

Women and the Judiciary

Geneva Forum Series no 1



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Geneva Forum Series no 1

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Women and the Judiciary

Geneva Forum Series no. 1

Materials relating to the 2013 Geneva Forum of Judges
and Lawyers convened by the International Commission
of Jurists

Preface

The International Commission of Jurists (ICJ) has convened the Geneva Forum of Judges and Lawyers each year since 2010. Organised by the ICJ's Centre for the Independence of Judges and Lawyers, the Forum gathers legal practitioners from around the world for dialogue aimed at identifying and finding practical solutions to the challenges their professions face. Improved judicial protection of human rights is the underlying motivation and theme for the Forums.

The present publication, no. 1 in the "Geneva Forum Series", brings together materials related to the 2013 Geneva Forum on women and the judiciary. Discussions focused on overcoming obstacles to women's full and equal participation in the judiciary, and possible links to the better protection of women's human rights by the judiciary.

The publication opens with highlights of the discussions in Geneva. A second paper integrates the insights of the Geneva discussions together with findings from earlier regional colloquia in Tanzania and Tunisia. Finally, short snapshots are provided of the situation for women and the judiciary in six jurisdictions: Jordan, Kenya, Saudi Arabia, Tanzania, Tunisia and Uganda.

The ICJ plans to publish further entries in the "Geneva Forum Series" following future Forums. The Series seeks to provide a permanent record of the discussions. The summaries of the proceedings at the previous Geneva Forums can be consulted on the website of the ICJ, at www.icj.org.

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I. Highlights from the 2013 Geneva Forum on Women in the Judiciary

The fourth annual Geneva Forum of Judges and Lawyers was convened 5-6 December 2013 by the International Commission of Jurists (ICJ), on the topic of women and the judiciary.

The Forum was organised jointly by the ICJ Centre for the Independence of Judges and Lawyers (CIJL) and the ICJ's Women's Human Rights programme. The Forum brought together women judges and senior women lawyers from around the world, but with a particular focus on countries from the Middle East / North Africa and Sub-Saharan Africa, where the ICJ had held two regional colloquia.

Participants drew on personal opinions, their professional experiences and their legal skills in discussing the obstacles that continue to impede women's full and equal participation in the judiciary, the important roles that women judges can play, and the mechanisms to improve women's representation.

Participants attended in their personal capacities and on the understanding that remarks would not be attributed to named speakers.

This document provides a brief summary of the two days of discussions, presenting key points thematically rather than in a strictly chronological order.

The list of participants and programme are included, in Annex I and II.

1. The importance of women's full and equal participation in the judiciary

Participants emphasized the importance of judicial independence, impartiality and integrity. They stressed that the composition of the judiciary must reflect the composition of society if it is to be perceived as legitimate and capable of delivering equal justice and upholding equality before the law. They underlined the importance of judicial diversity and of ensuring women's full and equal participation in the judiciary. It was noted that States are obliged under international law to guarantee women's ability, in law and practice, to participate fully in the judiciary (see for example the list of sources cited in Annex III).

A range of participants pointed out that women who appear before the courts as criminal defendants or as civil litigants have the right to full equality before the law, to non-discrimination in the administration of justice, and to have access to a fully independent and impartial court. Their individual human rights will not be fulfilled if the judicial profession excludes women in law or in practice.

A number of participants raised the question of whether women judges improve judicial reasoning and improve the protection of women's human rights and give rise to better justice sector outcomes for women. Many stressed that increased diversity within a judiciary, and ensuring judges are representative of society, enables the judiciary as a whole to better respond to diverse social and individual contexts and experiences. In the view of many participants without full and equal representation of women in the judiciary, the overall quality of judicial decision making is impoverished, and this impacts generally and also specifically in cases particularly affecting women.

Some participants expressed the opinion that women judge differently than men and are more likely to advance the legal protection of women's human rights. They highlighted examples of how women judges in some jurisdictions had played an important role in addressing discrimination against women and violations of women's human rights. Others were not necessarily of this view but stressed that more analysis and reflection on this question was necessary as up until now relevant research had focused on only a small handful of western jurisdictions.

2. Obstacles to women's full and equal participation in the judiciary

a. Recruitment and appointment processes

Participants highlighted that while a diversity of judicial recruitment and appointment systems may be acceptable, they must always ensure judicial independence and impartiality, guard against improper political or other influence, and prioritize diversity and gender equality, in terms of composition and in the criteria and procedures that are applied.

Many participants stressed the importance for sustainable equality and participation of women of appointment processes that ensure judicial independence and impartiality. They expressed the view that where women judges are appointed through other means by nondemocratic governments their presence within the judiciary can become tainted or undermined.

A number of participants recalled facing great challenges in entry to and acceptance within the judiciary and highlighted a range of persistent flaws in appointment and recruitment procedures.

For example some denounced the lack of transparency in certain appointment processes and there were particular criticisms of informal consultation processes in which Chief Justices inform judges and lawyers when a position is vacant, and seek their recommendation for suitable candidates. Many participants stressed that often when such practices are the norm female legal professionals are not directly informed of openings, nor properly consulted during selection process. They highlighted that as a result women have had to identify informal strategies to work around the problems caused by such processes, using networks and outreach to male peers to persuade them to propose female candidates.

Several participants also expressed considerable concerns regarding appointment systems in which the power of judicial appointment is concentrated in a single person, noting that this tends to have a negative impact on women's inclusion.

Some participants highlighted the importance of public advertisement of judicial vacancies. Others observed that in fact female candidates may often be reluctant to apply due to lack of empowerment and fears of harassment and rejection.

A number of participants expressed the view that the implementation of quotas may be a necessary measure to advance the recruitment and appointment of women judges. They highlighted the importance of quotas as effective temporary measures through which it may be possible to overcome and redress significant historical gender imbalances within the judiciary. They emphasized that quota systems must operate in a manner that ensures that judicial appointments are based on qualifications and skills.

b. Opposition, gender roles and stereotypes

Many participants expressed the view that prevailing gender stereotypes, norms and roles often play a significant role in preventing women's full and equal participation in the judiciary.

In some contexts these manifest in serious opposition to women's participation in the judiciary. For example a range of participants noted that in many jurisdictions religious interpretations as to women's roles in society or specifically in the judiciary continue to exclude women from the judiciary or from particular courts. Sometimes the authorities strictly apply religious edicts as to the role of women in the judiciary. Sometimes conservative religious beliefs as to women's roles in society provide the authorities with pretexts to restrict women's participation.

A number of participants spoke about the way in which gendered assumptions as to women's roles in society have affected the way in which they are treated by male colleagues and authority figures. For example some participants noted the way in which women's appointment or promotion within the judiciary is often discussed in terms of assumptions that women are children's primary caregivers and will stop working or reduce work levels if and when they become mothers.

Other participants spoke of widely held assumptions among the general public that judges are, or should be, men. For example one judge explained that when she was first appointed, someone came into her court and asked where the judge was. Others noted that when they were first appointed, many men and women had refused to appear before them or had sought to have their cases transferred.

c. Harassment and discrimination

Many participants recalled the fact that they or female colleagues had faced harassment and discrimination because of being female. They also noted that often women judges are subject to additional scrutiny and criticism, as well as gendered forms of intimidation.

For example, one participant recalled that when she became pregnant she faced great pressure to resign, and had to struggle in order to obtain two-months maternity leave. Although she eventually obtained maternity leave, she was deprived of her end-of-year bonus.

One participant recalled the negative way in which male colleagues received her promotion to a senior position. Following her promotion they treated her with increased suspicion and attempted to undermine her in different ways. On one occasion a senior district registrar sought her expulsion from the government housing she had been living in and was entitled to. At another time she was denied the same benefits as male colleagues, such as a judicial vehicle, until three years after her appointment.

A number of participants related experiences of their cases being reallocated and reassigned by superiors to male judges, on the basis of assumptions that as women they would be biased in judging cases that dealt with women's human rights issues.

Participants also addressed the way in which women judges face public scrutiny and criticism. One judge recalled how when overturning an acquittal in a rape case on appeal she was labeled a "man hater" in media publications and accused of bias.

d. Reluctance to join the judiciary

Some participants expressed the view that in some contexts women remained reluctant to enter the judiciary. They explained that the various forms of discrimination, opposition and harassment that women judges face often acts as a powerful deterrent to entering the profession.

Some participants also noted that a lack of self-confidence on the part of some women sometimes impedes their willingness to apply for judicial positions. They expressed the view that this originated in cultural and societal pressure.

Many participants stressed that outreach efforts should be made to encourage women to join the judiciary. Additionally, the establishment of mentoring and support networks, and other practical measures designed to allay women's concerns about being a judge, should be pursued.

e. Lack of training and outreach

Many participants underscored the need for training programmes to adequately prepare male and female judges for the responsibilities involved in the profession. In particular, a number of participants highlighted the need for continuing judicial education on gender discrimination and educational programmes to ensure all members of the judiciary practice gender, racial and cultural sensitivity.

Some participants expressed the view that in efforts to advance women's participation, the judiciary should engage with law faculties and academics, both in terms of educational curriculums and in terms of research concerning the impact of women within the judiciary.

Some participants noted the important role that the media can play in countering these attitudes and assumptions, raising the visibility of women within the judiciary as positive role models.

Many participants underlined that ensuring the equality of women's access to the judicial profession and their equal representation in the judiciary is not the exclusive responsibility of women judges; men too have a crucial role to play. Several participants emphasized that outreach and engagement with male judges to ensure their solidarity, support and leadership in efforts to advance women's full and equal participation in the judiciary is vital.

II. PHOTOGRAPHS



2013 Geneva Forum on Women and the Judiciary



Former High Commissioner for Human Rights, Madame Navanethem Pillay



Khoulood el-Faqeeh, Sharia court judge in Palestine



Former United Nations High Commissioner for Human Rights, Madame Navanethem Pillay



Geneva Forum Participants



Geneva Forum Participants

III. Key Challenges and Opportunities: synopsis of findings from colloquia in Arusha, Tunis and Geneva

"When I was first appointed it was to a Court in a small rural town. For many my presence as woman and judge was not believable. One day a man entered my court and asked me where the judge was."¹

"At the beginning many male colleagues did not want us there. They were defending their castles and territories. Many colleagues refused to implement the orders we gave and we had to issue disciplinary orders."

"Women themselves were opposed to women judges. Many women said - I don't want to be judged by a woman."

"When I reported for duty I found that there were no toilet facilities for women Judges. I had to personally deal with the Registrar to make the facilities available. This was a humiliating experience."

"When I first became pregnant the President of the Tribunal said I should quit."

"When I was appointed a Judge ... I was viewed with suspicion; I was viewed as a rabble-rouser who had come to disturb the status quo."

¹ Quotes from testimonies of participants in ICJ

"I became a specialist 'moaner.' As I later discovered the establishment unilaterally changed my name to 'moaner.'"

"In many ways the authorities treated both male and female judges in the same way. They oppressed one and they oppressed the other. Persecuted one and persecuted the other. But when they wanted to subjugate and intimidate judges they would start with women. They moved women judges away from capitals and away from their families and children. Women judges maintained their resolve but they paid a price."

1. Introduction

In 2013 the ICJ convened three roundtable discussions on women in the judiciary. At these colloquia over 65 women judges, other legal professionals and human rights defenders from over 40 countries came together to share their personal and professional accounts of the challenges they have faced as women judges or as women lawyers and human rights defenders in jurisdictions in which women's representation in the judiciary is negligible or contested.

Discussions centred on storytelling and, through discussion of participants' own experiences, enabled the consideration and exploration of critical obstacles and other concerns related to women's equal representation within judiciaries.

These events mark the initial phase of a multi-year ICJ initiative to support women judges, lawyers and human rights as agents of change.

A number of the women judges participating in the colloquia were among the first women appointed to the judiciary in their jurisdictions. Others were the first appointed to a senior level or to a particular court. These women represented different generations and levels of professional seniority. Some reflected on lessons learned and difficulties overcome during the trajectory of a long career. Others told of the ways in which they are still grappling with the challenges of being at the forefront of significant systemic change.

Other participants, although not the first among female judicial appointees, were pioneers in their jurisdictions in other ways: in their careers prior to entering the judiciary; in their approach to their judicial responsibilities and their commitment to the principles of independence of the judiciary; in their innovative or landmark decisions concerning human rights principles and gender equality.

At each of the colloquia a series of focus issues and concerns emerged as critical considerations in any exploration of the challenges women face in entry to, and within, the judicial profession. This paper presents a brief synopsis of participants' reflections on some of these issues. Section 2 captures participants' views as to why women's full participation in the judiciary is vital. Section 3 addresses a range of challenges, obstacles and opportunities identified.

2. The importance of women judges

The importance of a proper and effectively functioning judicial system in a country cannot be overstated. The judiciary is vital to the rule of law, the fair administration of justice and the protection

of human rights. Not only are the separation of powers and the independence of the judiciary bedrock components of the rule of law and democracy, but courts play a central role in ensuring that victims of human rights violations and abuses obtain effective remedies and reparation, that perpetrators of violations and abuses are brought to justice and that anyone accused of a criminal offence receives a fair trial.²

In this context, and because judicial decisions and the administration of justice have vast and varied effects on everyday lives, the competence, legitimacy and integrity of a country's judiciary is key and the composition of the judicial profession a matter of major significance. Judicial officers must be individuals of integrity and ability with appropriate expertise and procedures for judicial appointments must ensure the independence and impartiality of the profession. In addition, judiciaries must be representative of the societies they serve and there must be no discrimination in appointments on any grounds, including sex.³

² See generally, International Commission of Jurists (ICJ), *International Principles on the Independence of Judges, Lawyers and Prosecutors, Practitioners' Guide No 1* (2009); ICJ, *Legal Commentary to the ICJ Geneva Declaration: Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis* (2011); Shami Chakrabarti, "The Judiciary: Why Diversity and Merit Matter", in *Judicial Appointments: Balancing Independence, Accountability and Legitimacy*, Judicial Appointments Commission, London 2010, p 67; International Congress of Jurists, Declaration of Delhi, 10 January 1959.

³ See generally, UN Basic Principles on the Independence of the Judiciary, endorsed by General Assembly res 40/32 (29 November 1985) and res 40/146 (13 December 1985), Principle 10 (and see also 13); Human Rights Committee, General Comment No 32, Right to Equality before Courts

Yet women's full participation in the world's judiciaries generally remains unfulfilled, and their underrepresentation in a great number of jurisdictions remains marked. Global figures indicate that on average women comprise just over 25 percent of the world's judicial officers, and although in some jurisdictions these percentages are higher, in many other countries and regions the numbers fall to far below 10 percent.⁴

Moreover, national percentages can alter dramatically when considering the number of women at senior levels of the profession and in leadership roles. In some jurisdictions there are high numbers of female magistrates, but extremely few senior women judges; in others women's presence at appellate levels is significantly low.⁵ In some jurisdictions statistics vary as per the competence of a specific court: women judges may be highly concentrated in family or children's courts, or may be excluded from handling criminal matters or from religious or customary courts.⁶

International law and standards require States to take concrete measures to address these imbalances and deficits, both through the identification and

and Tribunals and to a Fair Trial, UN Doc CCPR/C/GC/32 (23 August 2007), paras 18-22.

⁴ *In Pursuit of Justice, Progress of the Worlds' Women 2011-2012*, UN Women, pp 60-61.

⁵ *Ibid.* And see Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No 23, Women in Political and Public Life, UN Doc A/52/3 (1997), para 30; Cheryl Thomas, *Judicial Diversity in the United Kingdom and Other Jurisdictions, A Review of Research, Policies and Practices*, The Commission for Judicial Appointments, 2005.

⁶ CEDAW General Recommendation 23, para 31.

removal of legal and practical barriers to women's equal participation, and through proactive steps to actively encourage and advance women's equal representation and redress long-standing deficits. These obligations derive from general international standards concerning the independence of the judiciary, and from international legal requirements to ensure women's enjoyment of their human rights on the basis of equality and non-discrimination.⁷ Indeed, certain international gender equality standards specifically and expressly address women's right to equal participation in public life and equal access to, and representation within, the judicial profession.⁸

Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women specifies that States Parties must "take all appropriate measures to eliminate discrimination against women in the political and public life of the country", and to this end they must ensure women's right "to participate in the formulation of government policy and the implementation thereof and to hold public

⁷ See for example: International Covenant on Civil and Political Rights (ICCPR), articles 2 and 3; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), particularly articles 1 and 2; International Covenant on Economic, Social and Cultural Rights (ICESCR), articles 2 and 3.

⁸ CEDAW, article 7; ICCPR, article 25; Human Rights Committee, General Comment No 25, The right to participate in public affairs, voting rights and the right of equal access to public service (Art 25), UN Doc CCPR/C/21/Rev.1/Add.7 (December 1996). See also ICESCR, articles 6 and 7. And see Beijing Declaration and Platform for Action, 4th World Conference on Women, 15 September 1995, particularly principle 13 of the Declaration, and paras 232(m) and 190(a) of the Platform for Action.

office and perform all public functions at all levels of government".⁹ Political and public life refers to: "the exercise of political power, in particular the exercise of legislative, judicial, executive and administrative powers".¹⁰

Article 7 of the Convention not only requires the removal of legal and other barriers to women's participation in the judiciary. It also requires a range of practical and structural measures, including temporary special measures, to ensure women's equal enjoyment in practice of the right to hold judicial office.¹¹ As the Committee on the Elimination of Discrimination against Women has underscored, although the removal of legal barriers to women's equal representation within the judiciary is crucial, it is not sufficient: "the critical issue... is the gap between the de jure and de facto, or the right as against the reality of women's participation."¹²

The Beijing Declaration and Programme of Action, adopted in 1995 at the Fourth World Conference on Women, also addresses the matter. It outlines that States must "ensure that women have the same right as men to be judges, advocates or other officers of the court",¹³ and "commit themselves to establishing the goal of gender balance... in the judiciary, including, inter alia, setting specific targets and implementing measures to substantially increase the number of women with a view to achieving equal

⁹ CEDAW, article 7(b).

¹⁰ CEDAW General Recommendation 23, paras 5, 15 and 46(b).

¹¹ CEDAW General Recommendation 23, para 15.

¹² *Idem*, para 16.

¹³ Beijing Declaration and Platform for Action, para 232(m).

representation of women and men, if necessary through positive action".¹⁴

Women's rights to equality and non-discrimination are crucial to defining the importance of ensuring women's full and equal participation in the judiciary. Yet the necessity of women's full participation goes beyond this too, as it, "is essential not only for their empowerment but also for the advancement of society as a whole".¹⁵

Indeed, the integrity and effectiveness of an independent judiciary as an arm of democratic government is critical and the need for judicial diversity must be viewed in that context. It is inherent in the nature of equal justice in a diverse society that those administering justice reflect and embody that diversity: "women who are bound by the justice system should be participants in it at all levels".¹⁶ The Committee on the Elimination of Discrimination against Women has underlined the gravity of situations in which a lack of diversity takes its severest form, noting that: "societies in which women are excluded from public life and decision-making cannot be described as democratic".¹⁷

In addition increased judicial diversity enriches and strengthens the ability of judicial reasoning to encompass and respond to varied social contexts and experiences. This can improve justice sector responses to the needs of women and marginalized groups.

¹⁴ *Idem*, para 190(a).

¹⁵ CEDAW General Recommendation 23, para 17.

¹⁶ *Touchstones for Change, Equality, Diversity and Accountability*, Report of the Canadian Bar Association (CBA) Task Force on Gender Equality in the Legal Profession (Chair, Justice Bertha Wilson) 1993, p 185.

¹⁷ CEDAW General Recommendation 23, para 14.

Advancing women's full participation in the judiciary also plays a role in promoting gender equality in broader ways:

- Female judicial appointments, particularly at senior levels, can shift gender stereotypes, thereby changing attitudes and perceptions as to appropriate roles of men and women.¹⁸
- Women's visibility as judicial officers can pave the way for women's greater representation in other decision-making positions, such as in legislative and executive branches of government.
- Higher numbers, and greater visibility, of women judges can increase the willingness of women to seek justice and enforce their rights through the courts.
- In some contexts, female judicial officers may demonstrate a strong commitment to the recognition and protection of women's equality and rights which is then reflected in judicial reasoning and court decisions, particularly in cases concerning gender-based violence, divorce and family law and labour rights matters. However, this impact has not been thoroughly researched and requires dedicated and comprehensive multi-regional and country-specific analysis.¹⁹

¹⁸ *Ibid.* See also CBA, *Touchstones for Change, Equality, Diversity and Accountability*, p 185.

¹⁹ For some discussion of these issues and references to relevant studies see: *In Pursuit of Justice, Progress of the Worlds Women 2011-2012*, UN Women, pp 60-61; Justice Bertha Wilson, "Will Women Judges Really Make a Difference?" (1990), 28 Osgoode Hall LJ 507; Sandra Day O'Connor and Kim Azzarelli, "Sustainable Development, Rule of Law and the Impact of Women Judges" (2011), 44 Cornell International Law Journal 3; Brenda Hale, "Equality and the judiciary: why should we want more women

3. The challenges: appointment, promotion, integration & acceptance

Deficits in women's full and equal participation in the judiciary may take different forms in different legal systems. In some cases gender diversity among judges is significantly low across the board. In others female representation drops significantly when considering appellate courts and leadership roles. In some contexts, the presence of women judges may be highly concentrated in courts with limited or specialized jurisdiction, or may be excluded from handling certain matters, such as criminal cases or from sitting on religious or customary courts. The causes of these deficits are also many and varied. They range from ideological opposition and restrictive views on gender roles and norms, to failures of political will and the lack of prioritization and concerted efforts towards change.

Improving the situation requires action in a range of spheres. Judicial structures, roles and functions, appointment procedures, and terminology vary from country to country and within regions. Context is therefore vital and women's participation within any particular judicial system cannot be viewed in the abstract. As the obstacles and challenges faced by women vary, at least in nuance and contour, so too must opportunities and strategies for change be tailored to the specific jurisdiction.

a. Overcoming religious and ideological opposition

In certain jurisdictions concerted and prevalent opposition to the appointment of female judicial officers persists. This is particularly true in a number of Middle Eastern and North African (MENA)

judges?", [Autumn 2001] Public Law 489.

jurisdictions where there are no women within the judiciary, or where there are exceptionally few women or where women's roles are limited to judicial administration, as opposed to serving as judges in court. Even in those MENA jurisdictions where there are relatively high numbers of women in the judiciary and serving in courts, their roles are often subject to considerable limitations. For example, they are often not allowed to serve on religious courts, or criminal courts or to hand down verdicts.

This opposition is often explained or justified with reference to religious and ideological beliefs and edicts as to the role of women in the judiciary and more generally in society. In some instances the extent of women's participation in the judiciary is subject to explicit religious pronouncements and regulation that are upheld by the authorities. In others, religious interpretations have simply given rise overtime to widely held social assumptions and beliefs as to whether women can, or should, be judges. Meanwhile, in some of these situations, religion and ideology serves as a predicate for failures to appoint women judges in situations where opposition to their appointment is in reality grounded less in religion but more in reluctance among key constituencies to change the status quo. For example, this may be the case in situations where there is considerable opposition from male power bases within the judiciary to the appointment of female judges.

Religious and ideological barriers to women's full participation in the judiciary pose particularly exigent challenges. Not only are they used to justify serious limits and strictures on women's appointments, but in many contexts, even once women are appointed to the judiciary, the effect of the religious and

ideological discourse lingers, making it difficult for women to discharge their judicial functions effectively. For example, individuals may refuse to appear before women judges or officials may refuse to implement orders issued by female judicial officers. In some jurisdictions the appointment of women judges has been the subject of direct judicial challenge. In some situations female judicial officers are at risk of threat and violence.

Religion and ideology do not provide a legitimate basis on which to restrict women's full participation in the judiciary. International law and standards do not permit discrimination against women on grounds of religion. Laws, policies and practices that limit women's full and equal participation in the judiciary contravene international obligations and must be revised. The obligation to ensure full participation of women in the judiciary equally applies where a State's legal system includes religious tribunals and judicial bodies so that restrictions on women's full and equal participation as judges in these tribunals must be removed. Moreover, eliminating such barriers to women's participation, while important, is not alone sufficient. Authorities in jurisdictions where religious ideology has played a role in restricting women's full and equal participation in the judiciary must take specific targeted educational and outreach measures to address public perceptions as to the role of women in society and in the judiciary. Women judges must be afforded protection where necessary and enforcement measures may be necessary to ensure compliance with their decisions.

b. The imperative of deliberate change

Even where direct legal, policy or ideological barriers or restrictions on women's full and equal participation in the judiciary no longer exist, serious

deficits of gender diversity persist. Experience indicates that simply removing such barriers and increasing the number of women who study and practice law will not in and of itself bring about meaningful improvements in numbers of women judges.

Although the study of law and membership of the legal profession was historically predominantly a male career path, this has now changed in a large number of jurisdictions and in many contexts women now comprise more than half of law school graduates. In some legal systems this number increases to almost two-thirds. However, assumptions that greater numbers of women studying law will steadily of its own accord give rise to greater numbers of women in the judiciary do not always prove true. Similarly, greater numbers of women in the judiciary overall does not correlate to increased levels of women in senior and leadership positions.

Changing the composition of a country's judiciary and ensuring the full and equal participation of women in practice require dedicated commitment and action. Such transformation will not happen on its own. A range of practical and structural measures, including temporary special measures, are required to ensure women's equal enjoyment in practice of the right to hold judicial office.²⁰

Ensuring political will: the necessity of firm policy and legislative commitments

Women's full and equal representation within the judiciary must be accorded priority by Governments,

²⁰ CEDAW General Recommendation 23, paras 15 and 43; Beijing Declaration and Platform for Action, para 190(a).

the legal profession and civil society alike. Sustainable efforts to advance women's representation within the judiciary require express and lasting support and commitment from a range of actors. Of particular importance is engagement and action by relevant members of the executive and legislature, Chief Justices and Presiding Officers and members of judicial appointment bodies and professional organizations.

States must ensure comprehensive analysis of gender diversity at all levels of a country's judiciary and the factors contributing to deficits must be clearly identified. An effective and responsive action plan must be put in place and clear commitments and targets outlined. These must be accompanied by monitoring and oversight mechanisms. Responsibility for delivery must be clearly designated.

These commitments and targets may take different forms depending on the context, legal system and nature of the problem. In some instances, explicit political commitments and policy goals may be sufficient to make real and lasting change. In other contexts, the enactment of legal provisions may be necessary. It may not be possible to effectively overcome considerable deficits in women's representation and participation without the establishment of quota systems.²¹

Ensuring selection and promotion processes and criteria are fit for purpose

Laws, procedures and administrative practices governing judicial selection and appointment need

²¹ See CEDAW General Recommendation 23, particularly para 15.

not be uniform, but whatever means are adopted must ensure the independence and impartiality of the judiciary and must vigorously safeguard against appointment for improper motive. Similarly they must be designed to ensure judicial diversity, equality of opportunity and to overcome deficits in women's full and equal participation.²²

The ways in which judges are selected, appointed and promoted vary considerably across jurisdictions. As a result, the kind of reform measures that will be necessary to improve the ability of selection mechanisms to increase the extent of women's full and equal representation may differ depending on the specifics of the legal system in question.

In civil law jurisdictions, where career judiciaries are the norm, improving the representation of women in the judiciary generally necessitates particular measures designed to improve women's entry into judicial training institutions and programmes. Meanwhile, improving women's representation at senior levels and across different courts and areas of law involves particular scrutiny and oversight of internal systems of judicial assignment and promotion. In many civil law systems, women's representation in judiciaries is generally high, yet markedly concentrated at lower levels. In systems in which women now enter the profession in similar, or sometimes greater, numbers to men, it is notable

²² UN Basic Principles on the Independence of the Judiciary, Principle 10; Latimer House Guidelines for the Commonwealth on Parliamentary Supremacy and Judicial Independence, para IV; Draft Universal Declaration on the Independence of Justice ("Singhvi Declaration"), UN Doc E/CN.4/Sub.2/1988/20/Add.1, received by the UN Commission on Human Rights in res 1989/32 (6 March 1989), para 11.

that the equality of representation dwindles considerably at senior levels.²³

In common law systems, in which judges are largely appointed from among senior echelons of the legal profession, and in which selection processes often traditionally involved internal consultation processes, a range of distinct or additional reforms or action steps may be necessary. The establishment of impartial and transparent recruitment processes is crucial. In this regard the establishment of independent nominating bodies with clear mandates and sufficient powers may be an important step, as may be the public announcement of vacancies. Moreover the elaboration in legislation or directives of clear, transparent and holistic selection criteria is critical. Criteria should define merit in a sophisticated manner, should explicitly include the goals of judicial diversity and gender equality and should enable appointment from a diversity of legal backgrounds.

Ensuring women's full and equal participation within the judiciary necessitates the same level of diversity and equal participation of women in the composition of judicial nominating or selection bodies and professional structures, such as higher judicial councils. Where a specific body or entity is charged with the nomination, appointment, assignment and promotion of judges and/or where judicial appointments involve the legislative or executive arm of government, a paucity of diversity and female representation in those spheres will necessarily negatively impact on women's full and equal

²³ See for examples, Cheryl Thomas, *Judicial Diversity in the United Kingdom and Other Jurisdictions, A Review of Research, Policies and Practices*, The Commission for Judicial Appointments, 2005.

participation in the judiciary. Sustainable and effective programmes to improve women's full and equal participation cannot succeed over time unless women have an equal role and voice in key decision-making fora.

Ending harassment and discrimination

Ensuring women's equality within the judiciary on a statistical or quantitative basis is critical, but not sufficient on its own. The qualitative experience of women judges within the profession must be assessed and effective measures taken to end the various forms of harassment and discrimination that female judicial officers report facing on a day-to-day basis.

Pregnancy-related discrimination must be eradicated. In some extreme cases, women judges reported being asked to resign when they became pregnant or being told they could not sit in court or issue decisions due to concerns as to their capacity for rational thought. Others noted that authorities had simply failed to put in place procedures for female judicial officers to obtain appropriate maternity leave and pay.

Harassment of female judicial officers by male peers must also be prevented and redressed. Women judges, particularly young women, regularly report facing sexual harassment by colleagues, especially superiors. Others speak of other forms of harassment, for example overt scrutiny and public commentary concerning their reactions to explicit sexual or medical material. Others report refusal by junior officers or court staff to comply with their orders.

Discrimination and harassment that manifests in the nature of judicial assignments given to women

judges must also be addressed. For example, in some jurisdictions women are typically appointed to low-status courts or to rural locations that are very difficult to access. In others, in the name of personal security and protection concerns, they may systematically be excluded from all criminal cases.

Women judicial officers must be protected from threats and violence. Security concerns regarding risks of violence involving non-State actors may be particularly acute in jurisdictions in which religious and ideological opposition to the participation of women within the judiciary is pervasive.

c. The toxicity of deficits in judicial independence & impartiality

An independent and impartial judiciary and respect for the rule of law constitute a vital backdrop to any sustainable progress towards women's full and equal participation in the judiciary. When measures are put in place to improve women's representation in the judiciary outside democratic contexts or in circumstances in which the judiciary is not independent and other rule of law safeguards are weak, the judicial advancement of women risks becoming identified with authoritarian government or with judiciaries that are subject to improper political influence and with corruption.

This may have toxic effects both for women's full and equal participation in the judiciary and in society more broadly, and can significantly undermine longer-term progress towards gender equality. Goals of women's advancement can become tainted or usurped by authoritarian governments and used to deflect criticism, to advance the pretence of progress or to distract attention from other systemic rule of law deficits. In such contexts women judges have

sometimes been described, even from within their own circles, as fulfilling a windowdressing or tokenistic role. It can also contribute to the emergence of dangerous social and political pushback against gender equality generally, and the role of women within judiciaries more specifically, when government changes. Recent transitions in North African States provide stark examples of this.

d. The importance of mentors, allies and solidarity

The full and equal participation of women necessarily requires women's exercise of the will to act and seek judicial appointment. To that end, the importance of role models, mentors and solidarity and support networks cannot be underestimated.

Senior women judges and lawyers play a particularly significant role in encouraging their peers and younger women to seek, accept and embrace judicial appointment. This support can and should take a number of forms. Informal mentoring networks can provide a vital basis of support. Similarly, regular meetings of women judges and lawyers provide invaluable opportunities for exchange, regeneration, reflection on challenges faced and the identification of key support needs.

Enhancing the capacity and infrastructure of associations of women judges and women lawyers is also critical in efforts to advance the role of women within the judiciary. These associations can fulfil a solidarity and support function for individual women judges, and can be a source of training and education. They are often also instrumental actors in advancing women's full institutional representation.

Women judges associations are often well placed to advocate within judicial circles for the full and equal

participation of women within the judiciary. They also often have the opportunity to place key concerns and demands before decision makers. Women judges and lawyers associations may also be able to raise awareness of judicial vacancies among their members, to encourage applications from female candidates, and to collectively call for or support the nomination of certain candidates.

IV. Background materials

The following reports concerning Jordan, Kenya, Tanzania, Tunisia, Saudi Arabia and Uganda are background materials that informed preparations for the Geneva Forum 2013. They are based largely on desk research conducted by an independent consultant, Sahla Arrousi, at the request of the ICJ in June 2013. In places they are informed by the proceedings of two ICJ regional colloquia on women in the judiciary held in Tanzania (August 2013) and Tunisia (November 2013). They in no way present a comprehensive overview of the situation of women in the judiciary in each of the respective countries.

1. Jordan

The first woman judge was appointed to the Jordanian judiciary in 1995.²⁴ Figures from 2011 indicate that by that year the number of women judges had risen to 107, representing 12.5 per cent of all judges.²⁵ More recent reports specify that these numbers have since increased further²⁶ and there are expectations that there will be additional increases over the coming years, as a result of the significantly growing proportion of women enrolled in the Institute of Judicial Studies.²⁷

Much of this progress appears to be the result of targeted Government policy decisions and related measures. For example, in 2005 the Ministry of

²⁴ Alghad (Rania Srayra), "Activists call for appointing women judges to Sharia courts", 10 May 2011, Arabic only; Amal Radhouan, "Status and Figures, the status of women and their participation in development policies", 2010, the Kingdom of Jordan – Department of Press. <http://www.dpp.gov.jo/2012/4.html> (Accessed 7 July 2014), Arabic only.

²⁵ Jordan Ministry of Justice, Judicial Authority Annual Report 2011. http://www.jc.jo/sites/default/files/unedited_jc_2011_annual_report.pdf (Accessed 7 July 2014).

²⁶ OHCHR, Committee on the Elimination of Discrimination against Women considers report of Jordan, 23 February 2012. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11864&LangID=E> (Accessed 7 July 2014).

²⁷ USAID, The Judicial Council Honors Female Judges on the Occasion of International Women's Day, 03 August 2012); Amal Radhouan, "Status and Figures, the status of women and their participation in development policies", the Kingdom of Jordan - Department of Press, 2010. <http://www.dpp.gov.jo/2012/4.html> (Accessed 7 July 2014), Arabic only; Social Institutions and Gender Index: Jordan. http://genderindex.org/country/jordan_-_ftnref10 (Accessed 7 July 2014).

Justice commenced a range of a new initiatives seeking to increase the representation of women within the judiciary.²⁸ These included the establishment of minimum quotas (15 per cent) for admission of female candidates to the Institute of Judicial Studies, and the establishment of funds both to support women judges' participation in training and research visits and to benefit female judicial students.²⁹ These moves to advance women's representation within the judiciary have been accompanied by similar initiatives in recent years related to women's political representation, including the reservation of 15 parliamentary seats out of 150 for women,³⁰ and the imposition of a 25 per cent

²⁸ Euromed, "Gender Equality Programme National Situation Analysis Report: Women's Human Rights and Gender Equality in Jordan 2009-2010." http://www.euromedgenderequality.org/image/file/Analyse%20de%20la%20situation/Situation%20Analysis_Report_Jordan.pdf (Accessed 7 July 2014).

²⁹ Arab Women and Political Participation (Hana Salah Al-Turk), "Female students demand access to the Judiciary in Qatar", 2 January 2010. <http://www.awapp.org/wmview.php?ArtID=1649&page=4> (Accessed 7 July 2014), Arabic only; Arab Women Organization (AWO), Mosawa Network and Members of the Campaign "My Mother is Jordanian and Her Nationality is My Right", "Substantive Equality and Non-Discrimination in Jordan: Shadow report submitted to CEDAW Committee at the 51st session", February 2012. http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/AWO-Mosawa_forthesession_Jordan_CEDAW51.pdf (Accessed 7 July 2014).

³⁰ However, this is a very low quota of 10 per cent. Currently there are 18 women in the House of Representatives. See: The Quota Project, 12 February 2013. <http://www.quotaproject.org/uid/countryview.cfm?CountryCode=JO> (Accessed 7 July 2014).

quota for women's representation in municipal councils.³¹

However despite this progress the number of women within the Jordanian judiciary remains significantly low. A range of specific challenges and obstacles are notable in this context.

Court Assignments and Leadership Deficits:

Women remain seriously under-represented in judicial leadership. For example all 11 members of the Judicial Council in Jordan are currently male³² and it appears there are no women judges on the Court of Cassation or the Court of Grand Felonies.³³ All nine members of the Constitutional Court are also male.³⁴ Reports indicate that women judges are

³¹ European Bank for Reconstruction and Development, Country Assessment: Jordan, 12 September 2012. http://www.ebrd.com/downloads/country/technical_assessments/jordan-assess.pdf (Accessed 7 July 2014).

³² These include the president of the Court of Cassation as JC president, the president of the High Court of Justice as JC vice president, the public prosecutor of the Court of Cassation, the two most senior judges of the Court of Cassation, the three chief justices of the Court of Appeals (Jordan, Irbid, Maan), the most Senior inspector of Civil Courts, the Secretary-General of the Ministry of Justice and the president of Amman's Court of First Instance. See the Jordanian Judicial Council, Official page <http://www.jc.jo/members> (Accessed 7 July 2014).

³³ Arab Women Organization (AWO), Mosawa Network and Members of the Campaign 'My Mother is Jordanian and Her Nationality is My Right', "Substantive Equality and Non-Discrimination in Jordan: Shadow report submitted to CEDAW Committee at the 51st session", February 2012. http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/AWO-Mosawa_forthesession_Jordan_CEDAW51.pdf (Accessed 7 July 2014).

³⁴ See the Jordanian Constitutional Court official page: <http://www.cco.gov.jo/en-us/home.aspx> (Accessed 7 July 2014).

usually assigned to juvenile courts, reconciliation courts, criminal courts and courts of first instance, rather than to superior courts.³⁵ Meanwhile women judges are not appointed to religious courts.³⁶

Discriminatory Laws and Social Opposition:

Recent amendments to the Jordanian Constitution failed to include gender as a prohibited ground of discrimination³⁷ and numerous legal provisions in force in Jordan continue to discriminate against women directly and indirectly. For example the 2010 Personal Status Law still includes a requirement that wives obey their husbands,³⁸ enshrines a husband's right to stop his wife from working or studying,³⁹ and prevents women from marrying without permission from a guardian or from a judge.⁴⁰ Meanwhile the Jordanian Penal Code allows rape charges to be dropped if the perpetrator agrees to marry his victim provided that she is over eighteen and that he stays married to her for a minimum of three years.⁴¹ These laws contribute to a social context in which discrimination against women is legitimized. They

³⁵ Ibtissam al-Attiyat, Musa Shteiwi, and Suleiman Sweiss, "Building Democracy in Jordan: Women's political participation, Political life and democratic elections", IDEA: Sweden, 2005. http://www.idea.int/publications/dem_jordan/upload/Jordan_country_report_English.pdf (Accessed 7 July 2014).

³⁶ Huda Hakki and Susan Somach, "Gender Analysis and Assessment", March 2012, USAID.

³⁷ OHCHR, Committee on the Elimination of Discrimination against Women considers report of Jordan, 23 February 2012. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11864&LangID=E>. (Accessed 7 July 2014).

³⁸ Jordanian Personal Status Law 2010, Article 78.

³⁹ Unless otherwise stated in their wedding contract. See Jordanian Personal Status Law 2010, Article 37.

⁴⁰ Jordanian Personal Status Law 2010, Article 18.

⁴¹ Jordanian Penal Code (No. 16 of 1960), Article 308.

find reflection in discriminatory and restrictive social norms concerning the role of women in society, which are exemplified in continuing reported resistance to the idea of women exercising judicial authority⁴² and incidents of male refusal to have legal matters determined before female judicial officers.⁴³ Discrimination against women is also manifested in the practice of Jordanian courts and judges. For example, the Amman religious court of appeal recently affirmed that the testimony of a woman before the court will not be accepted if she is not wearing *the hijab*.⁴⁴

Inequality in the Legal Profession: Women lawyers also reportedly face related challenges. For example, despite the relatively high number of female lawyers in Jordan, studies indicate that they still experience difficulties in joining the National Lawyers' Union, the profession body for Jordanian lawyers. Reports indicate that only 20 per cent of current women lawyers have been permitted to become Union's members and only two women have ever been elected to the Union's board since its establishment in 1950.⁴⁵ Meanwhile of the eleven

⁴² Jordanian National Forum for Women, "Women in Legal Professions"; Female Lawyers in Jordan, "The injustice of the Justice system", 4 February 2011; Euro-Mediterranean Human Rights Network and the Amman Center for Human Rights Studies, "Independence And Impartiality of The Jordanian Judiciary – Priorities and Strategies For Reform", Minutes from Follow-Up Seminar, 30-31 January 2009. http://www.euromedrights.org/files/justice-wg/Minutes_Amman_January_09_Final_ENG_479568295.pdf (Accessed 7 July 2014).

⁴³ Meeting with judge Thagrid Hikmet.

⁴⁴ Amman's religious Court of appeal (Al-Mahakama Ashara'ia), case 348/2014-91838 of 3 February 2014.

⁴⁵ Female Lawyers in Jordan, "The injustice of the Justice system", 4 February 2011; Jordanian National Forum for Women, "Women in Legal Professions".

member Bar Association Council only one member is a woman.⁴⁶ Figures from 2011 indicate that at that time there were no women notaries in Jordan.⁴⁷ Discrimination against women lawyers also reportedly manifests in practice in courtrooms, police stations and law firms. For example reports indicate that in religious courts judges often ask women lawyers to cover their hair and to sit in the women's area and as a result many female lawyers limit their practice to civil cases. Female lawyers also reportedly experience discrimination in dealings with the police who may not always recognise their positions as lawyers or may treat them differently to male lawyers. Meanwhile female legal professionals may often also face sexual harassment in the workplace.⁴⁸

⁴⁶ Bar Association website, members of the Bar Association Council. <http://www.jba.org.jo/BarCouncil/CouncilBarDetails.aspx?PID=50> (25 August 2014).

⁴⁷ Alghad (Rania Srayra), "Activists call for appointing women judges to Sharia courts", 10 May 2011.

⁴⁸ Female Lawyers in Jordan, "The injustice of the Justice system", 4 February 2011.

2. Kenya

Women's representation in the Kenyan Judiciary is among the highest in sub-Saharan Africa. In 2012, 40 out of 104 judges were women, and 187 out of 424 magistrates were women.⁴⁹ In 2013 the Kenyan Judiciary's website specified that women's representation in senior judicial positions included three women in the Judicial Service Commission, two women in the Supreme Court, eight women in the Court of Appeal and thirty women in the High Court.⁵⁰ For the first time, in 2011, Kenya began to appoint women as judges in the Muslim Kadhi Courts.⁵¹

In many respects this progress has been recent and is attributed to concerted civil society advocacy that resulted in explicit legal and policy commitments to advance women's equal representation.⁵² In 2010,

⁴⁹ Chief Justice of the Republic of Kenya, State of the Judiciary Report 2011-2012, 2012, p. 163. <http://www.judiciary.go.ke/portal/chief-justices-state-of-the-judiciary-report-2011-2012.html> (Accessed 9 July 2014).

⁵⁰ The Republic of Kenya, "The Judiciary". <http://www.judiciary.go.ke/portal/judges-of-the-judiciary.html> (Accessed 9 July 2014).

⁵¹ "Shari'ah Female Judges Irk Kenya Muslims", in *OnIslam*, 5 October 2011 http://www.mwnuk.co.uk/Shari_ah_Female_Judges_Irk_Kenya_Muslims_79_news.php (Accessed 9 July 2014). The Kadhia Courts are religious tribunals that only apply to Muslims. These courts can decide on matters of inheritance, marriage and divorce. The Kadhi is the presiding official, equivalent of a magistrate.

⁵² Berhutesfa Costantinos, and Linda Musumba, "IGAD Strategy on Women's Participation and Representation in Decision Making", Inter-Governmental Authority on Development.

the new Kenyan Constitution established that “not more than two-thirds” of all elective or appointive bodies, including the judiciary, shall be of the same gender, providing for affirmative action to address past discrimination.⁵³ In addition to this general measure, the 2010 Constitution also includes provisions specific to women’s participation in the judiciary, mandating that at least three women be included in the eleven-member Judicial Services Commission, the body responsible for the appointment and removal of judges and judicial officers,⁵⁴ and requiring that in the performance of its functions, including the recommendation of candidates for appointment to the judiciary, the Commission be guided by need to promote gender equality.⁵⁵

In a number of respects, these Constitutional provisions have had a visible effect since their adoption. For example, when the President made a series of judicial nominations in 2011 that did not meet the Constitutional requirements for women’s representation, eight civil society organizations instigated a Constitutional claim, challenging the nominations in front of the High Court. The case was

http://www.academia.edu/2542469/IGAD_Strategy_on_Womens_Participation_and_Representation_in_Decision_Making (Accessed 9 July 2014).

⁵³ The Constitution of Kenya (2010), article 27. <http://www.kenyalaw.org/klr/index.php?id=741> (Accessed 9 July 2014).

⁵⁴ *Idem*, article 171.

⁵⁵ *Idem*, article 172.

decided in their favour.⁵⁶ Subsequently 13 women were appointed out of 28 new High Court judges.⁵⁷

However, despite these gains, there are still challenges to achieving women's full and equal representation in Kenya's judiciary. Women lawyers and judges point to the lower numbers of women in higher judicial offices and speak to a "glass ceiling that is preventing women from being able to move into high-ranking offices within the judiciary."⁵⁸ They also note that patriarchal attitudes, such that women are unable to serve in demanding and important offices and that leadership roles are not appropriate for women, still impede the career progression of women lawyers and judicial officers.⁵⁹

⁵⁶ High Court of Kenya, *Centre for Rights Education and Awareness & 7 others v. Attorney General*, Judgment of 3 February 2011. <http://kenyalaw.org/caselaw/cases/view/73751/> (Accessed 9 July 2014).

⁵⁷ "We Have Recruited 14 Kenyan Women' CJ Willy Mutunga", in *Women eNews Kenya*, 23 August 2011. <http://ladyenews.wordpress.com/2011/08/23/%E2%80%9Cwe-have-recruited-14-kenyan-women%E2%80%9D-cj-willy-mutunga/> (Accessed 9 July 2014).

⁵⁸ "Kenya Women's Groups Want More Female Judges", in *Voice of America*, 20 March 2011. <http://www.voanews.com/content/article/157718.html> (Accessed 9 July 2014).

⁵⁹ *Ibid.*

3. Saudi Arabia

In Saudi Arabia, extreme forms of discrimination against women, and segregation of women and men are legalized, legitimized and institutionalized.

Women are entirely unequal in and before the law in Saudi Arabia. Under a system of male guardianship, they must have the consent of a male guardian with regard to a large number of matters in their daily lives. For example a woman cannot travel, request an official document including a birth certificate, or file a police report without the consent of her male guardian.⁶⁰ In court, women are not recognized as witnesses and their testimonies are only heard through a male representative.⁶¹ Women are often required to bring male guardians to verify their identities in court.⁶²

Even beyond the guardianship system, women's choices and freedoms are subject to extreme restrictions. Until 2011 women could not vote, and still only have limited rights to vote, or stand for

⁶⁰ Committee on the Elimination of Discrimination Against Women, Summary Record No. 815, UN Doc. CEDAW/C/SR.815, 17 January 2008, p. 4.

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskcAJS%2fU4wb%2bdIVicyG05RzccqaxuDN%2by1BiehQjS0a%2f1zV5G0jfStCzk9UAdIXQYiGckuDNRAO%2bGnJrJI6iJnHzYAQ9Vj4mq4tx%2bNoazHhw> (Accessed 10 July 2014).

⁶¹ Cindy G. Buys and Stephanie Macuiba, "Is reform a reality for women in Saudi Arabia?", in *The Catalyst*, Illinois State Bar Association, Volume 17 No. 4, June 2012, citing Farida Deif, *Perpetual Minors* Human Rights Watch, April 2008, p. 24 <https://www.isba.org/committees/women/newsletter/2012/06/isreformarealityforwomeninsaularab> (Accessed 9 July 2014).

⁶² *Idem*, p. 25.

election.⁶³ Saudi Arabia remains the only country in the world that does not allow women to drive.⁶⁴

In this context, it is perhaps unsurprising that women are prohibited from becoming judges and that there are no women in the Saudi Arabian judiciary.⁶⁵ The challenges and obstacles in terms of securing and advancing women's representation within the judiciary in Saudi Arabia are therefore profound and considerable.

Rule of Law: Despite the adoption of the Basic Law of Government,⁶⁶ Saudi Arabia remains an absolute monarchy without elected and representative institutions. The Basic Law emphasizes in its Article 7 that: *"God's Holy Book and His Prophet's traditions are the source of authority of the government. They are the arbiters of this Law and all other laws"*. It

⁶³ Abdulaziz Al-Heis, "Women Participation in Saudi Arabia's Political Arena", Al Jazeera Centre for Studies, 27 October 2011. http://studies.aljazeera.net/ResourceGallery/media/Documents/2011/11/27/201111271251519_08734Women%20Participation%20in%20Saudi%20Arabias%20Political%20Arena.pdf (Accessed 9 July 2014); United Nations Development Programme, "Human Development Report 2013 Explanatory note on 2013 HDR composite indices: Saudi Arabia". <http://hdr.undp.org/sites/default/files/Country-Profiles/SAU.pdf> (Accessed 9 July 2014). Cindy G. Buys and Stephanie Macuiba, "Is reform a reality for women in Saudi Arabia?".

⁶⁴ "Saudi Arabia: Unfulfilled Promises", International Federation for Human Rights, 8 March 2013. <http://www.fidh.org/Unfulfilled-Promises-12997> (Accessed 9 July 2014).

⁶⁵ Saudi Arabia Ministry of Civil Service, Statistics reports, 2010 (Arabic) <http://www.mcs.gov.sa/InformationCenter/Statistics/Pages/default.aspx> (Accessed 9 July 2014).

⁶⁶ The Basic Law of Government of Saudi Arabia No: A/90 of 1st of March 1992. <http://www.shura.gov.sa/wps/wcm/connect/ShuraEn/internet/Laws+and+Regulations/The+Basic+Law+Of+Government/> (Accessed 9 July 2014).

reinforces the King's absolute authority, as Article 55 affirms that the King "*shall rule the nation according to the Sharia. He shall also supervise the implementation of the Sharia, the general policy of the State and the defence and protection of the country.*" Its judiciary is not independent. The judicial system consists of Sharia courts and a Supreme Judicial Council,⁶⁷ with the King serving as the highest authority in the judicial hierarchy.⁶⁸ Meanwhile legal certainty is absent, as criminal law is not codified and judges have discretionary powers to decide on what constitutes a crime under the Shari'a law.

Legal Profession: It was not until 2001 that the right to legal representation itself was recognized and the legal profession recognized and regulated.⁶⁹ In 2006 women were admitted to law schools and

⁶⁷ Law on the Judiciary, article 5, (Arabic). http://www.moj.gov.sa/ar-sa/Pages/judgment_systems.aspx (Accessed 9 July 2014). There are some quasi-judicial bodies in Saudi Arabia including the Board of Grievances and some non-independent tribunals under the Ministry of Commerce and Labour. See, the Board of Grievances website: <https://www.bog.gov.sa/wps/portal/extar/> (Accessed 9 July 2014). Ministry of Commerce website: <http://www.mci.gov.sa/LawsRegulations/SystemsAndRegulations/LawofCommercialCourt/22-2/Pages/default.aspx?PageIndex=2> (Accessed 9 July 2014).

⁶⁸ Basic Law of Governance, article 44. Majlish Ash-Shura official website (Arabic only): <http://www.shura.gov.sa/wps/wcm/connect/shuraen/internet/Laws+and+Regulation/The+Basic+Law+Of+Government/> (Accessed 9 July 2014).

⁶⁹ "The Code of Law Practice Royal Decree No (m/38) of 15 October 2001", *Umm al-Qura No (3867)*, 2 November 2001. <http://www.moj.gov.sa/ar-sa/ministry/management/legalprof/pages/legalSystem.aspx> (Accessed 9 July 2014).

Sharia Institutes for the first time,⁷⁰ and by 2010, the number of women law graduates reached more than 1500.⁷¹ Initially following this development women were not issued with licences allowing them to practice as lawyers in court, although some reportedly did so through power of attorney representation.⁷² However, in 2013 the Ministry of Justice registered the first woman lawyer as a legal trainee and since then the number of female lawyers registered as trainees has reached 21 and is increasing.⁷³

Segregation: Saudi Arabia also maintains strict requirements of gender segregation. This affects all aspects of life, but has particularly severe impacts on women's educational and career choices. Women lawyers are particularly affected, for although some of the courts in Saudi Arabia have started to build

⁷⁰ Cindy G. Buys and Stephanie Macuiba, "Is reform a reality for women in Saudi Arabia?".

⁷¹ Abeer Allam, "Saudi female lawyers fight for right to work", in *Financial Times*, 2 April 2010 <http://www.ft.com/intl/cms/s/0/2f82c32c-3e67-11df-a706-00144feabdc0.html> (Accessed 9 July 2014).

⁷² Abdul Wahab Saleh, "Saudi Justice Ministry expands rights of female attorneys", in *Al-Shorfa*, 1 March 2010. http://al-shorfa.com/en_GB/articles/meii/features/main/2010/03/01/feature-02 (Accessed 9 July 2014); "Female Saudi lawyers win cases for their representatives", in *Musawah* (Arabic) 12 May 2010. <http://www.musawah.net/news/item.php?id=926> (Accessed 9 July 2014).

⁷³ Ministry of Justice website: http://www.moj.gov.sa/ar-sa/Pages/News_Details.aspx?News=344 (Accessed 9 July 2014); Dato' Param Cumaraswamy, Special Rapporteur on the Independence of Judges and Lawyers, Report on the Mission to the Kingdom of Saudi Arabia (20-27 October), E/CN.4/2003/65/Add.3, 14 January 2013. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/102/64/PDF/G0310264.pdf?OpenElement> (Accessed 25 August 2014).

the necessary infrastructure to ensure that the principle of segregation between the sexes is not contravened at any stage in the courthouse, the requirements of segregation are difficult to enforce in a court system, especially where the judges, prosecution services and law enforcement officials are all males.

4. Tanzania

In recent years there has been a significant increase in women's representation in the judiciary in Tanzania. Women now comprise more than half of all magistrates and approximately 56 per cent of Court of Appeal and High Court judges.⁷⁴ In large part, this progress has been the result of concerted government policy, which has also sought to increase women's representation in political bodies, including through the introduction of a 30 per cent quota for women's election to the National Assembly,⁷⁵ and a 33.3 per cent quota for local authority seats.⁷⁶

Although quotas are not generally applicable in relation to women's representation in the judiciary, they have been introduced in the land courts, a special court system set up by the government to settle land conflicts, as part of Government measures to counteract discriminatory customary practices connected with women's rights to land. Legislation provides that, "each Tribunal shall consist of not less than four nor more than eight members of whom three shall be women."⁷⁷ It also provides for a quota of three out of seven women to be

⁷⁴ Mary Hallward-Driemeier and Tazeen Hasan, "Empowering Women Legal Rights and Opportunities in Africa", The World Bank, 2013, p.124.

⁷⁵ Constitution of Tanzania, Article 66(1)(b).

⁷⁶ Combined fourth, fifth and sixth periodic reports of Tanzania to CEDAW, CEDAW/C/TZA/6, 16 April 2007. http://www.bayefsky.com//reports/tanzania_cedaw_c_tza_6_2006.pdf (Accessed 8 July 2014).

⁷⁷ Courts Land Disputes Settlements Act No 2 of 2002, Article 11.

appointed as assessors to District Land and Housing Tribunal,⁷⁸ and as members of the Village Council.⁷⁹

However, despite progress, challenges and obstacles to women's full and equal participation in the Tanzanian judiciary persist. For example, women's representation in customary and religious courts remains problematic. There are no women judges in Kadhi Courts,⁸⁰ and relevant legislation does not facilitate their representation, referring to the prospective Kadhi as "he" or "him".⁸¹ In practice many women are reportedly reluctant to take disputes to these courts because they do not believe

⁷⁸ The Courts (Land Disputes Settlements) Act No 2 of 2002, Article 26(1).

⁷⁹ *Ibid.*

⁸⁰ The Kadhia Courts are religious tribunals that only apply to Muslims. These courts can decide on matters of inheritance, marriage and divorce. The Kadhi is the presiding official, equivalent of a magistrate.

⁸¹ Section 5 (2) states "A person shall not be qualified to be appointed to hold or to act in the office of a District Kadhi unless: - (i) he professes and follows the Muslim religion; and (ii) he possesses such knowledge of Islamic laws applicable to any Sect or sects of Muslim as qualifies him, in the opinion of the Judicial Service Commission to be a Kadhi; or (iii) he has attended and has obtained recognized qualifications in Islamic Laws from any Institution approved by Council of Ulamaas established under the provisions of the Establishment of the Office of Mufti Act, 2001 and held the qualifications for a period of not less than three years and has considerable experience in the knowledge of Islamic laws." The Kadhi Court Act No. 3 of 1985, the Laws of Zanzibar the Attorney General Chamber's. http://www.judiciaryzanzibar.go.tz/act_1/The%20Kadhis%20Court%20Act%20No%2003%20of%201985.pdf (Accessed 8 July 2014).

they will receive equal treatment and consideration of matters free from discrimination.⁸²

⁸² Susan Hirsh, "State Intervention in Muslim Family Law in Kenya and Tanzania: Applications in the Gender Context", in *Muslim Family Law in Sub-Saharan Africa*, eds. Shamil Jeppie, Ebrahim Moosa, and Richard Roberts, Chicago: University of Chicago Press, 2009, p.31; Tanzania Non Governmental Organizations' Shadow Report To CEDAW: Women's Legal Aid Centre (Wlac), Southern Africa Human Rights Non Governmental Organisations' Network (Sahringon). <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/WLACTanzania41.pdf> (Accessed 8 July 2014).

5. Tunisia

In October 1966, the first woman judge was appointed in Tunisia by presidential decree.⁸³ Since then, the number of women judges has risen steadily and figures from 2008 indicate that the overall representation of women in the judiciary in Tunisia has now reached over thirty per cent.⁸⁴

Although women's representation in the Tunisian judiciary is relatively high compared with many other jurisdictions in the Middle East and North Africa, women judges and lawyers from Tunisia underline that it is critical to look beyond statistical indicators, so as to accurately capture and address the series of significant challenges and inequalities which women judges have faced and many of which persist.⁸⁵

The Price of Advancing Change: Many women judges played a considerable and powerful role in the struggle for the rule of law and the independence of the judiciary in Tunisia. They spoke of facing gendered forms of harassment as a result. In the words of one senior woman judge: "*In many ways*

⁸³ The candidate name was Judge Amna Aouij. See Monia Ammar (2010), "Femmes Droit de la Famille et le system Judiciaire dans les états du Maghreb: Le Statut et le rôle de la femme en Tunisie", Rabat, UNESCO, p. 155. <http://unesdoc.unesco.org/images/0018/001893/189399f.pdf> (Accessed 9 July 2014).

⁸⁴ Data from the Annual Report of the Tunisian Ministry of Justice, cited in Monia Ammar (2010), "Femmes Droit de la Famille et le system Judiciaire dans les états du Maghreb: Le Statut et le rôle de la femme en Tunisie".

⁸⁵ Proceedings of ICJ Tunis Colloquium on Women in the Judiciary in the MENA Region, November 2013. <http://www.icj.org/women-judges-and-lawyers-from-the-middle-east-and-north-africa-meet-in-tunis-at-icj-colloquium/> (Accessed 10 July 2014).

*the authorities treated both male and female judges in the same way. They oppressed one and they oppressed the other. Persecuted one and persecuted the other. But when they wanted to subjugate and intimidate judges they would start with women. They moved women judges away from capitals and away from their families and children. Women judges maintained their resolve but they paid a price.*⁸⁶

Underrepresentation in Leadership Positions:

Despite their representation within the judicial profession, women judges remain underrepresented at the highest level of the profession and women have never held key leadership positions, such as First President, First-Vice President, or General Prosecutor at the Cour de Cassation.⁸⁷ At the Court of Appeal level, only one out of nine female judges currently holds the position of First President and none of the General Prosecutors are women.

Direct Legal Challenges: The participation of women in the judiciary and legal profession has also been the subject of legal challenge and resistance. For example, in 1998, a legal claim was filed alleging that allowing women to serve as notaries is against Sharia law.⁸⁸ Although the administrative tribunal

⁸⁶ *Ibid.*

⁸⁷ Amel Belhadj Ali, "Aucune femme en Tunisie n'a accédé aux hauts postes de la magistrature", in *Webmanager center electronic magazine*, 22 March 2013, quoting Lamia Debbabi. <http://www.webmanagercenter.com/magazine/dossiers/2013/03/22/132692/lamia-debbabi-presidente-de-l-atfj-aucune-femme-en-tunisie-n-a-accede-aux-hauts-postes-de-la-magistrature> (Accessed 9 July 2014).

⁸⁸ *Amamou vs Minister of Justice*, Administrative Court, 1st instance case no 14232, 10 March 1998. See Sana Ben Achour (2007) "La féminisation de la magistrature en Tunisie entre émancipation féminine et autoritarisme politique", *L'Année du Maghreb* p. 56; "Tunisie: L'indépendance et l'impartialité du système judiciaire",

dismissed the case based on the constitutional principle of equality before the law,⁸⁹ women judges and legal professionals identify the filing of the claim itself as indicative of concern.

Gender Norms and Social Expectations: Women judges and lawyers from Tunisia also underline that gender norms and social expectations as to the role of women in the family in Tunisia provide that women's primary responsibility is to fulfil their roles as wives and mothers. In their view, the pressure and challenges that women judicial officers often face as a result impedes their full and equal participation in the judiciary, not least in terms of progression to senior levels.⁹⁰

Democratic and Rule of Law Deficits: Women judges and lawyers in Tunisia explained that, before 2011, the goals of women's advancement and equality in Tunisia were co-opted by the regime. As a result, in some quarters, improvements in women's representation in the judiciary, and other gender equality measures and policies in Tunisia were perceived as encouraging authoritarian government, occurring outside of a democratic context and, in circumstances, threatening the rule of law safeguards and judicial independence. In the view of these women judges and lawyers, this context has created significant challenges for women within the judiciary and has jeopardized the sustainability of longer-term progress and efforts

Copenhagen, Réseau euro-méditerranéen des droits de l'Homme, January 2008. http://www.euromedrights.org/files/documents/Tunisie_Ind%C3%A9pendance_et_impartialit%C3%A9_de_la_justice_939922732.pdf (Accessed 9 July 2014).

⁸⁹ "Tunisie: L'indépendance et l'impartialité du système judiciaire", Copenhagen, p. 11.

⁹⁰ Proceedings of ICJ Tunis Colloquium on Women in the Judiciary in the MENA Region, November 2013.

towards gender equality in Tunisia.⁹¹ Indeed, even from within their own circles, the appointment of women judges was described as fulfilling a window-dressing or tokenistic function in many instances. Following the 2011 change in government, critical and concerning political and social pushback against gender equality generally, and the role of women within the judiciary more specifically, has emerged.

⁹¹ *Ibid.*

6. Uganda

Reports indicate that, in 2012, women comprised 39 per cent of all judges in Uganda and 33 per cent of all Supreme Court and High Court judges.⁹² Reports also indicate that efforts towards gender equality are also made at the most senior leadership level, with the general practice being that, when the Chief Justice is a man, the Deputy Chief Justice is a woman, and when the Principal Judge is a man, the Chief Registrar is a woman. In 2013, two of the ten members of the Judicial Service Commission were women, including the Deputy Chairperson.⁹³ Four out of the nine members of the Board of Directors of the Registration Services Bureau are women.⁹⁴ In 2013, 12 out of 28 nominations to the Supreme Court, Court of Appeal and High Court, were women.⁹⁵

⁹² Figures from the Ministry of Justice and Constitutional Affairs records, cited in Robinah Rubimbwa and Goret Komurembe, "Security Council Resolution 1325: Civil Society Monitoring Report 2013", Uganda, Global Network of Women Peacebuilders, 2012. http://www.gnwp.org/wp-content/uploads/2010/02/Global_Monitoring_Report.pdf (Accessed 10 July 2014).

⁹³ Judicial Service Commission website: http://www.jsc.go.ug/index.php?option=com_content&view=article&id=64&Itemid=56 (Accessed 9 July 2014).

⁹⁴ Uganda Registration Services Bureau website: http://www.ursb.go.ug/index.php?option=com_content&view=article&id=18&Itemid=57 (Accessed 9 July 2014).

⁹⁵ Mary Karugaba and H. Ssekanjako, "Uganda: Museveni Names New Judges", in *allAfrica*, 3 May 2013. <http://allafrica.com/stories/201305031285.html> (Accessed 9 July 2014). Edgar Kuhimbisa, "President names new Judges", in *Justice Law & Order Sector*, 13 May 2013. <http://jlos.go.ug/index.php/component/k2/item/284-new-judges-named> (Accessed 9 July 2014).

Uganda's Constitution guarantees the right of women to equal treatment with men, including equal opportunities in political, economic and social activities. It provides for affirmative action to redress the imbalances between the sexes created by history, tradition or custom, and prohibits all laws, cultures, customs and traditions which are against the dignity, welfare or interest of women, or which undermine their status.⁹⁶ It also explicitly addresses women's participation in politics, requiring a range of measures to increase the number of women in Parliament and in local government.⁹⁷ Advancements in women's representation in the judiciary appear to have been matched by increases in women's political representation. For example, following the 2011 elections, women held 35 per cent of parliamentary seats.⁹⁸

Although legislation does not regulate women's representation in the judiciary in general, specific legislative provisions govern women's representation in (a) sub-county land tribunals, the Land Commission, Land District Boards and in parish-level

⁹⁶ See The Constitution of Uganda 1995, articles 32, 33. http://www.parliament.go.ug/new/images/stories/constitution/Constitution_of_Uganda_1995.pdf (Accessed 9 July 2014).

⁹⁷ The Constitution of Uganda 1995 article 180(2)(b) reserves one-third of the membership of each local government council for women. Article 71(d) requires political parties to pay due consideration to gender in their nominations and membership. Article 78(1)(b) provides that the composition on the parliament shall include one woman representative for every district.

⁹⁸ Parliament of Uganda website: <http://www.parliament.go.ug/new/index.php/members-of-parliament/cabinet-members> (Accessed 9 July 2014).

Land Committees,⁹⁹ and (b) Local Council Courts, where two out of the five members of the town, division and sub-county courts must be women,¹⁰⁰ and where the positions of chair and vice-chair must alternate between genders.¹⁰¹

However, despite these legal requirements, reports indicate that women judges in these local courts face a range of challenges as a result of prevailing discriminatory practices by the male judges who often do not consult with the women judges nor take their views seriously.¹⁰² Moreover, court sessions normally last for several hours and take place outside office hours. This can make it harder for women with family responsibilities to play an effective part in these proceedings.¹⁰³

⁹⁹ Uganda Land Act 1998. <http://www.ulii.org/ug/legislation/consolidated-act/227> (Accessed 9 July 2014).

¹⁰⁰ Local Council Courts Act 2006. <http://www.ulii.org/content/local-council-courts-act-2006> (Accessed 9 July 2014); "Uganda Legal and Judicial Sector Study Report", World Bank, July 2009. http://docs.mak.ac.ug/sites/default/files/_Legal%20and%20Judicial%20Sector%20Study%20UGANDA.pdf (Accessed 9 July 2014).

¹⁰¹ Local Council Courts Act 2006. <http://www.ulii.org/content/local-council-courts-act-2006> (Accessed 9 July 2014). "Uganda: Legal and Judicial Sector Study Report", World Bank.

¹⁰² Mary Hallward-Driemeier and Tazeen Hasan, "Empowering Women Legal Rights and Opportunities in Africa", Washington D.C., International Bank for Reconstruction and Development and the World Bank, 2013, p. 128

¹⁰³ *Ibid.*

ANNEX 1: PARTICIPANTS LIST

Dr Catherine ALBERTYN (South Africa), Professor

Ms Esra Al AMIRI (Kuwait), Lawyer

Judge Hasna BEN SLIMANE (Tunisia), Administrative Tribunal, Tunis

Ms María Paula CASTAÑEDA (Mexico), Project Coordinator, Equis: Justicia para las Mujeres

Ms Evelyn EDROMA, United Nations Development Programme Regional Office for Eastern and Southern Africa

Judge Kholoud Al FAQEEH (Palestine), Sharia Tribunal

Judge Malika HAFID (Morocco), Family Court of Appeal

Mme Rachida HLIMI (Morocco), President of Tribunal of first instance, Sefrou

Ms Houria El HAMMS (Morocco), Lawyer

Judge Zhor HERR (Morocco), Casablanca Family Court (retired)

Ms Lamya JUBREEN (Palestine), Women's Center for Legal Aid and Counselling

Judge Jean Rosemary KAYIRA (Malawi), Acting Chief Resident Magistrate-East

Ms Reem KHALAF (Bahrain), Lawyer

Justice Engera KILEO MAMMARI (Tanzania), Court of Appeal

Justice Martha KOOME (Kenya), Court of Appeal

Justice Qinisile MABUZA (Swaziland), High Court, ICJ Commissioner

Justice Nthomeng MAJARA (Lesotho), Court of Appeal

Judge Gift Dorothy Mtendere MAKANJE (Malawi), Assistant Registrar of the Malawi High Court-Commercial Division

Judge Gabriella MATEFI (Switzerland), Court of Appeal of Basel-Stadt

Justice Jennifer Yvonne MOGKORO (South Africa), South Africa Law Reform Commission, Constitutional Court (retired)

Justice Sanji Mmasenono MONAGENG (Botswana), International Criminal Court, ICJ Commissioner

Judge Suntariya MUANPAWONG (Thailand), Nakhon Pathom Juvenile and Family Court

Justice Eusebia Nicholas MUNUO (Tanzania), Court of Appeal

Judge Zione Jane NTABA (Malawi), Malawi High Court Judge

Judge Mushtaq al QADDI (Palestine)

Judge Michèle RIVET (Canada), ICJ Commissioner, former President of the Quebec Human Rights Tribunal, former judge of Court of Quebec

Ms Patricia SCHULZ (Switzerland), Member UN Committee on the Elimination of Discrimination against Women

Justice Lilian TIBATEMWA-EKIRIKUBINZA (Uganda), Court of Appeal/Constitutional Court

Judge Sandra Luz VERDUGO PALACIOS (Mexico), Magistrado de la Primera Sala Mixta Primera Ponencia, Sonora

Participants in part of the meeting only:

Judge Navanethen PILLAY (South Africa), United Nations High Commissioner for Human Rights

Ambassador Patricia O'BRIEN, Permanent Mission of Ireland, Geneva

Ms. Louise ABBOTT, Permanent Mission of Australia, Geneva

Mr Edward SMALL, Peace Nexus

International Commission of Jurists staff:

Wilder TAYLER, Secretary General

Alex CONTE, Director, International Law and Protection Programmes

Ian SEIDERMAN, Director, Legal and Policy Office

Leah HOCTOR, Senior Legal Adviser, Women's Rights

Ilaria VENA, Associate Legal Adviser, Centre for Independence of Judges and Lawyers

Laurens HUETING, Associate Legal Adviser, Centre for Independence of Judges and Lawyers

Matt POLLARD, Senior Legal Adviser, Centre for Independence of Judges and Lawyers

Quin LEONG, Consultant, Thailand Office

Nuntaporn MASUPAP, Consultant, Thailand Office

Sheila VARADAN, Legal Adviser, Thailand Office

Giulia SOLDAN, Field Presence, Tunisia

Marya FARAH, Legal Adviser, Middle East & North Africa

Alice GOODENOUGH, Legal Adviser, Middle East & North Africa

Lucie SERVOZ, Fundraising Officer

Priscilla GONZALEZ, Associate Fundraising Officer

Emilie MAX, Intern

Students from the Geneva Academy for Human Rights and International Humanitarian Law:

Kylie PEARCE and Thaila POLI

ANNEX 2: FORUM PROGRAMME

5-6 December 2013

**DAY I, DECEMBER 5TH 2013 - CONFERENCE CENTRE
VAREMBÉ (CCV), ROOM B**

09.30-10.00

- INTRODUCTIONS

**- WELCOME FROM ICJ
SECRETARY GENERAL, WILDER
TAYLER**

**- REMARKS FROM ICJ
EXECUTIVE COMMITTEE, MICHELE
RIVET**

10.00

**SESSION I: STORIES FROM THE
FRONTLINE**

MODERATOR: SANJI MONAGENG

**KEY NOTE ADDRESS: YVONNE
MOKGORO, SOUTH AFRICA**

**STORY I: JUSTICE MUNUO,
TANZANIA**

**STORY II: JUDGE MABUZA,
SWAZILAND**

**STORY III: JUSTICE KHOLOUD
FAQEEH, PALESTINE**

STORY IV: REEM KHALAF,
BAHRAIN

**ROUNDTABLE – PARTICIPANTS’
STORIES**

14.00

SESSION II: COMMON ISSUES

MODERATOR: CATHI ALBERTYN,
SOUTH AFRICA

14.00 – 14.45

**A. RETAINING IMPARTIALITY &
ADVANCING WOMEN’S RIGHTS:**

- JUSTICE MOKGORO, SOUTH
AFRICA

- ROUNDTABLE

14.45 – 15.30

**B. ENSURING INDEPENDENCE
WHILE ADVANCING WOMEN’S
REPRESENTATION: AVOIDING
WOMEN AS ‘WINDOW DRESSING’**

- JUSTICE HLIMI, MOROCCO

- ROUNDTABLE

15.45 – 16.15

**ADDRESS BY UN HIGH
COMMISSIONER FOR HUMAN
RIGHTS, JUDGE NAVANETHEM
PILLAY**

16.15 – 17.15

C. DISTILLING THE CHALLENGES:

- JUDGE KOOME, KENYA

- ROUNDTABLE

18.00

**RECEPTION HOSTED BY
AMBASSADOR O'BRIEN**

**DAY II, DECEMBER 6TH 2013 - CONFERENCE CENTRE
VAREMBÉ (CCV), ROOM B**

09.30

SESSION III: MAKING CHANGE

MODERATOR: CATHI ALBERTYN,
SOUTH AFRICA

9.30 - 10.15

**A. GETTING WOMEN INTO THE
JUDICIARY & KEEPING THEM
THERE: REMAINING OBSTACLES
& LESSONS LEARNED**

- ESRA AMIRI, KUWAIT

- ROUNDTABLE

10.30 - 11.15

**B. JUDICIAL COUNCILS &
APPOINTMENT AUTHORITIES:
OVERCOMING DEFICITS OF
REPRESENTATION**

- JUSTICE KILEO, TANZANIA

- ROUNDTABLE

11.30-12.30

**C. IDENTIFYING THE ALLIES:
WHO NEEDS TO ACT, WHY AND
HOW?**

**WHAT IS THE ROLE OF CHIEF
JUSTICES & JUDICIARIES,**

**EXECUTIVES, JUDICIAL
COUNCILS, LEGISLATURES AND
INTERNATIONAL
ORGANISATIONS?**

- JUSTICE MONAGENG, BOTSWANA

- PATRICIA SCHULZ, SWITZERLAND
(CEDAW MEMBER)

- ROUNDTABLE

14.00-15.00

**D. IDENTIFYING THE ALLIES:
WHO NEEDS TO ACT, WHY AND
HOW?**

**WHAT IS THE ROLE OF CIVIL
SOCIETY INCL. BAR
ASSOCIATIONS, LAW SOCIETIES,
WOMEN'S RIGHTS
ORGANISATIONS?**

- JUSTICE HAFID, MOROCCO

- ROUNDTABLE

15.00 – 15.45

CLOSING SESSION

ANNEX 3: Selected International Instruments

- International Covenant on Civil and Political Rights (ICCPR), entry into force 23 March 1976, Articles 2, 3, 4(1), 14, 25 and 26.
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), entry into force 18 December 1979, Articles 1, 2 and 7.
- Universal Declaration of Human Rights, adopted by UN General Assembly resolution 217 A (III) of 10 December 1948, articles 2, 10 and 21.
- UN Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, Principles 1, 2, 5 and 6.
- Bangalore Principles of Judicial Conduct, Adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, November 25-26 2002, Values 3.2 and 5.1
- Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, adopted by the African Commission on Human and Peoples' Rights DOC/OS(XXX)247 (2001), Principles A(4)(j), K(b), M(7)(b), P(b).
- Beijing Declaration and Platform for Action,

adopted at the 16th plenary meeting of the World Conference on Women, 15 September 1995, paragraph 13.

- Draft Universal Declaration on the Independence of Justice (“Singhvi Declaration”), as set out by the UN Special Rapporteur on Independence of Judges and Lawyers in UN Doc E/CN.4/Sub.2/1988/20/Add.1 and received by the UN Commission on Human Rights in resolution 1989/32) of 6 March 1989, General Principles 74, 75 and 76.

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Justice Ketil Lund, Norway
Justice Qinisile Mabuza, Swaziland
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