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APEC Women at Work Brief - The Case for Structural Reform

Submitted by: United States



**APEC Gender and Structural Reform
Workshop: Improving the Environment for
Women in the Workplace
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APEC Women at Work Brief

The Case for Structural Reform

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Where more legal restrictions around gender equality exist, fewer women work



2.7 BILLION

women are legally restricted from having the same choice of jobs as men.

When confronted by employment barriers, women are:

- 1** More likely to live in poverty
- 2** Have less decision-making power in the home
- 3** Less likely to engage in leadership roles in society

If women's role in the labor market were identical to men, global gross domestic product would increase by



Methodology

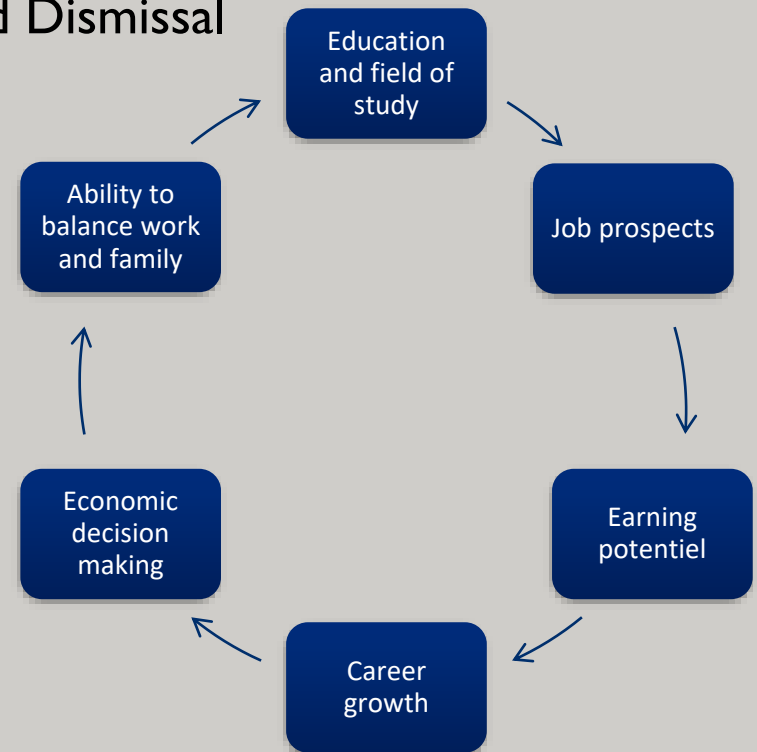
- Focus areas from the APEC Women and the Economy Dashboard
 - 25 indicators focus on structural reform related restrictions on women's employment
- Grounded in Data from The World Bank Group's Women, Business and the Law 2018 & 2019
- Extensive literature review from online academic, peer-reviewed journals, economic laws and policies, international conventions, and studies and reports
 - From donors (USAID), multi-lateral organizations (OECD, ILO) governmental, civil society, and research organizations



Grounded in data from the Women, Business and the Law (2018)

Topics

- Access to Wage Employment
 - Discrimination in Hiring, Promotion, and Dismissal
 - Equal Remuneration for Equal Work
 - Employment Restrictions
 - Occupational Standards
- Retention
 - Enabling Parents to Work
 - Workplace Harassment

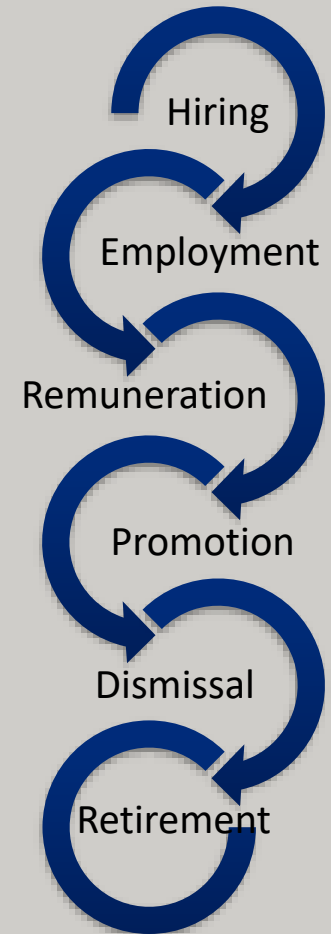


Access to Wage Employment



Discrimination in Hiring, Promotion, & Dismissal

- Gender-based discrimination is widespread across the APEC region
- Discrimination affects women at all stages of their career cycle – from applying for a job to retirement.
- Without protections, employers can exercise gender bias in hiring, promotion & retention decisions, which disproportionately and negatively impact women
- Discrimination perpetrates occupational segregation, promoting a greater concentration of women in low-paying jobs.
- Exclusion of women in the labor market through discriminatory practices leads to a less robust workforce and impedes economic growth.



Discrimination in Hiring

- When employers exercise bias against women, more women are discouraged from applying to those jobs
- Can also manifest through questions about a potential employee's family status.
- **Solution:** Mandating hiring practices that eliminate opportunity for bias—including using numbers for résumés instead of names and conducting blind interviews
- **Solution:** Regulations that prohibit employers from asking job seekers about family status

Ten economies have laws mandating nondiscrimination based on gender in dismissal

Discrimination in Advancement

- Women are underrepresented in leadership positions across the region. Ratio is .25- worse than the global average of 0.37
- Companies that have more gender-diverse leadership are more successful and see benefits to their bottom line.
- Just eight economies have laws mandating nondiscrimination based on gender in promotions.

ECONOMY	LEADERSHIP POSITIONS (FEMALE/MALE RATIO)
The Philippines	0.96
New Zealand	0.67
Australia	0.58
Singapore	0.52
Thailand	0.48
Viet Nam	0.35
Indonesia	0.30
Malaysia	0.26
China	0.20
Japan	0.15
Korea	0.12

Discrimination in Dismissal

- Women can also lose access to employment opportunities when they are not protected from discriminatory dismissal practices.
- **Solution:** In Australia; and Canada, equality bodies have strong investigative power, which enables them to help victims establish adequate evidence of discrimination

Ten economies have laws mandating nondiscrimination based on gender in dismissal

Discrimination in Dismissal

- Women also risk being dismissed while pregnant, on maternity leave, and for a short time after returning from maternity leave.
- Several economies, including Chile; Papua New Guinea; Peru; and Russia; have ratified international conventions that address the dismissal of pregnant workers

Dismissal of pregnant workers is prohibited by law in 18 APEC economies

Equal Remuneration for Equal Work

- Women's wages are, on average, lower than those of men.
- In developing economies in Asia, women are paid 77 percent of the earnings of their male counterparts
- Gap is smaller in some APEC economies, including Hong Kong, China; and The Philippines, where average annual base pay for men exceeds women's by approx. 15 percent.
- Gender pay gaps (not accounting for equal work) have closed by more than four percentage points between 2005 and 2015 in Indonesia and Japan.
- Gender wage gap is influenced by many factors: education level, qualifications, experience, discrimination, and gender stereotypes.
- Narrowing this wage gap is crucial to achieving lasting economic growth in every APEC economy.

Equal Remuneration for Equal Work

- Women may be viewed as less capable than men in particular sectors, such as STEM.
- Mothers often viewed as less reliable or committed workers and, therefore, employers opt to pay them less in many cases
- Mothers are also penalized when they drop out of the workforce or work part-time and return to full-time work years later.
- Women who are mothers earn less than women who are not mothers

Equal Remuneration for Equal Work

- Policies mandating equal pay for equal work are vital so women have a means of recourse when they do not earn same pay as their male counterparts.
- The laws in seven economies include a distinction between equal work and the value of the work performed, which enables workers in positions of equal value, which may not have identical tasks, to receive equal pay.



Just seven APEC economies have regulations guaranteeing men and women equal remuneration for work of equal value

Solution: Equal Remuneration for Equal Work

- New Zealand has had an equal pay law in place since 1972
- Current gender pay gap is just nine percent—15 percent lower than the global average.
- The economy is proposing an amendment to the equal pay law that would recognize that women's work is generally undervalued and would provide a process for correcting this undervaluation.
- Amendment would establish a bargaining process for equal pay claims with aim to improve the process for workers to bring forward and resolve claims

Private Sector Example: Equal Remuneration for Equal Work

- Zillow conducts annual pay equity audits
- Has reported that women make US\$1.01 for every US\$1.00 a man makes in the same position.
- Disaggregates data by race and publishes the pay gap between male employees and Asian, Black, Hispanic, White, and other women.

Employment Restrictions

- Some of the clearest structural barriers to women's employment are laws and regulations that directly prohibit women from working in specific industries, from having night shifts, or from holding positions that society deems "inappropriate."
- No such restrictions are placed on men's employment; they are solely gender-based.

Employment Restrictions

There are four main types of legal employment restrictions:

- 1) Limitations stemming from permission-based regulations in family or civil law;
- 2) Restrictions that limit the time of day women can work, such as late-night or overnight shifts;
- 3) Prohibitions on jobs that are “hazardous, arduous, or morally inappropriate,” such as operating heavy machinery;
- 4) Industry-based restrictions, specifically in the least diverse industries, including mining; construction; manufacturing; energy; water; agriculture; and transportation

Employment Restrictions

- 1) Limitations stemming from permission-based regulations in family or civil law;
- 2) Restrictions that limit the time of day women can work, such as late-night or overnight shifts;

- All 21 economies have legislation that allows women to participate equally in these areas.

Employment Restrictions

- 3) Prohibitions on jobs that are “hazardous, arduous, or morally inappropriate,” such as operating heavy machinery;
- 4) Industry-based restrictions, specifically in the least diverse industries, including mining; construction; manufacturing; energy; water; agriculture; and transportation

Some APEC economies have legislation that prohibits women from working in particular positions due to perceived inappropriateness or other factors

- Five economies have laws that deem certain positions as “hazardous, arduous, or morally inappropriate” for women
- Eight economies prevent women from working in the same industries as men
- Regulations stems from a protective nature whereby governments want to ensure women’s health and safety.
- Creates a blanket ban for women and removes women’s ability to decide their own life courses.

Solutions: Employment Restrictions

- As alternative to gender-based employment restrictions, economies should consider how to regulate adaption for workplaces to be safer for all employees.
- Economies may also want to consider other ways to assess fitness for physically demanding jobs, such as fitness tests that are fair to both genders.
- Economies can work with private sector to encourage technological advancements in industries where work has historically been based on physicality.
- Technology increases efficiency for all workers and provide access to a larger talent pool.

Occupational Standards

- Licenses or certifications that are required for entry and retention in a wide range of professions and aim to protect public safety and provide consumers with quality assurance.
 - Illegal to work for pay without possessing a license or certification from either the government or affiliated professional association.
- Required for professions that involve significant education, but also for hundreds of occupations suitable for individuals with limited education who are entering or re-entering the labor market.
- Regulated by occupational laws or local ordinances that prescribe entrance exams, minimum lengths of training or apprenticeships, continuing education hours or exams to maintain licensure, and fees or dues to professional organizations or state bodies.

Occupational Standards

- In Japan, nearly 40 percent of the working population use occupational licenses in their current jobs, particularly those who work in the service sector
- United States has seen an sharp increase in the number of professions that mandate occupational licenses -- from 5 percent of workers in the 1950s to 25 percent of workers in 2017
 - There are more employed women (28 percent) than employed men (23 percent) in professions that require occupational licenses

Costs: Occupational Standards

- Extensive standards make it more costly—both financially and time-wise—for women to meet requirements in seeking or re-entering employment.
 - Especially women with limited means or significant family responsibilities
- Re-entry might be cumbersome for women who are returning to labor market after caring for families.
- Requirements for entry and re-entry can also prevent women from working in the occupations they desire or push women into informal markets

Costs: Occupational Standards

- Can also negatively affect mobility, which can disproportionately affect women.
- In the United States, each state regulates its occupational licensing regime, with different licensing requirements in each state. Licenses are not always recognized in other states.
 - State-specific licensing laws reduce interstate mobility of workers by 36 percent
- Migration is not an individual decision and often made on the basis of overall household or familial well-being.
 - Trailing spouses in licensed occupations might have to switch careers or forgo work in the case of an inter-state or international move

Opportunities: Occupational Standards

- Once obtained, licenses can benefit women's employment.
- Like education, occupational licenses can serve as “a job market signal”
 - Counter uncertainty, unconscious bias, and/or discrimination,
 - Those making hiring decisions rely less on observable characteristics such as gender and race and rely more on the knowledge that minimum entry standards have been met
- Occupational licenses play a role in reducing gender wage gaps.
 - Gender wage gap for licensed women is 40 percent lower for white women and 36 percent lower for black women than unlicensed white and black women

Solutions: Occupational Standards

- In United States, Florida and Nebraska implemented reforms to make it easier for military spouses who are licensed in certain fields to work if they relocate with their spouse.
- Adoption of reciprocity agreements between states lowers re-licensure costs
- Voluntary certifications can be used instead of licenses for many professions to signal credibility to consumers
 - In Japan, a study found a stronger positive association with women's labor force participation for licenses than certifications
 - Canada is piloting a new apprenticeship incentive grant program for women to get certified in Red Seal skilled trades in which women are currently under-represented.

Retention



Enabling Parents to Work

- Supportive, family-friendly policies are critical to enabling women workers to balance childrearing and household responsibilities with formal employment.
- Childcare and household responsibilities often fall to women, who must balance work, family, and household responsibilities
- When women are deciding whether to return to work after having a child, supportive policies on parental leave, childcare, and flexible work policies can make a difference:
 - Enabling women to remain in the workforce
 - Providing employers with reduced turnover and increased consistency

Post-Maternity Return to Work

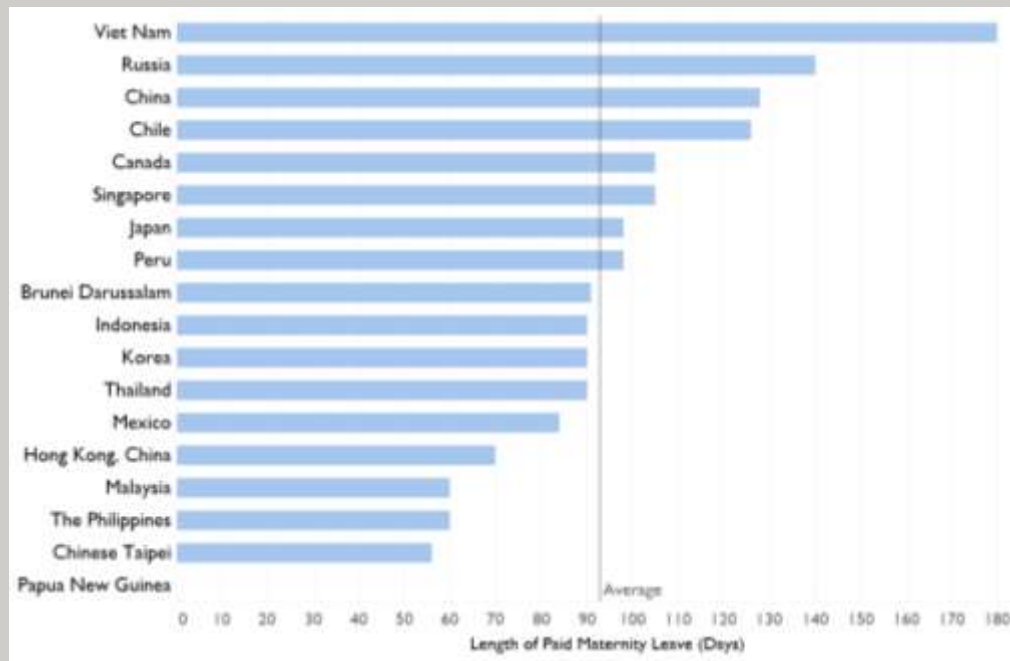
- Governments can support mothers by implementing domestic laws to enable them to return to the same position following maternity, ratifying international conventions, and establishing return to work programs.
- Mothers are guaranteed an equivalent position after maternity leave by law in ten APEC economies
- The ILO Maternity Protection Convention of 2000 includes principles that promote women's return to work following maternity leave. Peru is the only APEC economy to ratify this convention
- Some economies require employers to offer return to work programs. Australia issued guidelines to all New South Wales employers requiring that return to work programs comply with certain criteria.

Private Sector Example: Post-Maternity Return to Work

- Some companies in APEC economies offer “returnships”
- GoDaddy and Instacart in the United States, Mastercard in Russia, and Goldman Sachs in Hong Kong, China; and Singapore
- For professionals returning to work following extended time out of the workforce caring for a child or relative.
- Help rebuild their networks as they search for full-time positions, and re-adjust to working full time

Maternity Leave

- Paid or unpaid maternity leave is mandated by law in 18 APEC economies and all but one specify a minimum duration
- In most APEC economies, women receive full (100 percent) wages during maternity leave
- For the economies in which paid maternity leave is mandated, the average length is 13.26 weeks, just below ILO minimum of 14 weeks



Maternity Leave

- Regulations that require employers to provide and pay for maternity leave, which is longer than paternity leave, can have unintended consequences.
- Employers sometimes view the requirement to pay for maternity leave as too high a cost and, may be reluctant to hire women or likely to reduce women's salaries to compensate for the cost
- **Solution:** Some economies like Australia; and New Zealand, opt instead for parental leave, which is shared leave that is offered to both parents and can be used by one parent at a time.

Paternity Leave

- Paternity leave is crucial in shifting childcare and household responsibilities from solely mothers to both mothers and fathers.
- Will enable more women to remain in the labor market following childbirth
- Women's labor force participation is, on average, seven percent higher in developing economies where paternity leave is provided
- Typically ranges from 5-10 days in APEC economies
- In many APEC economies taking paternity leave is not the cultural norm.

Fourteen economies mandate unpaid or paid paternity leave by law.

Childcare

- Access to affordable, quality childcare is a critical to enabling mothers to work and balance work and family commitments
- Accessible of childcare improves women's labor force participation, including attendance, productivity, retention, and advancement.
- Childcare costs can comprise a significant proportion of income, making it inaccessible to many low-income women.
- A shortage of childcare facilities can worsen labor shortages.



Childcare

- Subsidized childcare has a positive effect on the rate of female labor force participation
- Governments can enact supportive childcare policies and regulations that help to ensure that women have access to childcare, childcare is of sufficient quality, and is affordable for all.
- Various models for financing childcare: tax incentives to private childcare providers, government-supplied childcare, and parental tax-deductions for childcare expenses.

Solution: Childcare

In its Fourth Basic Plan on gender equality, Japan committed to increasing the supply of childcare facilities and eliminating daycare waitlists by 2017

- Commitment to establish 530,000 new childcare centers
- Enacted a subsidy to cover up to 75 percent of the cost of onsite nurseries at private companies.
- Five hundred companies received subsidies by 2017, enabling childcare services for 14,000 children.

Unintended Negative Consequences: Childcare

Well-intentioned policies can also have adverse effects, particularly if not implemented correctly.

- If registration and operating requirements are so strict and cumbersome, childcare centers will not register and won't be regulated for quality.
- Adverse effects from laws that require firms to provide childcare based on the number of women employees they have
 - Disincentive to hire women, and encourages employers to underreport the number of women workers or to hire them informally
 - Regulations can be reformed to refer to all employees rather than only women.

Private Sector Examples: Childcare

In Chile, Citigroup has seen an uptake rate of 100% for the childcare benefits and 93% of mothers returning from maternity leave

- Subsidizes monthly childcare fees, reimburses US\$100 toward enrollment fees, and covers transport costs to childcare center.
- Provides in-home childcare for employees whose children meet specific medical conditions.

In Tokyo, the Bank of Tokyo-Mitsubishi's childcare and gender diversity initiative led to 90% retention rate of mothers and avoided \$45 million in turnover costs, which covered costs of initiative.

- Childcare subsidies for children up to age 9, emergency, and back-up childcare, and flexible work arrangements available to all parents.
- Training for managers on how to support working parents, mentoring program for women leaders, and program to encourage men to play a more engaged parental role.

Workplace Sexual Harassment

- Sexual harassment is prevalent across the Asia-Pacific region
 - Rates higher for women in leadership roles or technical fields
- Migrant women, younger women, domestic workers, and women working in male-dominated industries or in client-oriented service sectors, are at greater risk
 - Higher risk in tight or unregulated workspaces, as well as those that lack strong labor inspection services.
 - Higher risk in language-impaired, in isolated positions, or lack job security.

It is estimated that 30 to 40 percent of women in the Japan; Korea; Malaysia; the Philippines; and the United States have experienced sexual harassment.

Workplace Sexual Harassment

Negatively affects women's employment, job retention, and career trajectory

- Causes negative psychological and physical health consequences for survivors
- Women may feel pressured or forced to tolerate sexual harassment if it means a “tradeoff” for a job offer, pay raise, or promotion
- Can negatively affect women's career trajectories in that male managers are increasingly exhibiting discriminatory behavior to female colleagues in attempt to avoid sexual harassment liability.
- Undermines the long-term earning capacity of women workers and contributes to the gender wage gap

Workplace Sexual Harassment

Has significant costs to firms and economies:

- Explicit costs of sexual harassment to employers: legal expenses and settlements; an increase in insurance costs; and a compromised reputation affecting recruitment, investment, and future performance.
- More implicit costs: loss in employee productivity, devolved team performance, and problems with retention
- Declines in entire workgroup productivity.

It is estimated that eliminating workplace sexual harassment entirely in Australia; and the Philippines could result in a savings of nearly \$279.6 million and US\$57 million respectively.

Workplace Sexual Harassment

- Better defining who is protected against harassment, where one is protected, and what one is protected against is crucial.
- Typically, regulations protect employees, but might not extend to interns, apprentices, or third parties.
- Some economies limit the definition of harassment to acts perpetrated by superiors in a relationship of hierarchy, leaving a gap in protection for harassment perpetrated by co-workers and clients.
- Economies are expanding the scope of term “workplace” to reflect where harassment might occur—including work retreats and after-work social events.

All but five APEC economies have policies specifically addressing sexual harassment in the workplace

Workplace Sexual Harassment

- Only six APEC economies provide for criminal penalties against sexual harassment in employment
- Insufficient to only prohibit sexual harassment in the criminal code as high burden of proof in criminal cases only covers severe cases of sexual or physical assault
- Twelve APEC economies stipulate civil remedies for sexual harassment.

Sexual harassment in employment is prohibited by both criminal *and* civil legal provisions in four economies, including Canada; China; Korea; and the Philippines.

Solutions: Workplace Sexual Harassment

- The Philippines has a wider definition that expands protections to job seekers.
- Laws and regulations alone, even with strict implementation, monitoring, and reporting, are insufficient to prevent and eliminate violence and harassment in the workplace.
- Chilean law requires that employers develop and disseminate sexual harassment policies that outline rights, responsibilities, and complaint procedures.
- Australia; Chile; and Peru offer certification seals that recognize businesses that address sexual harassment and promote gender equality in the workplace.

ILO Convention: Workplace Sexual Harassment

- In June 2019, The Centenary International Labour Conference adopted the first convention and recommendation on combatting violence and harassment in the workplace.
- Provide wide protections for all workers in a broad range of work settings and situations, including when commuting to and from work, and also establish an agreed definition of violence and harassment.



Private Sector Examples: Workplace Sexual Harassment

- In 2016, Mozilla, learned through employee focus groups and a survey that women had concerns about workplace harassment and wanted a new company code of conduct.
- Convened additional focus groups of women to understand what would make an effective code of conduct.
- Recommended that code describe who is protected, provide examples of good/bad behaviors, and explain when/how to use the guidelines, how to report incidents, and what to expect after reporting.
- Mozilla revised its code of conduct and ran an internal campaign to promote employee awareness of revisions and reinforce its seriousness.

Sexual Harassment in Transportation

- Women cannot safely get to and from work when there is high prevalence of sexual harassment in public transportation and in public spaces such as streets and transit stops and stations
- When common, women often modify or restrict their travel, with women's travel patterns strongly influenced by the need to mitigate risk and avoid danger
- Might forgo night work or employment in locations with limited safe, accessible, and affordable transportation options, thereby reducing women's labor force participation.
- Evidence across APEC shows that sexual harassment is pervasive in transportation and in public places such as transit stops
- The majority of sexual harassment that women experience on public transportation is unreported

Sexual Harassment in Transportation

- Only Canada; New Zealand; Peru; and the Philippines have explicit laws on sexual harassment in public places
 - There is a significant gap in the regulations on sexual harassment in public places within APEC
 - Sexual harassment in public places is often regulated at the municipal level.



Solutions: Sexual Harassment in Transportation

In Mexico City, the government launched a campaign to expand women's access to safe public transportation.

- Previously, a misdemeanor offense, sexual harassment is now considered a violation of a person's equal right to urban resources.
- Reported sexual harassment cases reduced from five to one

The Bangkok Mass Transit Authority implemented a training and awareness raising campaign

- Training helped employees identify various forms of harassment and taught them how to respond appropriately and safely to harassment.

Recommendations & Next Steps



Recommendations: Access to Wage Employment

NON-DISCRIMINATION IN HIRING, PROMOTION, AND DISMISSAL

Decrease discrimination through reduced bias in recruiting processes.

Require or incentivize public reporting of data on women in leadership positions in the private sector.

Amend existing nondiscrimination legislation to further support victims.

EQUAL PAY FOR EQUAL WORK

Use regulations to redefine pay.

Expand current equal pay laws.

EMPLOYMENT RESTRICTIONS

Share economy experiences and cultivate best practices in the region on how to address gender-based employment restrictions.

Consider alternative tests to measure appropriateness for potential job candidates.

Recommendations: Access to Wage Employment

OCCUPATIONAL STANDARDS

Study the effect of occupational licenses on labor market training, entry, advancement, and pay for women and men in APEC economies.

Conduct an impact assessment on licensing reforms to understand how reforms benefit women's labor participation and earnings.

Recommendations: Retention & Advancement

ENABLING PARENTS TO WORK

Provide incentives for private sector companies who implement return to work programs.

Implement technological solutions for mothers returning to work.

Implement tax policies and incentives that promote women as workers, particularly in dual-earner households.

Establish and enforce childcare standards.

WORKPLACE HARASSMENT, INCLUDING DURING TRANSPORT TO/FROM WORK

Revise and strengthen existing legislation around workplace sexual harassment.

Implement incentives for the private sector to tackle sexual harassment in the workplace.

Invest in dialogues that promote evidence-based research and knowledge sharing.

Implement laws requiring publicly procured infrastructure and transport projects to incorporate gender into their proposals.

Next Steps

Quantify the impact of reforms to better equip policymakers in advocating for change.

Focus the 2020 APEC Economic Policy Report on structural reforms that promote women's economic participation.

Track progress by systematically documenting future inclusive reforms.

Establish an APEC initiative on reforming and improving tax policies.

Provide technical assistance to strengthen childcare policies across the region.

Exchange good practices and lessons learned to facilitate economy-level actions.

Work with the APEC Business Advisory Council to facilitate greater dialogue with the private sector.

Develop a regional guidance document on ways to engage women's perspectives in the development and revision of new or existing labor-related policies, laws, and regulations.

Use a pilot pathfinder approach to assess implementation of regulations that enable women's workforce participation.

Thank you!

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