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FILLING IN THE GAPS:

Measuring Gender Equality and Empowerment of Women and Girls (SDG5) in the Law

Across the world, women and girls face grave threats to their basic rights in public and private spheres (UN Population Fund, 2017). These challenges can include the right to be protected against gender based violence and discrimination, the right to control their reproduction, the right to own land or inherit property, the right to an education, the right to vote, and even the right to move freely in society. Many of these rights are recognized under international human rights laws, but in order to be effective, legal protections and sanctions are needed at the country level. Sustainable Development Goal (SDG) 5 calls upon all nations to achieve gender equality and empower all women and girls by 2030, but such achievement in the area of legal rights requires identification and monitoring of these at the national level. In this brief paper, we offer consideration of some key measures to monitor legal rights of women and girls for SDG5.

Databases on Equal Rights Under Law

Formal recognition of equal rights in domestic law can be assessed using information from the World Policy Analysis Center and the World Bank. The World Policy Analysis Center uses interactive maps and tables to display gender relevant data tracking global constitutional, work-family, education, marriage, workplace discrimination, and sexual harassment rights. Legal changes in rights over time, such as the right to an education regardless of gender, are also available (World Policy Analysis Center, 2018). Since 2009, the World Bank has similarly supported the Women, Business and the Law (WBL) database which documents country level laws that promote women's economic participation and gender parity in employment (The World Bank, 2018). Updated on a biannual basis, these data show the formal existence of laws in 189 countries – ranging from laws dealing with paid or unpaid maternity and paternal leave to laws dealing with an individual's ability to appeal decisions to statutory courts. Inclusive of family law and contract law, the WBL database can help determine the laws in place for women and girls to access institutions, use property, get a job, have incentives to work, go to court, build credit, and be protected from violence. Protections under the law vary greatly by country. For example, 45 nations have no law protecting women from domestic violence (The World Bank, 2018).

While laws are important, the formal existence of laws does not guarantee rights in practice. To understand whether or not women and girls are able to realize their basic rights, we need to know whether laws are being implemented and enforced. One measure that includes information on both the availability of laws and the enforcement of select laws is the Social Institutions and Gender Index (SIGI; OECD, 2014). Broadly, the SIGI assesses law-based gender equality in terms of family life (the legal minimum age of marriage, inheritance rights, and parental rights over children in marriage and in divorce), physical integrity (whether women are legally protected in instances of domestic violence, rape, or sexual harassment), assets (land ownership, non-land assets, and access to financial services), and civil liberties (personal mobility and political participation). Additionally, for physical integrity items scoring is based not merely on the existence of specific legislation but

on implementation and enforcement issues (e.g., “There is specific legislation in place to address sexual harassment, the law is adequate overall but there are reported problems of implementation”; OECD, 2014).

Data on Efficacy of Protective Laws

Efficacy or implementation of gender equality and empowerment laws can also be explored using individual level data aggregated to the country level. The Demographic Health Survey (DHS; 2017) is collected in over 90 countries, and asks women the age at which they were first married to construct the national girl child marriage rate. This does not provide information about the law itself but does provide information about whether the law is being enforced and, to the extent that state or district rates can be computed, in which states or districts child marriage is most problematic. For instance, if the law states that the legal age of marriage is 18 years but the average age of marriage is 17 years with a minimum of 13 years, then child marriage remains a public health and human rights concern. Likewise, the ratio of male to female student enrollment in a primary, secondary, and tertiary school (World Economic Forum, 2016) provides an indirect way to evaluate progress on equal education laws and the right to education.

Useful insights can also be gained from questions about attitudes towards rights – these have been investigated for a number of years in the World Values Surveys (Inglehart et al., 2014). For example, should women and men have equal rights to paid work when jobs are scarce. Other examples of attitudes towards the rights of women and girls deal with stated justifications for gender-based violence. In the DHS (2017) several questions target justified wife beating; stating different scenarios (going out without telling, neglecting the children, arguing, refusing sex, or burning food) to determine the perceived acceptability for a husband to hit or beat his wife. Attitudes surrounding the rights of men and boys to beat women have also been used to justify violence towards unmarried adolescent girls (Jejeebhoy et al., 2017). Responses collected from such surveys can allow for interesting comparisons on attitudes endorsed by women and men. Shifts in the attitudes at the aggregate can indicate social norm shifts.

Data on Awareness of Legal Protections

Measures that assess awareness of legal rights and protections afforded to women and girls have also been largely focused on reproductive rights and child marriage. Unfortunately, these measures are not straightforward to interpret across countries, given the wide variety of laws in existence. For example, abortion laws range from abortion being illegal in El Salvador, legal to save the life of the mother in Nigeria and, for the southern states of Nigeria, legal when preformed for mental or physical health reasons (Okagbue, 1990) and legal up to 20 weeks under specific circumstances in India (i.e., a mother’s physical or mental health is at risk, fetal malformation, rape, unmarried status, or contraceptive failure; Elul et al., 2004; Ralston & Podrebarac, 2008). These country level variations complicate attempts to construct a single quantitative measure of abortion law knowledge appropriate for global assessments; except general measures (e.g., “is abortion legal under any circumstances?”).

Looking Ahead

Laws can help to advance the lives of women and girls consistent with the vision laid out in the Sustainable Development Goals, and SDG5 in particular (UN Women, 2017). Measures of legal gender equality and empowerment – covering the existence, attitudes, and knowledge of laws – are evolving. Future efforts to improve the measurement of legal gender equality might consider capturing variations in laws within countries and expanding upon legal knowledge measures beyond reproductive rights so that they are inclusive of economic/property rights and protections from gender based violence. More measures need to focus on state or district level laws, both formal and customary, to help identify where program and reform efforts are

needed. Also, contemporary legal knowledge measures should consider assessing one's awareness of the legal sanctions associated with breaking a given law (imprisonment, paid fine, etc.). The creation and application of better legal gender equality and empowerment measures will not only improve our understanding of the legal hurdles facing women and girls today around the world, but can also help us better target and monitor improvements in equal rights and protections under the law to achieve SDG5 by 2030.

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