



# The Importance of Designing Gender and Disability Inclusive Laws: A Survey of Legislation in 190 Economies

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Women with disabilities face additional barriers to their participation in the economy and society compared to men, with and without disabilities, and relative to nondisabled women, resulting in unequal parental rights, discrimination in their private life and the workplace, reduced employment opportunities, lower earnings, and high exposure to gender-based violence. The legal recognition of multiple forms of discrimination is a vital first step to address and, ultimately, enforce the human rights of women with disabilities and protect them from discriminatory practices. The law is thus one key element to achieve their full inclusion and enable societies to thrive in the long run. This Brief presents data collected by the World Bank's *Women, Business and the Law* project on the legal barriers that women with disabilities face when accessing economic opportunities in 190 economies. The new data suggest that only one-quarter of economies worldwide explicitly protect and promote the rights of women with disabilities.

## The crucial need for law to address multiple dimensions of discrimination against women with disabilities

Women with disabilities face particular barriers, including job discrimination and gender-related violence, compared to nondisabled women and to men, with and without disabilities. The Second Global Disability Summit, held in February 2022, ended with a call for participants to commit to a human rights-based approach to development that is inclusive of people with disabilities and places a particular focus on gender equality. Such an intersectional and holistic approach is necessary to mitigate the continued exclusion of persons with disabilities from socioeconomic life. Four years earlier, at the first Global Disability Summit held in London in 2018, the World Bank Group made 10 Commitments on Disability-Inclusive Development to set the stage for global action toward full inclusion of persons with disabilities (World Bank Group 2018a, 2018b). The fourth of these 10 commitments called for the “introduction of questions on disability into the *Women, Business and the Law* survey to better understand the economic empowerment of women with disabilities.”

This Brief is a result of the efforts undertaken by the *Women, Business and the Law* (WBL) project to assess the rights of women with disabilities in 190 economies. It builds on the existing WBL index, which, to ensure comparability of the data across this large set of economies, posits standardized assumptions that

presume—among others—that the woman in question is nondisabled. To fill the gap left by this assumption, a new data set of 11 questions was developed to investigate how laws include or exclude women with disabilities from accessing economic opportunities (Box 1). This data collection effort updates the pilot project from 2020, which assessed the overarching constitutional and legal frameworks on the protection of women with disabilities in 176 economies. The 11 new research questions were designed in collaboration with disability rights experts and data was collected with the help of *Women, Business and the Law*'s more than two thousand experts in local law in the 190 economies.

This Brief presents findings from the first three questions of the new data set, which assess the overarching legal framework by analyzing the presence of nondiscrimination provisions in gender and disability legislation. The data are based on laws passed before October 1, 2021. A second Brief in this series will explore the remaining eight questions, focusing more specifically on the rights to family life, labor inclusion, and a life free from violence for women with disabilities.

It is estimated that more than a billion persons globally, about 15 percent of the total world population, experience some form of a disability and 2 percent to 4 percent experience severe disabilities (World Bank and WHO 2011). Disability is a diverse and evolving concept that results from the interaction of one or multiple impairments, that can be of different types (physical, mental, intellectual, or sensory) and degrees, with a set

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**Objective and disclaimer:** This series of *Global Indicators Briefs* synthesizes existing research and data to shed light on a useful and interesting question for policy debate. Data for this Brief are extracted from the WBL database. These Briefs carry the names of the authors and should be cited accordingly. This Brief contains figcaptions and is designed to be accessible including for the visually impaired. The findings, interpretations, and conclusions are entirely those of the authors. They do not necessarily represent the views of the World Bank Group, its Executive Directors, or the governments they represent. All Briefs in the series can be accessed via: <https://www.worldbank.org/en/research/brief/global-indicators-briefs-series>.

## Box 1 *Women, Business and the Law 2022* research questions on the rights of women with disabilities

The data collection effort poses 11 new questions. This Brief analyzes data from the first 3 questions.

1. **Is there a gender equality or nondiscrimination law that specifically recognizes and protects the rights of women with disabilities?**
2. **Is there a law on persons with disabilities that specifically protects and promotes the rights of women with disabilities?**
3. **Does the disability rights law follow the social model?**
4. Does the law provide support to women with disabilities in the exercise of their parental rights and responsibilities (e. g., extension of maternity leave, financial aid, legal protection to keep custody for children, etc.)?
5. Is there a law or policy that mandates reasonable accommodation for workers with disabilities?
6. If the answer is “Yes,” does the reasonable accommodation law or policy mention women with disabilities?
7. Are there incentives in law or policy for businesses to employ persons with disabilities (e. g., quotas, tax breaks, wage replacement)?
8. If the answer is “Yes,” does the employment incentive law or policy mention women with disabilities?
9. Does the domestic violence law explicitly address women with disabilities?
10. Does the domestic violence law establish accessibility to services for women with disabilities survivors of violence?
11. Is there legislation on sexual harassment against women with disabilities?

environment. According to the World Health Organization’s World Health Survey, most persons with disabilities (80 percent) live in developing countries, and the prevalence of disability for women is significantly higher than for men. These rates are also higher in lower-income countries: 22.1 percent of women in lower-income countries have a disability compared to 14.4 percent in higher-income countries (WHO 2002–2004).

The socioeconomic inclusion of persons with disabilities is not only the right thing to do from a human rights standpoint; it is also the right economic decision. Studies have shown that the social exclusion of those with disabilities is positively (and statistically significantly) associated with economic poverty: inclusion can lead to substantial gains through increased earnings at the individual and household level and reduced government spending on social protection programs (Banks and Polack 2014; Banks, Kuper, and Polack 2017). The exclusion of persons with disabilities is costly to economies at large, as it results in lost tax revenue for governments (Muntz and Meier 2013) and lost productivity for businesses (Houtenville and Kalargyrou 2012). One of the most comprehensive studies on low- and middle-income countries projected that the exclusion of persons with disabilities from the labor market led to income losses ranging from 3 percent to 7 percent of the 2006 or 2007 national GDP of the 10 countries studied (Buckup 2010). A more recent estimate similarly found that the exclusion of persons with disabilities from the workforce in Spain amounted to 4 percent of GDP in 2020 (Cámara, Martínez, and Santero-Sánchez 2020).

National laws and policies shape how persons with disabilities can participate in social and economic activities. While international law provides the framework to protect and empower persons with disabilities, domestic laws and policies hold the potential to fully realize their socioeconomic inclusion. A 2016 global study of disability and labor legislation illustrated how domestic laws can pose structural barriers to the participation of persons with mental disabilities in competitive employment (Nardodkar et al. 2016). Empowering and inclusive laws and policies are particularly needed for women with disabilities who face multiple forms of discrimination based on their gender and disability status (along with other identities, such as race, age, sexual orientation, gender identity and expression, and so on).

### **When gender and disability interact, discrimination multiplies**

Women with disabilities experience multifaceted forms of discrimination and negative stereotypical attitudes in every domain of life. The practice of forced sterilization, ordered by a judge, a

parent, or a legal guardian, is one example (Special Rapporteur on the Rights of Persons with Disabilities 2017). This practice continues to this day across the globe: for example, in the United States, in 31 states and Washington, DC, persons with disabilities can be forced to be sterilized in certain cases (National Women’s Law Center 2022); and it was only in 2020 that Spain removed a Penal Code provision allowing forced sterilization (Government of Spain 2020). The experience of women with disabilities is thus not simply an aggregate or an amplification of the experience of persons with disabilities but rather a unique experience informed by the intersection of gender and disability (Box 2). Disability sets the experiences of women with disabilities apart from those of nondisabled women by converging two statuses that interact with one another: the type, severity, and visibility of one’s disability influences the degree to which she is subjected to societal expectations about her gender (Gerschick 2000). Such multiple and complex barriers, including negative bias and misconceptions about their capacity, have been found to deprive women with disabilities of access to education, employment, health care, and family life (Quinn et al. 2016). Available data show that the employment rates of women with disabilities are lowest compared to men with disabilities and nondisabled men and women (ILOSTAT 2010–2021). Additionally, women with disabilities face higher rates of gender-based violence and harassment, including at the hands of their caregivers (World Bank Group 2019). The limited data available suggest that women with disabilities are up to ten times more likely than nondisabled women to experience violence (Dunkle et al. 2018; Ozemela, Ortiz, and Urban 2019).

Traditionally, laws and policies have neglected the specific needs of women with disabilities by focusing predominantly on gender or disability issues (CRPD Committee 2016). Similarly, while there are currently efforts to collect more data disaggregated by disability status using an internationally agreed upon instrument—the Washington Group Short Set on Functioning—the intersection of disability and gender remains understudied (Mitra and Yap 2021). Very few global data sets allow for cross-country comparisons of data disaggregated by disability status and gender. As a result of this gap in data, policies are predominantly designed in a way that accounts either for disability or gender and thus fail to embody the experience of women with disabilities. For example, a policy on access to services for women, when silent on the issue of disability, can indirectly exclude women with disabilities from equal access to these services. A study conducted in India, for example, uncovered that sexual and reproductive health care services designed for nondisabled persons imposed significant barriers for women with disabilities. Medical professionals were found to hold stigmatizing views of disability as

## Box 2 Why does intersectionality matter?

The situation of individuals with intersecting identities was first coined in relation to the unique experience of women of color, for whom race and gender intersect (Crenshaw 1990). Women with disabilities face unique experiences of discrimination and exclusion informed by both disability and sex. Additionally, other identities such as socioeconomic status—especially poverty, race, ethnicity, language, religion, sexual orientation, gender identity and expression,

geography, and age—may also overlap and thus compound the exclusion of women with disabilities at both the individual and systemic level. Laws focusing on distinct and separate grounds of discrimination fail to account for these experiences. On the contrary, well-designed laws and policies can guarantee equal protection of women with disabilities, including from gender-based violence, and contribute to their socioeconomic inclusion.

a problem to be fixed, which prevented women with disabilities from accessing adequate health care. The same study exposed other barriers in accessing medical facilities and devices, such as inadequate height of examination tables, inaccessible bathrooms, and the lack of sign language interpreters and assistants during medical checkups and procedures (Salian 2022). These barriers can thus be structural, sociocultural, and financial. Likewise, attitudinal barriers and stigma around the sexualities of women with disabilities limit their access to reproductive health care because professionals often believe they do not need these services (WHO and UNFPA 2009).

When it comes to breaking down some of the barriers to full inclusion, laws can play an important role. The absence of recognition of intersectional discrimination in law overemphasizes a group's homogeneity. Laws then seem to consider all women as similarly situated: for example, as nondisabled. This failure to acknowledge diversity within one group prevents laws from effectively protecting and meeting the needs of subgroups, such as women with disabilities (Uccellari 2008). In Australia, for example, the legal order focuses on separate and distinct grounds of discrimination and fails to account for the multiple and overlapping experiences of discrimination (CEDAW Committee 2018). However, such experiences are not uncommon: in an Australian study, 39.2 percent of persons with disabilities reported being victims of multiple discrimination based on age, race, gender, and other protected grounds (Blackham and Temple 2020). When laws and policies do not grasp the realities of women with disabilities, they perpetuate situations of socioeconomic exclusion and gender-based violence.

### Filling the gaps through policy research on women with disabilities

The methodology for analysis of the *Women, Business and the Law* research questions is based on international standards: most importantly, the United Nations Convention on the Rights of Persons with Disabilities (CRPD). The CRPD is one of the nine core UN human rights treaties. It entered into force in 2008 and has been ratified by 185 countries to date. Article 6 of the Convention recognizes the multiple discrimination to which women with disabilities are subjected. This Article is unique in its scope and is the result of debates on whether a “mainstreaming” or “twin-track” approach should be adopted in the Convention. Proponents of the mainstreaming approach—where the needs of men and women are addressed simultaneously throughout the Convention—argued that a specific mention would increase the likelihood of missing other vulnerable groups. Proponents of the twin-track approach—which advocates explicit mentions of gender—argued that only a specific article would enable countries to actively address the issues women with disabilities face. The twin-track approach was supported by representatives of disability rights organizations and ultimately prevailed in the form of Article 6 (Kim 2013). Additionally, the CRPD mentions gender issues in its Preamble and in six other articles on general principles,

awareness raising, freedom from exploitation, violence and abuse, health, and adequate standard of living and social protection.

One of the 11 questions of the data set captures whether the national disability rights law follows the social model of disability promoted by the CRPD. Historically, disability has been understood using the medical model, which presents disability as a condition, a defect, or a sickness to be cured or treated (Kaplan 1999). Under the social model, however, disability is viewed as the result of the interaction between impairments and environmental barriers that exclude a person from accessing equal rights and opportunities. Barriers can therefore disappear when efforts are made to change the environment to become more enabling. As such, it is up to policy makers to create an environment that no longer imposes barriers to access for persons with disabilities. Additionally, the methodology for analysis considers that gender-neutral language constitutes a good practice when dealing with issues that disproportionately affect women, such as sexual harassment, domestic violence, and reproductive and parental rights. For other topics, however, the methodology accounts for the added impact of gender on disability-based exclusion, by giving preference to affirmative action on both grounds—disability and sex.

### Three-quarters of economies around the world do not legally recognize multiple discrimination of women with disabilities

While the legal recognition of multiple discrimination is required by Article 6 of the CRPD, traditionally, in most economies, victims could only bring a case of discrimination before courts based on one ground, not multiple ones. This leads to either the disability or gender component being left out of discrimination claims. However, as examples of the unique forms of discrimination and exclusion experienced by women with disabilities show, it is only when a law recognizes multiple discrimination that it can address the entirety of the discriminatory experience (Box 3). The inclusion of multiple discrimination is, however, debated in legal practice because claims brought on multiple grounds are—for now—less likely to be won by plaintiffs due to challenges to meet evidentiary requirements and the lag in justice systems in adjusting to this new framing of discrimination (Best et al. 2011).

Data collected by *Women, Business and the Law* on the legal recognition of multiple discrimination against women with disabilities shows that distinct approaches to gender and disability remain the norm. While 86 out of 190 economies studied have a gender equality or nondiscrimination law, only 30 of these specifically mention the rights of women with disabilities. Further, while 157 economies have a disability rights law, only 52 mention women with disabilities. This means that only one-quarter of economies worldwide explicitly recognize the rights of women with disabilities (Map 1). Strikingly, only 10 economies have mentions of women with disabilities in both legal instruments (Austria, El Salvador, The Gambia, Germany, Republic of Korea, Marshall

**Box 3****A labor court in Belgium found a woman to be a victim of multiple discrimination on the basis of sex and disability**

The case that follows, brought before a labor court in Belgium, shows that the legal recognition of multiple discrimination is needed to address discrimination claims of individuals holding multiple, intersecting identities.

Ms. F. applied for a position as Research and Development Assistant at a pharmaceutical company. During the recruitment process, after she disclosed her hearing impairment and pregnancy, she was offered a lower-level, temporary administrative job. Ultimately, she was not selected for any position at the company.

Ms. F. filed two separate claims in front of the labor court arguing that she had been discriminated against on the basis of her disability (in violation of the General Anti-Discrimination Act) and on the basis of her pregnancy (which constitutes sex discrimination under the Gender Act). The burden of proof fell onto the defendant because Ms. F. was able to establish a *prima facie* case of discrimination. The company was not able to prove that it would

have rejected her application if she had been a hearing candidate who was not pregnant.

The Labor Court of Antwerp in the first instance ruled this a case of triple discrimination, on the basis of disability during the application process when Ms. F. was offered a lower-quality job, and on the bases of disability and pregnancy with regard to the decision not to hire. It declared that the three associated damages are cumulative because refusing such cumulation would amount to unequal treatment of a victim of multiple discrimination compared to a victim of discrimination on the basis of only one protected criterion.

The appellate Labor Court of Antwerp upheld the lower court's decision that this is a case of discrimination based on multiple grounds—disability and sex. It also confirmed the possibility of a cumulation of damages awarded under the Anti-Discrimination Act as well as under the Gender Act.

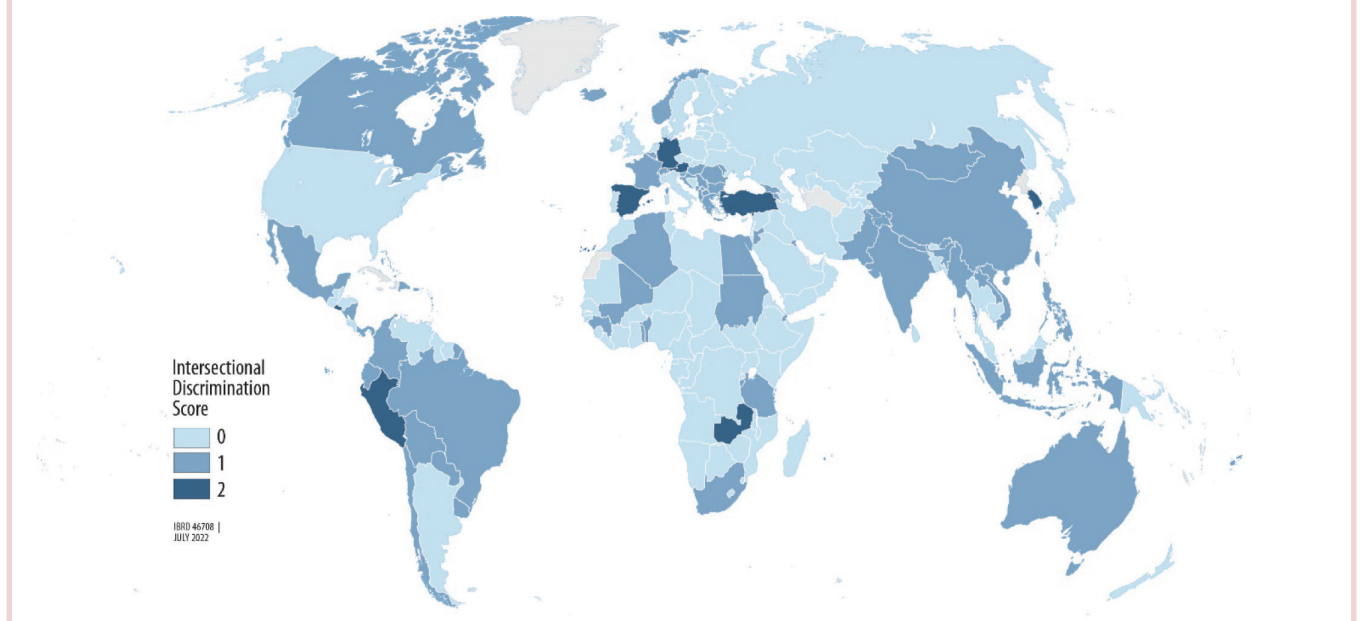
Source: Labor Court of Antwerpen, Department of Antwerpen, Chamber 2, Judgment 2020/AA/417 of June 28, 2021. [https://www.tribunaux-rechtbanken.be/sites/default/files/media/ahct/antwerpen/files/2021-06-28\\_arrest\\_a\\_website.pdf](https://www.tribunaux-rechtbanken.be/sites/default/files/media/ahct/antwerpen/files/2021-06-28_arrest_a_website.pdf)

Islands, Peru, Spain, Türkiye, Zambia).

The research findings are further disaggregated into laws that apply the social model (as opposed to the outdated medical model). About half of the world's economies that have a disability rights law (74 out of 157) use the social model of disability in line with international standards established by the CRPD; and out of the 52 economies where the disability law specifically protects and promotes the rights of women with disabilities, 39 use the social model (Figure 1).

The data also show the importance and effectiveness of international commitments. Since the entry into force of the

CRPD in 2008, countries have been designing their national disability rights legislation in adherence to obligations under this Convention. While only 5 economies had a national disability law in 1990, one of which was inclusive of gender, as of 2005, 55 economies had enacted a domestic disability law, and by October 1, 2021, 157 economies had a disability law in place. Efforts to abide by international obligations have also addressed the gap in the inclusion of gender: 43 out of the 52 disability rights instruments with specific mentions of gender or women with disabilities have been enacted since 2005 (Figure 2). Despite these improvements, *Women, Business and the Law* data show that 138 economies still do not specifically protect and promote the rights of women with disabilities in their disability rights laws.

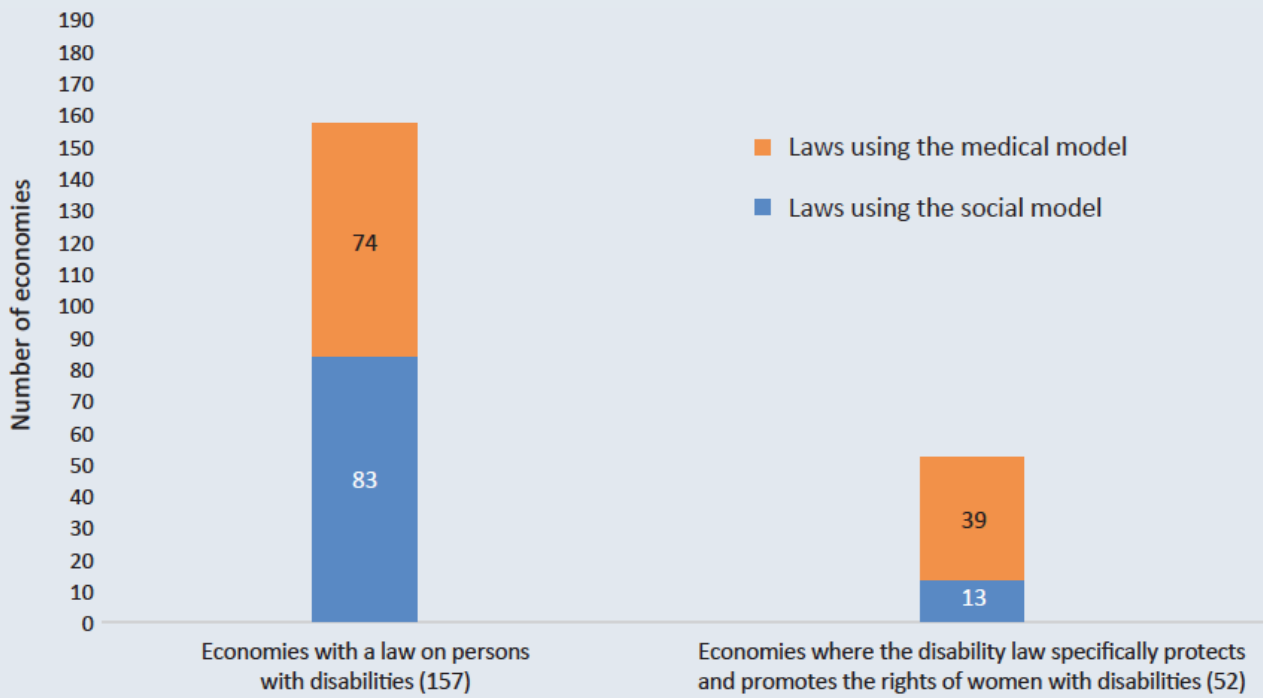
**Map 1****Only one-quarter of economies worldwide explicitly recognize the rights of women with disabilities**

Source: *Women, Business and the Law* database.

Note: A score of 2 is attributed to economies with both a gender equality or nondiscrimination law that mentions women with disabilities and a law on persons with disabilities, using either the medical or the social model, that mentions women with disabilities. A score of 1 is attributed to economies with either a gender equality or nondiscrimination law or a disability rights law, using either the medical or the social model, that recognizes multiple discrimination. A score of 0 is attributed to economies where there is no law that explicitly mentions the rights of women with disabilities.

**Figure 1**

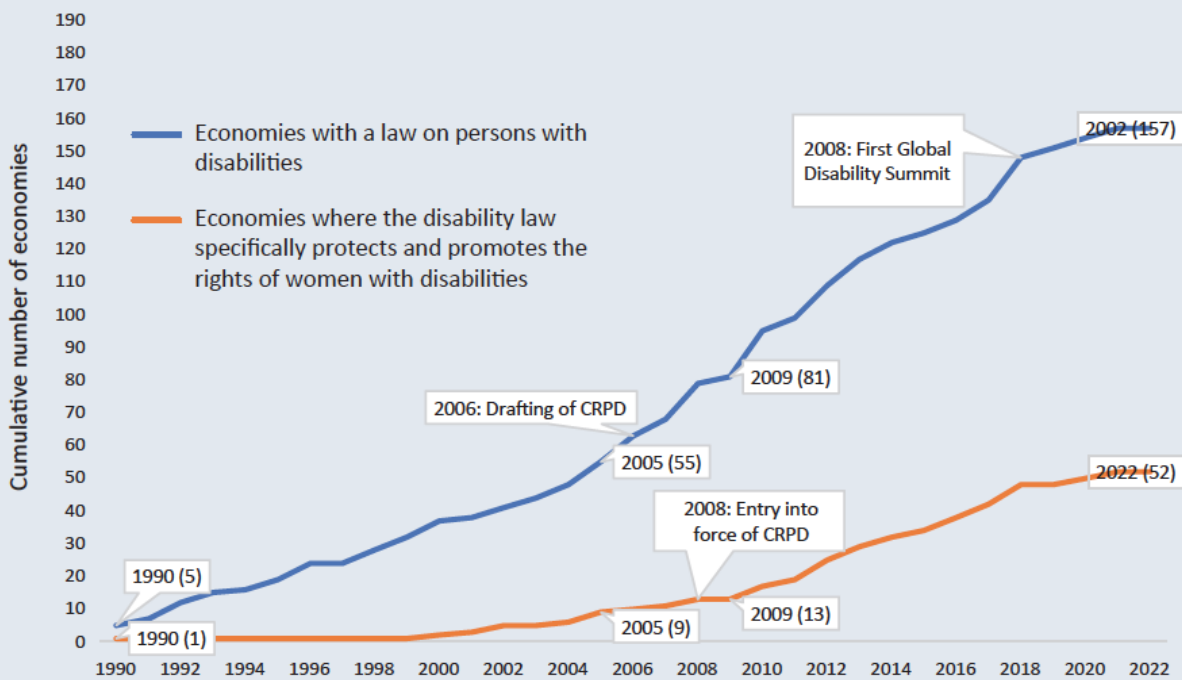
About half of economies use the social model of disability in their laws, in line with international standards



Source: Women, Business and the Law database.

**Figure 2**

While the number of economies with disability laws has nearly tripled from 1990 to 2022, only about one-third of them specifically address women



Source: Women, Business and the Law database.

Note: The number of economies with laws are not mutually exclusive i. e. economies that have laws that specifically protect and promote the rights of women with disabilities are also counted as economies with a law on persons with disabilities. CRPD = United Nations Convention on the Rights of Persons with Disabilities.

## Data on good legal practices are needed to advance gender- and disability-inclusive laws, policies, and development projects

Data collected and analyzed by the *Women, Business and the Law* project in 2022 show that laws around the world largely fail to take into account the unique experience of women with disabilities. At the global level, there is a continued lack of economic outcome data disaggregated by both gender and disability status—rendering quantitative analysis difficult. Therefore, a review of good practices as presented by the *Women, Business and the Law* research can inform development projects to be inclusive of gender as well as disabilities and guide evidence-based law and policy making. Such efforts are highly needed at a time where inclusion of persons with disabilities is becoming an issue of growing importance for World Bank Group policies and operations.

## The way forward requires deeper analysis and informed action

Additional data analysis will assess the rights to family life, work, and a life free from violence for women with disabilities. The eight remaining questions of the new *Women, Business and the Law* dataset examine such specific issues, including parental rights, inclusive labor markets, and protection from sexual harassment and domestic violence. A second Brief in this series will explore these particular topics and explain in more detail how laws and policies can promote the socioeconomic inclusion of women with disabilities.

While legal recognition of multiple forms of discrimination is a vital first step to address the human rights of women with disabilities, anti-discriminatory practices need to be effectively addressed and enforced. A “Toolkit” on embedding the rights of women with disabilities in development projects is likewise being developed to provide concrete examples how policies can be implemented and how operational challenges can be overcome. The law, data, knowledge, resources, and concrete, hands-on action are all vital elements to achieve the full inclusion of women with disabilities and enable societies to thrive in the long run.

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