



# Arab Center for Research المركز العربي للأبحاث

## Policy Paper

### **WOMEN ALSO PROTECTED IN MINES!\***

Amendment of Articles 179 and 181 of the Labor Law by the Government of Morocco will provide sustainable job opportunities to women in the mining sector and extractive industries in the country, jobs which are needed more than ever.

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\*Translated from the original text in Arabic,  
[النساء أيضا محميات في أغوار المناجم](#)



# Table of contents



<b>Executive Summary</b>	<b>5</b>
<b>No development without more opportunities for women</b>	<b>6</b>
<b>Women, employment, and business</b>	<b>9</b>
<b>Legal reform for more opportunities for women</b>	<b>11</b>
<b>Mining sector in Morocco: Promising opportunities for women</b>	<b>12</b>
<b>Impact of lifting legal restrictions on women's work and income</b>	<b>13</b>
Sources of data	13
Analysis methodology	14
Findings	15
<b>Conclusions and Recommendations</b>	<b>16</b>



## Executive Summary

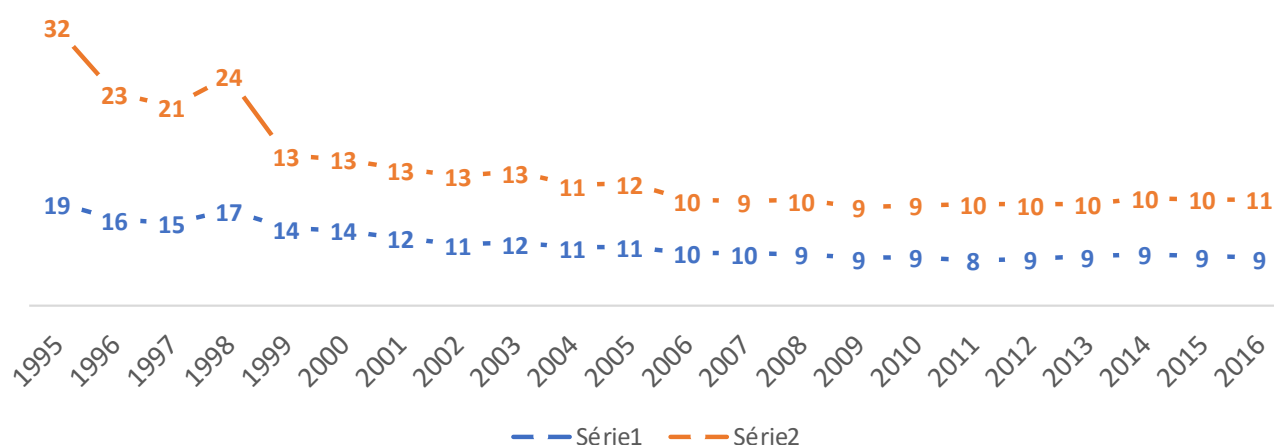
Introducing amendments to Articles 179 and 181 of the Labor Law will help create more sustainable job opportunities to women in Morocco. Due to these provisions, women are prohibited from working in the mining and phosphate sectors, as well as other extractive industries. The Moroccan law complies with the agreements of the International Labor Organization (ILO), such as Convention 45 of 1935, which prohibits the employment of women in hazardous sectors. In 1955, however, the ILO changed its rules, calling on governments to amend Convention 45 and ratify Convention 176 "Safety and Health in Mines", which calls for protecting the safety and health of all mine workers, irrespective of gender. Therefore, it is now time for Morocco to comply with the ILO's new rules by making its laws compatible with the related international instruments.

In line with recent changes in the rules, several countries began to open up more fields of work to women. Studies show a positive impact at the levels of labor market and economic growth in these countries. As it plans to prepare its new development model, improve labor productivity, develop its economic activities, and look for new ways to boost growth, Morocco must amend its labor legislation, mainly Articles 179 and 181, to open up more sectors to women. This will bring several positive outcomes as explained in this paper.

## No development without more opportunities for women

On May 25, 2021, His Majesty King Mohammed VI received the Ad-hoc Committee for the Development Model (CSMD). This project represents a new roadmap for Morocco until 2035, and its general report will be used by the upcoming governments as a reference to develop their general policies for the next 15 years. Under its third component, "Integration of all citizens and strengthening the social bond", the development project identifies women's independence, gender equality, and equal participation as its first strategic choice. In addition, the development project aims to reduce gender differences in terms of participation in the labor market, as this will increase GDP by 0.2-1.95 percent<sup>1</sup>. In Morocco, however, legal and cultural barriers still hinder the integration of women in the labor market to a large extent. Over the last two decades, Morocco has succeeded in closing gender gaps in unemployment rates thanks to the large share of jobs created in the public sector for women. However, jobs created for women in the private sector are still limited due to the country's weak economic fabric and informal and bloated economy. In compliance with its national and international commitments, the adoption of equal opportunities in employment across most sectors is one of the strategic plans Morocco has adopted. In spite of this, the unemployment rate is higher amongst women than men. According to ILO statistics, the unemployment rate of women is one or even two percentage points higher (e.g., 2011 and 2016).

**Chart 1 : Unemployment in Morocco by gender, 1995-2016**



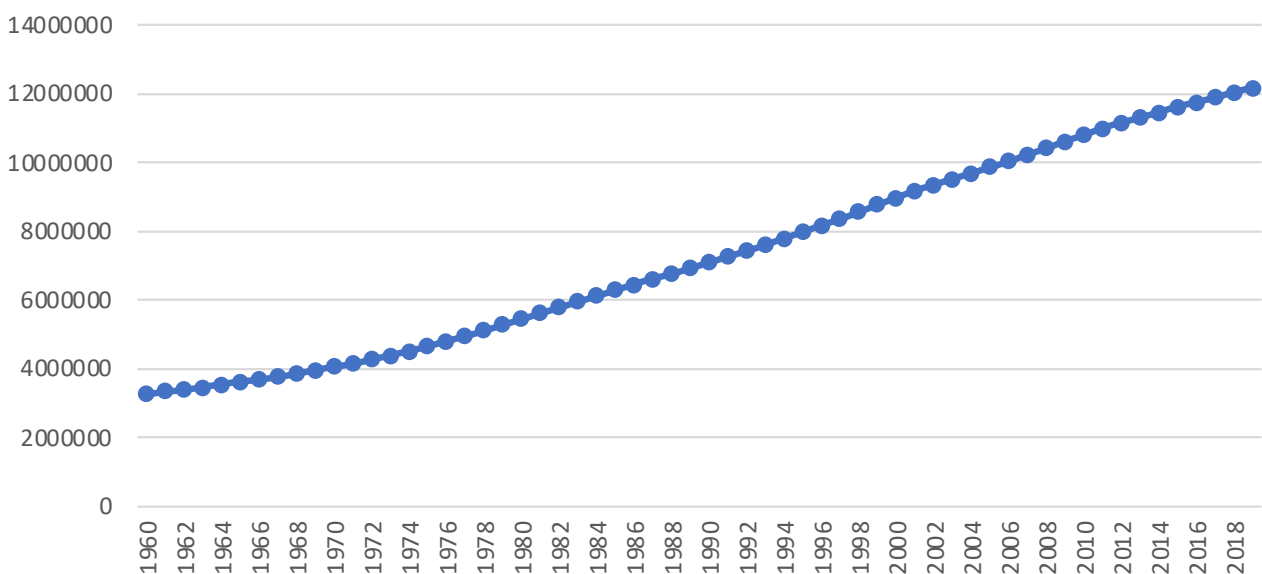
**Source: The World Bank/ILO**

<sup>1</sup> The report authors relied on a study entitled "Gender Equality, Public Policies, and Economic Growth in Morocco", Fiscal Studies and Forecasting Department and Policy Center for the New South.

In spite of declining unemployment rates in the last two decades, unemployment is still high in Morocco, even higher than the international rates, especially among women. For example, the unemployment rate declined from 32 percent in 1995 to 11 percent in 2016. It is still elevated nonetheless and shows the vulnerability of the labor market in Morocco when it comes to employment of women. Since 1999, the gender gap in unemployment has narrowed. However, other than in 2009 and 2010, when the unemployment rate was the same for both men and women, it is still higher among women.

The decline in unemployment has occurred alongside government measures with respect to education mainstreaming and improvement of household living conditions, leading to an increase in life expectancy in the country. Additionally, in Morocco, the total female population (15–65 yrs) reached 12,173,715 in 2019 compared to only 3,265,345 in 1960. On the other hand, total population of males of the same age group reached 11,799,193 in 2019. During this period, there was an increase in the number of educated women (graduates from universities and institutes) looking for work. However, these qualified human resources need sustainable job opportunities, as opposed to insecure jobs in the informal sector. Studies show that these jobs represent around 30 percent of total economic activity in Morocco<sup>2</sup>. In light of the fact that much economic growth in the country is based on insecure job opportunities, women's expectations of finding sustainable job opportunities seem unrealistic.

**Chart 2 : Population of females (15–64 years old): Case of Morocco**



**Source: The World Bank**

<sup>2</sup> K, Lahlou. H, Doghmi. F, Schneider. 2021. The Size and Development of the Shadow Economy in Morocco. Bank Al Maghrib, Rabat.

In fact, the unemployment rate may be misleading, especially when it comes to women. In a country like Morocco, not all women are searching for a job, and therefore they cannot be considered unemployed. In order to examine the real situation of a given country, experts rely on another equally important but more accurate indicator, that is ratio of employment to population. National institutions, the ILO, and the World Bank issue figures annually on the population (+15 yrs). According to the ILO<sup>3</sup>, the employment rate is the ratio of population in the working age who actively participate in the labor market, either by working or looking for work, to total population in the working age.

**Chart 3 : Employment ratio to total economically active population, +15, male and female (%)**



Source: the World Bank/ILO<sup>4</sup>

In the case of Morocco, the difference in the employment rate for men and women is enormous, even though the ILO's recent reports<sup>5</sup> show persistent gender inequality internationally in terms of access to the labor market, unemployment, and work conditions. Although this may reflect the situation in Morocco, it does not fully explain it. In Morocco, the rate of gender disparity in employment remains at around 40 percent. While the male employment rate reached 56.21 percent in 2016, it was only 21.19 percent for

<sup>3</sup> Indicator description: Labor force participation rate: (<https://ilostat.ilo.org/resources/concepts-and-definitions/description-labor-force-participation-rate>).

<sup>4</sup> The information provided by the DataBank of the World Bank and other Moroccan sources on this time series is updated until 2016.

<sup>5</sup> [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_619759/lang--ar/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_619759/lang--ar/index.htm)



women compared to 50 percent globally (48.50 percent in 2018)<sup>6</sup>. In 2009, during the world financial crisis, the female employment rate declined to 17 percent, widening the gap between men and women to 50 percentage points. This highlights the fact the women's jobs are more vulnerable (as many work in the informal sector) and more prone to cyclical economic shocks. This was more evident during the Covid-19 crisis<sup>7</sup>, further raising the need for the creation of more stable job opportunities for women.

## Women, employment, and business

Economic integration of women not only provides them with job opportunities and improves their income, but also has positive effects on the household and income redistribution levels. Experiences around the world show that economic inclusion of women increases growth and provides social stability, much needed in most MENA countries in the last decade. Since 2011, women have been on the front lines of uprisings in the region, as the return of investment in their human capital was not rewarded with decent employment and did not meet their daily life aspirations.

The World Bank's "Women, Business and the Law" (WBL) index is one of the main publications in the area of women's economic empowerment. The index measures the impact of legislation on women's economic participation by reviewing the relevant legislations of 190 economies in the world. This index is made up of eight indicators, namely mobility, workplace, pay, marriage, parenthood, entrepreneurship, assets, and pension. The report analyses associations between legal gender equality and women's economic participation.

In Morocco, the biggest leap made on the "Women, Business and the Law" index was when the country moved from 44.37 (out of 100 points) in 2003 to 70.62 in 2004 after enacting the most important legislation in the field of public policies protecting women's rights in the country. Law 70.03 Family Code represents a leap forward in empowering women and protecting their rights in Morocco. However, due to a lack of implementation and follow-up tools, full economic empowerment was not achieved in spite of the legal gains approved by the Family Code, ratified in 2004. Such gains include making family care a joint responsibility of the couple, defining the age of marriage at 18, giving women the custodian role, facilitating the divorce process for women, ensuring equal distribution

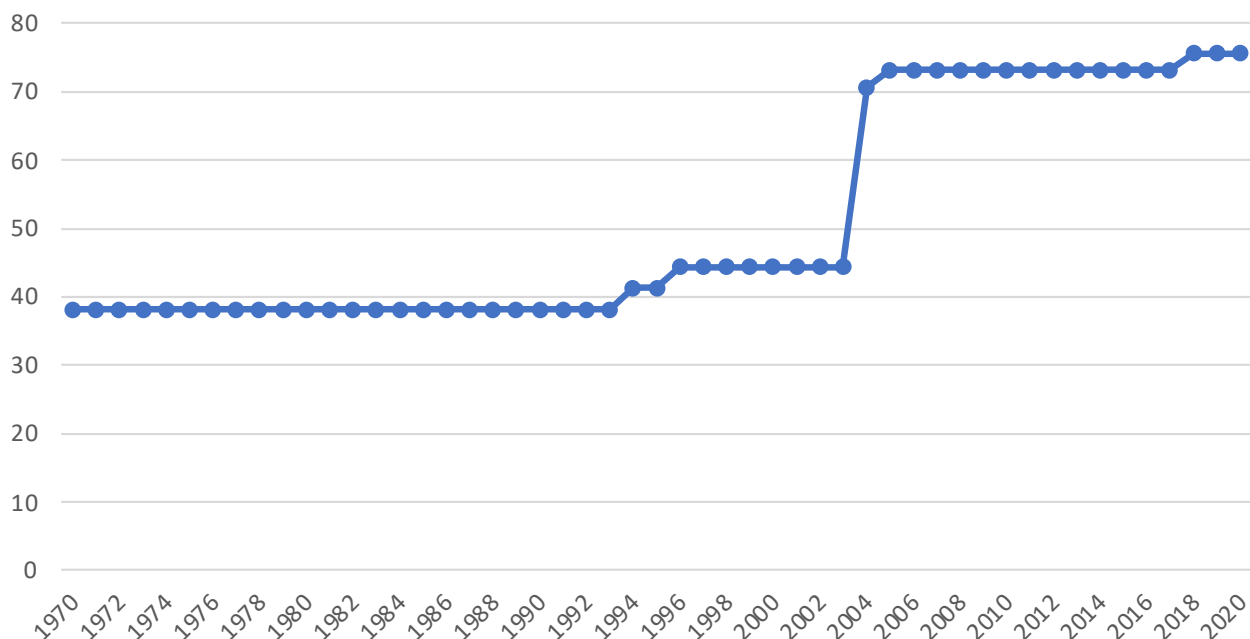
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<sup>6</sup> [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_619759/lang--ar/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_619759/lang--ar/index.htm)

<sup>7</sup> See: K. Aynaoui, A. Ibourk, and T. Ghazi, Economic Empowerment of Women in Morocco pre- and during Covid-19: Reaching Agreements for Action. Policy Center for the New South, Rabat. <https://www.policycenter.ma/sites/default/files/RP-20-10-Ibourk-Tayeb-Aynaoui.pdf>

of rights and obligations, among others. However, since the progress noted at the Family Code level, little had been done to improve Morocco’s ranking on the WBL index, which stood at 75.62 in 2018.

**Chart 4 : Women, Business and the Law index: Case of Morocco**



**Source: The World Bank**

In the MENA region, Morocco comes fourth (75.6) after Malta (88.8), the UAE (82.5), and Saudi Arabia (80), according to the WBL report of 2021. Additionally, seven Arab countries and Iran rank the lowest regionally and globally: Syria (36.9), Oman (35.6), Iran (31.3), Qatar (29.4), Kuwait (28.8), Yemen (26.9), and West Bank and Gaza (26.3). However, this index does not reflect income opportunities that women enjoy in reality. For example, oil-producing countries (e.g., Qatar and Kuwait) record very high annual per capita income, which help improve the economic conditions of women in these countries. As for other MENA region countries, they come in the middle of the global ranking, as follows: Tunisia (67.5), Algeria (57.5), Bahrain (55.6), Lebanon (52.5), Libya (50.5), Jordan (46.9), Egypt (40.5), and Iraq (45.0). It is worth noting that the UAE and Saudi Arabia used to rank the lowest two years ago, but since the introduction of legal reforms to improve gender equality their global ranking has improved (WBL, 2021). As for the remaining countries, their performances on the WBL index are not very different from each other, recording disparities that do not significantly change the economic situation of women in these countries.

## Legal reform for more opportunities for women

In Morocco, any changes or increased integration of women into a given sector have always come through legal reform. During the last few decades, public debates were characterized by calls for women's rights and allowing them to access certain positions. Often, this was achieved by enacting progressive legislation, repealing obstructive provisions, or issuing orders enabling women to assume certain economic and social positions. The last two decades witnessed major government initiatives to improve women's rights, which came mainly as a result of adapting Moroccan legislation to the related international instruments.

After enacting the Family Code in 2004, which is considered the most important law drafted by Morocco to improve women's status and open more fields to them in the last two decades, Morocco introduced other reforms to open up traditionally male-dominated industries. For example, religious preaching was opened for women, through Mohammed VI Institute for Preparation of Imams and Preachers, which was established under the Royal Decree 1.14.103 issued on May 20, 2014. The Institute allocates 100 of a total 250 positions created annually. After 16 cohorts were trained by the Institute, around 1,600 sustainable jobs were created for women in the field of preaching, which is a stable public job that meets satisfactory conditions of employment in the country.

In January 2018, and after Royal directives and Fatwas from the Supreme Scientific Council, the government allowed women to practice the occupation of freelance notary public to document several types of contract such as sale, marriage, divorce, etc. This came after a wide religious, legal, and social debate in the country since 2010. In the past, this occupation was dominated by men, but the government's action lifted the legal restrictions on women's access and created hundreds of sustainable jobs for women. The first cohort, who started to practice the occupation in 2020, included 299 women from all over the country. Before that, they were prepared for six months at the Higher Council of Judiciary followed by a two-month training period in the different courts of Morocco before being sworn-in before the Courts of Appeal. This helped them practice work under the same conditions as men.

Such occupations, whether preaching or notary public, were male-dominated in the past. Without the brave legislative initiatives of the governments, such opportunities would not have been open to women, since conservatives have always been against women's access to some industries and occupations. Therefore, the government legislative

initiatives, coupled with the right timing, were decisive in unlocking new fields of work to women in Morocco.

## **Mining sector in Morocco: Promising opportunities for women**

On September 20, 1956, Morocco ratified the ILO Convention 45 of 1935 "Underground Work (Women) Convention". Later on, however, the ILO qualified this Convention as obsolete. Article 2 of the convention prevents the employment of any female, regardless of her age, in underground work. Article 3 of the same convention excludes, from the former provision, females holding positions of management who do not perform manual work; females employed in health and welfare services; females who, in the course of their studies, should spend a period of training in the underground parts of a mine; and any other females who may occasionally have to enter the underground parts of a mine for the purpose of a non-manual occupation.

At that time, and to ensure compliance with provisions of the said convention, Article 179 of the Labor Law 65.99 in Morocco reads "It is prohibited to employ juveniles under 18 years old, women, and disabled persons in quarrying and mining". Furthermore, Article 18 of the same law reads: "It is prohibited to employ juveniles under 18 years old, women, and disabled persons in hazardous and arduous jobs, as well as jobs against public manner. A list of such jobs shall be specified by a regulation". Under this article, Decree 2.10.183 dated November 2010 was issued, which is related to the list of jobs prohibited for some groups. Article 4 of the said decree prevents employment of women in quarrying and mining. However, such prohibition does not apply to women who assume management positions, women employed in health and welfare services, and women who may occasionally have to enter the underground parts of a mine for the purpose of a non-manual occupation.

Additionally, if the allowable work for women in quarrying and mining is at night, the Labor Law provides for a set of conditions for such work under Chapter VI, Part II, Title II and Decree 2.04.568 issued on December 29, 2004, which specifies conditions for facilitating employment of women in any night-shift work.

Legislation in Morocco was drafted in compliance with the ILO rules, especially Convention 45 of 1935, which prohibits employment of women in hazardous jobs. However, in 1995 the ILO called on governments to denounce Convention 45 and ratify Convention 176 "Safety and Health in Mines", which calls for protecting the safety and health of all mine workers, irrespective of gender.

As Morocco is the largest producer of phosphate in the world, in addition to producing many other minerals, the Kingdom has worked over the past years on developing the extractive industries sector. This helped make it a promising sector as it can create many job opportunities. Amid efforts to reform and modernize this sector, the Government of Morocco, during its session held on July 1, 2021, endorsed draft law 46.20 amending Law 33.13 on mining. The amending law aims to “make the mining sector more attractive to national and international private investments and maintain socio-economic balance of the stakeholders in the mining sector”, according to the government announcement<sup>8</sup>.

Introducing the participation of women in this sector is key to developing and modernizing it, improving its governance, and is a condition for “strengthening business environment and transparency<sup>9</sup>” amongst other objectives of the new law. In fact, previous international experiences confirm this. For example, two decades on from lifting legal restrictions on female employment in the mining sector in Chile, women represented 8 percent of the total labor force in this sector in 2018. Similarly, two decades on from opening the mining sector to women in South Africa, women represented 13 percent of the total labor force in this sector in 2016, including 15 percent in top management positions. In both cases, the legal reforms were accompanied by policies promoting employment, empowerment, and retention of women in this sector. For example, some prominent mining companies conducted gender gap analyses and adopted strategies to enhance gender diversity and programs to help parents manage their work and family responsibilities<sup>10</sup>.

## Impact of lifting legal restrictions on women’s work and income

In order to consider the impact of lifting legal restrictions on women’s work in Morocco, we analyzed the association between women’s economic performance and gender equality in the law in Morocco during two intervals (i.e., 1970-2019 and 1990-2019). Overall, regression results showed that the more gender equality is evident in the law, the better women’s economic performance is.

### Sources of data

In this study, the independent variable for gender equality in the law is the World Bank index “Women, Business and the Law” for 1971-2021. There are two dependent

<sup>8</sup> Ministry of Energy, Mines, and Environment <https://bit.ly/3wpYk5X> (reviewed on July 6, 2021).

<sup>9</sup> Ibid.

<sup>10</sup> USAID, 2018.

variables: female labor force participation (of total females above 15 yrs) and gender wage equality for similar work. The former covers World Bank data from 1990 to 2019. Data for the latter (gender wage equality) were taken from World Economic Forum’s global gender gap index for 2006-2021. All control variables were taken from World Bank databases, including log of GNI per capita, ratio of female to male enrollment in secondary education, ratio of female to male population, fertility rate, and percentage of urban population.

### Analysis methodology

Due to data availability, regression analyses were used for the variable of female labor force participation for the period 1990-2019, while the analyses of gender wage equality used data from 2006-2019. In this respect, two different analyses were used: First, we examined whether there are apparent correlations between the dependent variables and independent variable. Second, we conducted the *ordinary least squares* (OLS) regressions on the full model (adding all control variables). Finally, we trimmed down the full model to avoid multicollinearity, using variance inflation factors. The analysis results were as follows:

VARIABLES	(1)	(3)
	Female Labor Force Participation	Wage Equality for Similar Work
Gender Legal Equality (WBL Index)	0.0899* (0.0489)	0.0462* (0.0214)
Ln(GNI per capita)	-12.39*** (3.646)	-126 (160)
Gender Parity Index for Secondary Education	6.369 (20.45)	-1.032 (772)
Fertility Rate	-2.866** (1.063)	-0.0619 (309)
Constant	127.9*** (22.55)	-609 (2.641)
Observations	30	14
R-squared	471	468
*** p<0.01, ** p<0.05, * p<0.1		

## Findings

The table above shows results of the final models. As such, the legal gender equality variable (the Women, Business and the Law index) is positively correlated to the dependent variables, assuming all other factors remain constant. An increase of one percentage point in the gender equality variable is correlated to an increase of 0.0899 percentage points in female labor force participation, as well as an increase of 0.0462 percentage points in gender wage equality for similar work. Given how the Women, Business and the Law index is calculated (based on 35 questions measuring all aspects of legal gender equality), the regression results show that each legal reform in Morocco (which corresponds to an increase in the Index of 2.86 percentage points) was correlated to an increase in female labor force participation of 0.26 percentage points and an increase in gender wage equality for similar work of 1.32 percentage points.

Results of this regression show the positive association between lifting legal restrictions on women's work in Morocco and improving their economic conditions, which helped improve Morocco's ranking on the Women, Business and the Law index. Such results give hope that the economic integration of women can be achieved by amending the related legislation. As the new development model is under wide public discussion, it is the perfect time to advocate for such legal amendments.

## Conclusions and Recommendations

If more job opportunities are not made available to women in Morocco, an increasing number will end up with no source of income beyond working age. As women are the most vulnerable group in terms of economic integration, generating their own income becomes harder as they get older. As such, there is only one way to mitigate their hardships in the future, which is the creation of sustainable employment at working age. To this end, expanding work opportunities and lifting legislative barriers affecting their participation in some economic activities is the most effective solution. This paper emphasizes the importance of reforming legislation to ensure the economic integration of women. The Moroccan experience shows that most gains made by women were the outcome of legislative amendments adhered to by the various political and economic stakeholders. With respect to the Labor Law, this paper recommends the following:

1. Amend Articles 179 and 181, as well as all related legislation to open up the mining and quarrying sector to women. Morocco is a leader in aligning its legislation to the international developments in this field. It is time to do the same regarding the above-mentioned provisions.
2. Provide incentives to companies employing women in the mining industries, including tax incentives, as previous experience shows that new legislation is not sufficient if not accompanied by incentives for all stakeholders.
3. Raise awareness of all stakeholders (e.g. government officials, companies, and beneficiaries) on the importance of women's economic participation and their legal rights, including legislative reforms.



