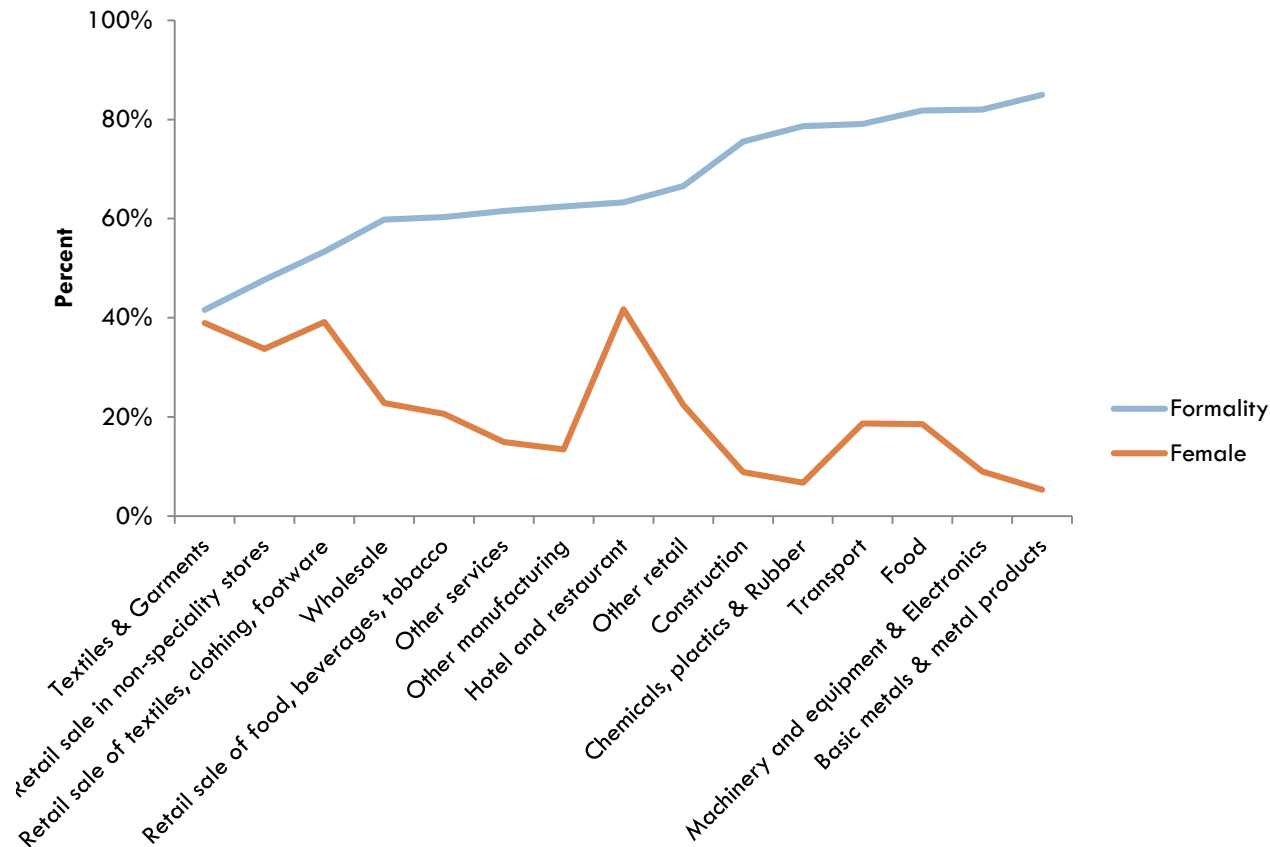
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# But gender sorting across sectors and sizes remains pervasive

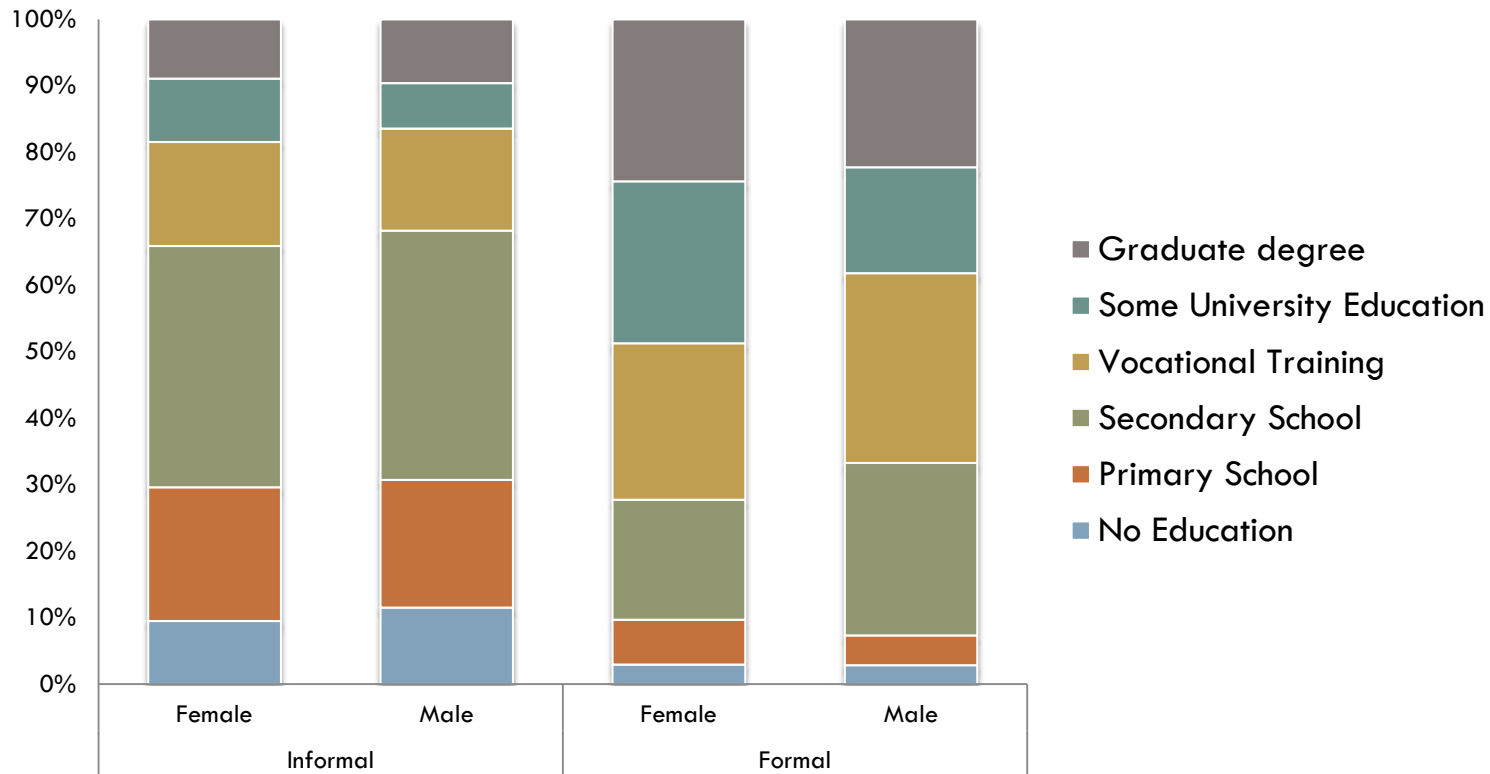
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Women are more likely to run informal or smaller firms.



# Education varies more by formal/informal sector than by gender

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As women's educational attainment still remains below men's in much of SSA, this helps explain women's sorting into more informal and smaller firms.

# Enterprising Women: Expanding Economic Opportunities

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- Agenda – beyond participation, support women to pursue higher value added activities
  - There are gender gaps in performance
    - But they are largely due to sorting by sector and size of enterprise
    - Within sectors and size, gender is less important
- Factors affecting entry and choice of enterprise are key
  - Look where gender can matter directly e.g. restrictions in family law
  - Do women benefit from training and access to finance as much as men?
  - Corruption and uncertainty are part of the agenda too
    - Women are less likely to be running ‘favored firms’
- “Women” are not homogeneous group
  - Marital status
  - Age, education, intra-household dynamics
  - Ownership is not equivalent to having decision making authority

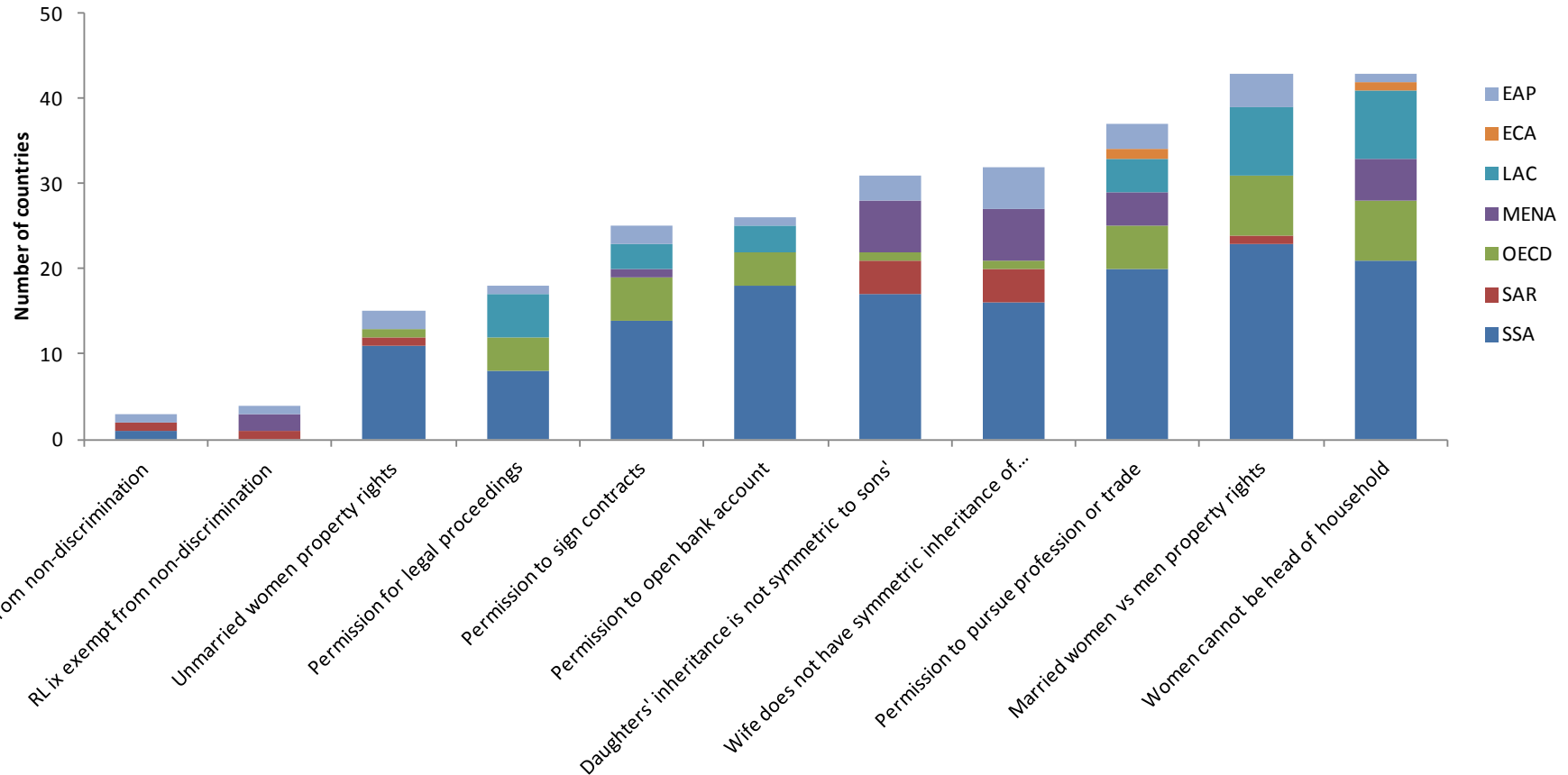
# NEW WORLD BANK DFID STUDY

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- Working Together With Women Business And The Law Program
- The World Bank DFID Time Series Data Set Tracks Legal Reforms In 100 Countries including SSA Over The Past 50 Years
- The number of legal constraints tracked are decreasing.
- Data showing patterns;
- CEDAW
- Political participation leads to reform of bad laws

# Legal gender gaps in 100 countries: 1960

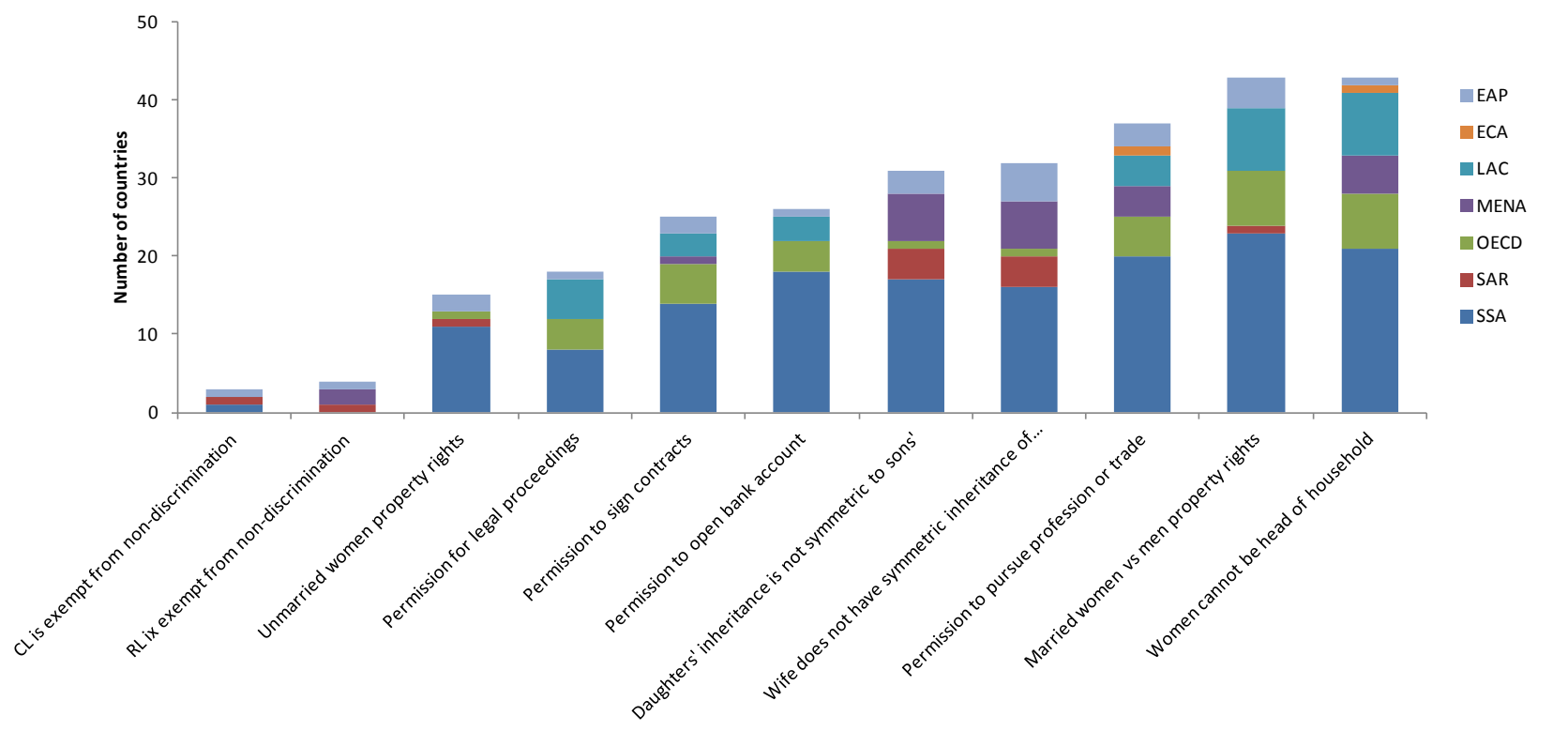
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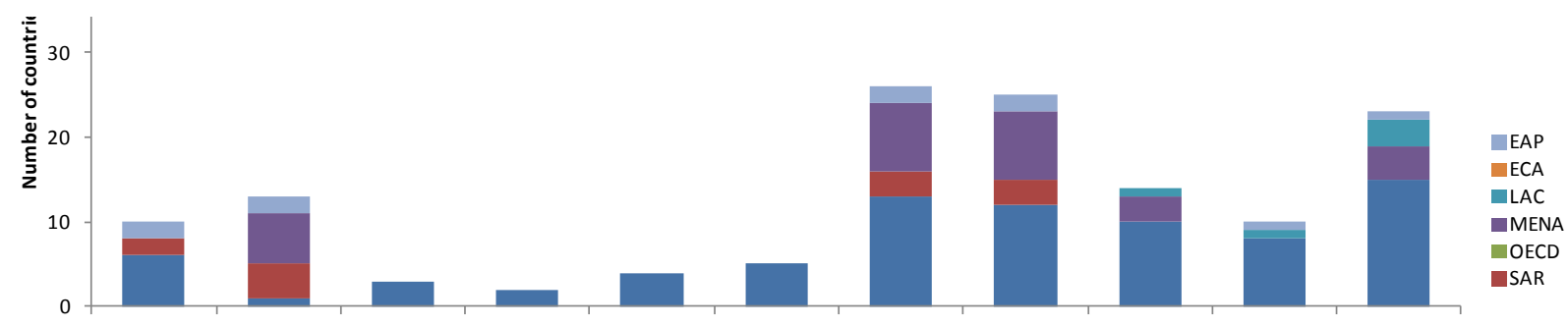


# Tracking reforms over time

1960

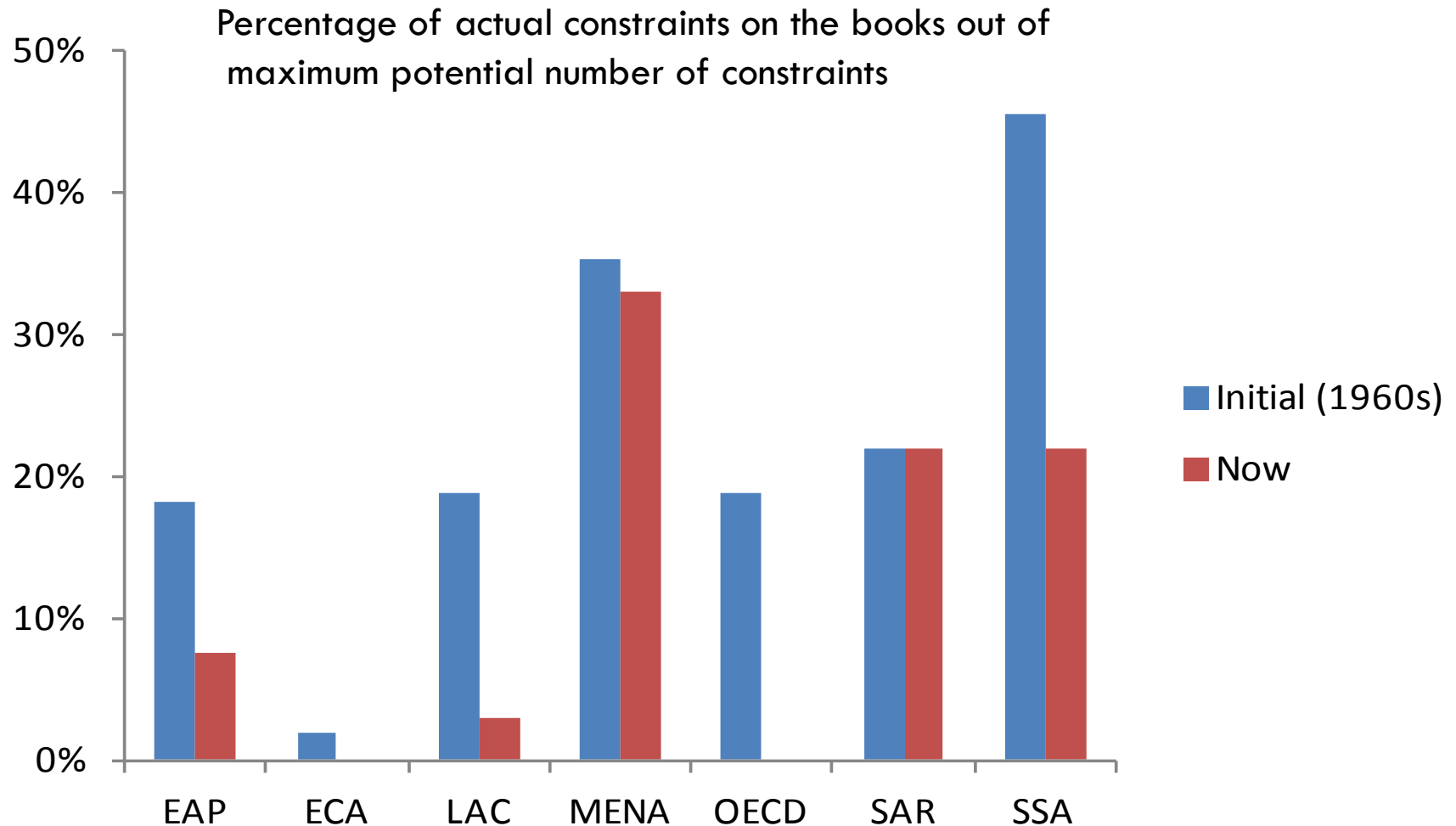


2010



# Strong geographic patterns on where women's rights have been strengthened...

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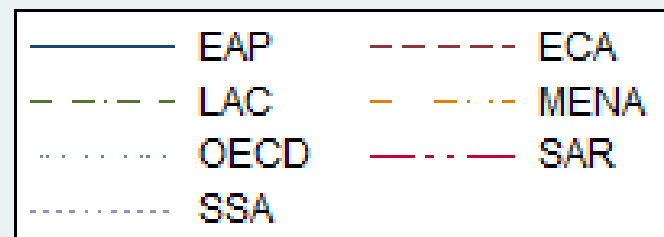
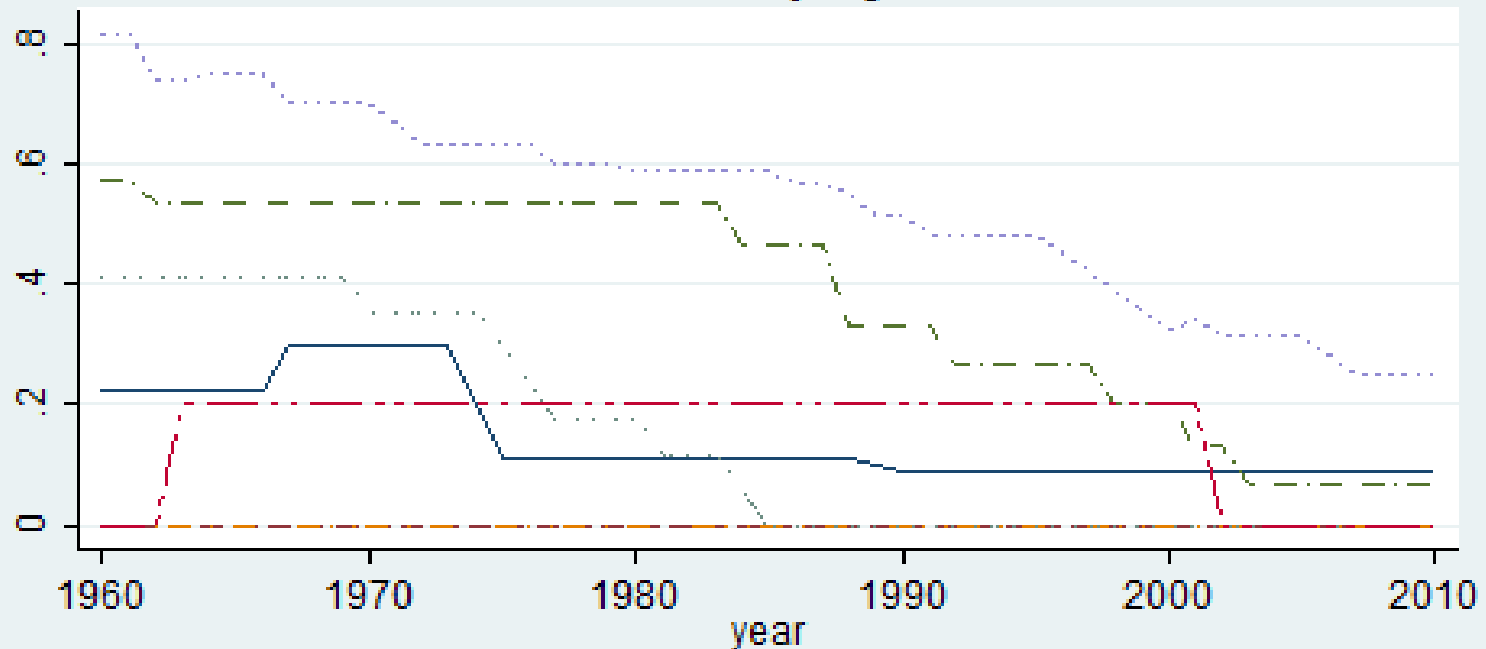




# Progress across regions and time

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Equal property rights immoveables - married  
Timeline by region



# How do reforms impact outcomes?

## Preliminary findings

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- Education: smaller gender gaps in primary and secondary education with:
  - Permission is not needed to work outside the home
  - Women recognized as heads of households
  - Equal inheritance rights for daughters and sons
  - Somewhat weaker effect with symmetric inheritance rights for wives and husbands
  
- Economic opportunities: higher share of wage workers and employers that are women:
  - Permission is not needed to work outside the home
  - Permission is not needed to enter contracts or initiate legal proceedings (in agriculture too)
  - Equal property rights within marriage, especially for employers outside of agriculture

# What triggers reform?

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- Income growth is a weak predictor
  - ▣ Reinforces point that deliberate actions need to be taken
  - ▣ Natural resource wealth can contribute to weak effect
- Ratification of CEDAW
- Increased female political participation at a national level