

# **Bangkok General Guidance for Judges on Applying a Gender Perspective in South and Southeast Asia**

May 2022



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## The development of the Bangkok General Guidance for Judges in applying a Gender Perspective

The Bangkok General Guidance (BGG) sets out important considerations for the judiciary in applying a gender perspective in the administration of justice. The first edition of this General Guidance was discussed and adopted by judges from Indonesia, the Philippines, Thailand and Timor Leste at a judicial dialogue organized by the International Commission of Jurists (ICJ) and UN Women in Bangkok, Thailand, on 24 and 25 June 2016. During this dialogue, judges from the four Southeast Asian countries extensively deliberated on existing standards and practices in adjudication and related challenges, and on how best to assist judges in employing a gender perspective in deciding cases before them.

Since then, the Supreme Court of Indonesia has integrated the *Bangkok General Guidance* into its domestic practice through Supreme Court Regulation No. 3 of 2017.

Five years after the elaboration of the initial edition, the ICJ decided to update the 2016 General Guidance with a view to contextualizing it in a manner that would also be equally tailored to the South Asia sub-region. In 2021, ICJ brought together a drafting panel to initiate this process, and subsequently invited a Working Group of six South Asian judges to review these amendments. The updated draft was discussed and launched by Judges from Bangladesh, India, Maldives, Nepal, Pakistan and Sri Lanka at a regional judicial dialogue held in Maldives on 27<sup>th</sup> and 28<sup>th</sup> of May 2022.

The 2022 Bangkok General Guidance urges judges to ensure unhindered access to justice for women by being guided by the principle of equality and non-discrimination, and by identifying, addressing and eliminating gender discriminatory practices. It also seeks to alert actors from all justice systems, formal and informal, and at all levels to the fact that harmful gender stereotypes and gender biases promote inequality and perpetuate discrimination, thereby undermining access to justice for all.

The 2022 Bangkok General Guidance also addresses recommendations to the courts with respect to the type of institutional policies that they should adopt to help them become more gender sensitive and gender responsive.

## **Bangkok General Guidance for Judges on applying a Gender Perspective in South and Southeast Asia**

**Maldives, 29 May, 2022**

### **Preamble**

*Whereas* the Universal Declaration of Human Rights recognizes that all human beings are born free and equal in dignity and rights;

*Whereas* the International Covenant on Civil and Political Rights (ICCPR) affirms that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law; and that the law must prohibit discrimination and guarantee to all persons equal and effective protection against discrimination on any prohibited ground, including sex or gender;

*Whereas* the Declaration on the Elimination of Violence against Women recognizes that all women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms, including: the right to equality, the right to equal protection under the law, and the right to be free from all forms of discrimination;

*Whereas* the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) establishes that all States Parties must ensure the effective protection of women against any act of discrimination through competent national tribunals and other public institutions;

*Whereas* the empowerment of women contributes to the growth and development of a free and just society;

*Whereas* women throughout South and Southeast Asia still face multiple obstacles in achieving gender equality because of discrimination and harmful stereotyping on the basis of sex and gender, including within the justice systems of their countries;

*Whereas* every person is entitled to equal treatment before the law and equal protection of the law without discrimination, as well as to equal access to justice;

*Whereas* the Beijing Statement of Principles on the Independence of the Judiciary in the LAWASIA (Law Association in Asia and the Pacific) Region affirms that in the selection of judges there must be no discrimination on the basis of race, colour, gender, religion, political or other opinion, national or social origin, marital status, sexual orientation, property, birth or status;

*Recalling* General Recommendation No. 33 of the Committee on the Elimination of Discrimination against Women (CEDAW Committee) recognizing the obligation of States to ensure that women have access to justice and to guarantee that women be free from discrimination within the legal system;

*Recalling* the words of the Special Rapporteur on the Independence of Judges and Lawyers that a gender-sensitive judicial system is a prerequisite for the full and non-discriminatory realization of human rights for all human beings and the achievement of gender equality on the ground;

*Welcoming* the adoption of the Bangkok General Guidance for Judges in Applying a Gender Perspective in Southeast Asia in 2016 in order to make judges aware of means to consider evidence without resorting to harmful gender stereotypes, and to decide cases based on the principle of equality and non-discrimination recognized under international human rights law and standards;

*Recognizing* that women are not only individuals seeking to secure the enforcement of their human rights by resorting to the justice system, but also themselves key participants in the administration of justice, as judges, lawyers, law enforcement officials, prosecutors, mediators, correctional authorities' officials, legal professionals and other stakeholders of the justice system;

*Recognizing* that culture, customary rules, religion and traditional values and practices must not be used to violate the human rights and freedoms of women or otherwise invoked as justification for such violations;

We, the judges from South Asia, participating at the Regional Judicial Dialogue on Judging with a Gender Perspective, held in Maldives on 28<sup>th</sup> and 29<sup>th</sup> of May, 2022, launched this 2022 updated version of the General Guidance for Judges on Applying a Gender Perspective in South and Southeast Asia:

## **General Considerations**

This Guidance was elaborated taking into consideration and in some instances directly tracking the language of international law and standards enshrined in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and other pertinent international instruments, as well as recommendations issued by the Special Rapporteur on the independence of judges and lawyers and the Committee on the Elimination of Discrimination against Women (CEDAW Committee). Comparative national law and standards, good practices, and experiences shared by the participants during the Southeast Asia Judicial Dialogue on Judging with a Gender Perspective on 24 and 25 June 2016, and subsequently at the South Asia Judicial Dialogue on Judging with a Gender Perspective on 28 and 29 May, 2022 were also encapsulated into this updated guidance.

1. The present Updated Guidance aims to:
  - a) Provide assistance for judges in the understanding and application of gender equality and non-discrimination principles, and in the identification and elimination of harmful gender stereotypes with the aim of enhancing access to justice for all;
  - b) Assist justice sector professionals, including but not limited to, court officers, police officers, prosecutors, mediators, arbitrators, facilitators, lawyers, as well as social workers, medical practitioners, forensic experts and civil society representatives in the identification of situations where same and/or different treatment can lead to prohibited gender-based discrimination; and
  - c) Contribute towards the implementation of a judicial system that guarantees the rights of all persons to equal access to fair and gender-sensitive investigation processes, court proceedings, mediation processes, adjudication and enforcement of judgments.
2. This Guidance is directed to the justice sector professionals at all levels regardless of their area of jurisdictional competence, expertise and specialization as well as to judicial training institutions.
3. The applicability of the Guidance should not be limited to cases related to family law, domestic violence and/or criminal law, but should be applied in all areas of law, including, but not limited to employment, property, succession, and to any procedural matters in accessing justice.

4. The failure of the State to protect, respect and fulfil the human rights of all persons regardless of their sex, gender, sexual orientation, gender identity, gender expression or sex characteristics is a primary cause of discrimination and inequality. While recognizing the unique experiences and challenges faced by persons across the gender spectrum, this Guidance primarily focuses on the challenges faced by cisgender women.
5. Members of the judiciary can play an essential role in combating gender-based discrimination. Through their decisions, judges can help modify practices or customs that reinforce harmful gender stereotypes; establish interpretation criteria to prevent direct and indirect discrimination; determine procedures that demonstrate and maintain respect for the dignity and equality within the system of the administration of justice; establish rules for the application of laws to conform to the universal principles of equality and non-discrimination; and direct service-providers to extend appropriate psychosocial interventions to victims of gender-based violence.
6. Judges who adjudicate in plural legal systems have the responsibility of ensuring that such systems do not limit women's access to justice by perpetuating and reinforcing discriminatory social norms and harmful gender stereotypes. They must ensure that culture, customary rules, religion and traditional values and practices are not used to violate women's human rights or otherwise invoked as justification for violating the right to equality before the law and equal protection of the law without discrimination and the non-discrimination principle. Judges must protect against interpretations of religious texts and traditional norms creating barriers to access to justice of all persons whatever their real or imputed sex, gender, sexual orientation, gender identity, gender expression or sex characteristics.
7. The judiciary should, through its judgments and when engaging with legislatures, assist lawmakers to identify gaps and limitations in legislation and advise on the adoption of laws that uphold the principles of equality and non-discrimination. It should urge the State to fulfill its obligation to take all appropriate measures to eliminate gender-based discrimination and advance gender equality within the public and private spheres primarily through the adoption of laws and regulations, implementation of policies and changing of discriminatory practices and maintaining good practices where they exist.

### Basic Concepts

8. For the purpose of this Guidance, the following terms are defined as follows:
  - (a) "**Sex**" refers to each person's biological and physiological characteristics, including genitalia and other reproductive anatomy, chromosomes and hormones, and secondary physical characteristics emerging from puberty.
  - (b) The term "**gender**" refers to the socially or culturally constructed distinctions associated with a person's biological sex. "**Gender roles**", as socially or culturally constructed, in turn, shape expectations, responsibilities and opportunities ascribed to a particular gender identity and may result in power hierarchies and discrimination.
  - (c) **Formal or de jure equality** requires that all persons be treated the same and guaranteed equality of opportunity where they are equally situated. Equality of opportunity means that everyone should, at the outset, have the same opportunities so that they can realize their potential and participate in all areas of economic, social, political and cultural life as equals. Formal equality expects the law to apply equally to all persons, regardless of sex or gender differences. However, it must be recognized that equality of opportunity afforded by de jure equality does not necessarily ensure equality of outcome due to systemic and/or historic discrimination.



- (d) **Substantive or *de facto* equality** consists of ensuring “equality of results”, which means that progress towards equality must bring about concrete non-discriminatory outcomes or positive long-term changes in gender relations. To ensure substantive equality, all branches of the State must employ a corrective approach whereby they look into “how” and “why” women are treated differently, and develop policies/programmes taking into account biological as well as socially and culturally constructed differences, including those purportedly required by adherence to certain religious beliefs.
- (e) **Special Measures** are a set of positive and affirmative action measures put in place to create an enabling environment that reduces gender disparity and ensures equality of results. These measures are usually temporary in nature; they should be reviewed periodically and discontinued when the objectives of equal opportunity and treatment have been achieved. However, it must be noted that in certain instances where inherent biological differences result in unequal treatment, non-identical treatment will be required in order to address such differences. These measures are permanent in nature at least until such time as the scientific and technological knowledge would warrant a review.
- (f) **Prohibited discrimination** entails the unjust or prejudicial treatment of different categories of people by way of any distinction, exclusion, limitation or restriction based on grounds such as race, colour, language, religion, belief, employment, political or other opinion, ethnicity, nationality, social origin, economic and social situation, place of residence, migration status, property, birth or descent, especially on the basis of caste and analogous systems of inherited status, disability, age, location, region, education, indigenous or other status, membership in a particular social group, marital and family status, pregnancy, health status – including HIV status and drug dependence, sex, gender, sexual orientation, gender identity, gender expression, sex characteristics or other protected characteristics/status, be it intentional or unintentional, in respect of law or practice, in all aspects of public and private life, which has the effect or purpose of nullifying or impairing the recognition, enjoyment or exercise of human rights.

However, a differentiation may be an objective and reasonable difference in treatment, which may serve a legitimate purpose, and does not adversely affect or restrict the enjoyment of rights and therefore does not constitute prohibited discrimination.

Prohibited Discrimination may be:

- i. **Direct**, when the law, whether substantive or procedural, explicitly authorizes differentiated treatment that adversely affects the enjoyment of human rights of one group in particular; or
- ii. **Indirect**, when the act or law seems to be neutral, but its consequences adversely affect the enjoyment of human rights of persons belonging to one or more status groups. This includes instances when the law omits or fails to recognize or protect the human rights of persons from the group.
- iii. **Intersectional** discrimination occurs when two or multiple grounds operate simultaneously and interact in an inseparable manner, producing distinct and specific forms of discrimination.

- (g) **Stereotyping** is the taking of a generalized view or preconception of qualities possessed by or the roles that should be performed by members of a particular group. Stereotyping ignores a particular person's circumstances, abilities, needs and demands.

Gender stereotypes are a particular subset of generalizations regarding the characteristics of men women. They can be descriptive, based on a view or perception of what each gender is like, or they can be prescriptive, based on an ideology of what they should be like based on cultural, religious and societal beliefs and norms. These gender stereotypes are social constructs that often provide the basis for related generalized assumptions as to how one should or will behave in a range of circumstances depending on their gender.

**Unconscious/ implicit gender bias** is defined as unintentional and automatic mental associations based on gender, stemming from traditions, norms, values, culture and/or experience. Automatic associations feed into decision-making, enabling a quick assessment of an individual according to gender and gender stereotypes. Unconscious bias comes from an implicit association unknown to the holder, as people might consciously believe in equality while simultaneously unintentionally acting in a prejudiced manner.

- (h) **Harassment** is any improper and unwelcome conduct that is verbal or physical in person or online that might reasonably be expected or be perceived to cause offence, intimidation or humiliation to another person. Harassment may take the form of words, gestures or actions that tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate, or embarrass another or that create an intimidating, hostile, offensive or otherwise detrimental environment.

Sexual harassment is any unwelcome conduct of a sexual nature that might reasonably be expected or be perceived to cause offense or humiliation, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment may occur in the workplace or in connection with work. While typically involving a pattern of conduct, sexual harassment may take the form of a single incident. In assessing the reasonableness of expectations or perceptions, the perspective of the person who is the target of the conduct shall be considered.

- (i) Applying a **Gender Perspective** requires looking at the impact of gender on people's opportunities, social roles and interactions. It focuses particularly on gender-based differences in status and power, and considers how such distinction shapes the immediate needs, as well as the long-term interests. Taking a gender perspective entails taking into consideration gender-based concerns and experiences as an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and social spheres, so that all persons treated equally and inequality is not perpetuated.
9. Equality, equal protection of the law and non-discrimination are fundamental principles of international human rights law and the rule of law and guaranteed de jure at least in most domestic legal systems. These principles prohibit disadvantageous treatment based on the idea of the inferiority or superiority of any gender or on rules rooted in gender stereotypes. Guarantees of equality must ensure formal and substantive equality.
10. Applying a gender perspective will assist judges and others in the justice sector to:
- a) Be conscious of the gender norms that shape expectations, responsibilities and opportunities as they pertain to women;
  - b) Identify the causes and drivers of differentiated treatment based on sex or gender within the law, legal systems and legal practices;

- c) Determine whether different treatment upholds equal protection and advances equality or if it is discriminatory;
- d) Identify and expose the consequences that different treatment based on sex and/or gender creates, such as: violation of rights, unequal power relations and differences in the enjoyment of rights and the opportunities that are available;
- e) Identify the legal principles and procedures in domestic and international law, including restorative justice principles and procedures, that judges/mediators/arbitrators can apply in the conduct of court proceedings/mediations/arbitrations and in the evaluation of facts and evidence in adjudication/mediation/arbitration to ensure gender equality, equal protection and non-discrimination; and
- f) Judge with a gender perspective would allow equal opportunity, equal access and equal outcome in the dispensation of justice to those persons whose rights are at risk of not being recognized due to their gender.

### **General Guidance for the Application of a Gender Perspective in Judicial Decision-Making**

11. Judges have the responsibility to ensure that they act in an impartial manner, uphold the right to equality and non-discrimination of all those affected, including the internationally and domestically protected rights of the accused/defendant.
12. Unequal gender relations and norms are socially constructed and often find their way into laws and policies that unfairly codify and normalize socially constructed gender norms. It is the responsibility of the judges to be aware of such laws and policies and ensure that they do not further reinforce unequal gender relations.
13. Judges should carefully consider the facts of every case and the context surrounding the facts to determine if one of the persons involved is in an unequal power relationship or if one is adversely affected by unequal treatment, unequal legal protection or discrimination, because of sex or gender, including where sex or gender are one among multiple grounds of discrimination. Judges should be acutely conscious of inequalities while continuing to hear and determine the case.
14. Judges should be aware of the intersectionality of discrimination and exclusion based on any factors including but not limited to race, colour, language, religion, belief, caste, employment, political or other opinion, ethnicity, nationality, social origin, economic and social situation, place of residence, migration status, property, birth or descent, especially on the basis of caste and analogous systems of inherited status, disability, age, location, region, minority, indigenous or other status, membership in a particular social group, marital and family status, pregnancy, health status – including HIV status and drug dependence, sex, gender, sexual orientation, gender identity, gender expression, sex characteristics or any other protected characteristics/status, be it intentional or unintentional, in respect of law or practice, in all aspects of public and private life, which has the effect or purpose of nullifying or impairing the recognition, enjoyment or exercise of rights. Cases involving intersecting forms of discrimination or exclusion should be carefully reviewed, especially for the purpose of establishing remedial measures.
15. When hearing and adjudicating cases, judges must be aware of possible unconscious, implicit or reverse bias they themselves may harbour, and should be careful to avoid using gender stereotypes. Some common stereotypes judges should take care to avoid include but are not limited to:

**General**

- Women are physically weak;
- Women cannot make decisions on their own;
- Witness statements and oral testimonies of women are unreliable as women are emotional and unable to provide evidence in any objective fashion, hence it is necessary to corroborate their testimony;
- Women should be submissive and obedient;

**Stereotypes commonly arising in a domestic/family setting**

- A man is to be considered head of the household;
- The girl child is often expected to undertake roles and responsibilities of a woman by virtue of sex / gender stereotypes
- Women cannot make financial decisions for themselves and need the assistance of a male relative when entering into contractual obligations;
- Family property should be passed down the male line;
- Men must make all decisions related to family;
- State land bequeathed to private individuals must pass down the male line
- Every woman wants to be a mother;
- Women should be the primary caregivers of children, elderly and disabled members of the family, while decisions in relation to these family members should be taken by the man;
- Familial issues, including domestic violence, must be settled at home;
- Verbally or physically abusing wives/ daughters as a disciplinary measure is necessary or acceptable;

**In-relation to sex-crimes**

- Good women are sexually chaste;
- Being alone at night or wearing certain clothes make women responsible for being harassed verbally, physically, sexually or otherwise being subjected to any form of sexual violence including rape;
- Witness evidence provided by women who are sexually active may be suspect when assessing “consent” in sexual offense cases;
- Lack of evidence of physical harm in sexual offense cases means consent was given;
- Delay in the reporting of a sexual offence or domestic violence calls to question the accuracy or authenticity of the victim’s stance;
- Offender's offer to marry the victim should be accepted by the victim girl/woman and when so accepted will absolve the perpetrator completely or mitigate the severity of the punishment otherwise faced.

16. Judges should employ a victim-centered approach during the hearing, particularly in cases relating to sexual offences and other gender-based violence, including domestic violence cases. This may include but not be limited to:

- Countering the employment of stereotypes by the lawyers on both sides and requiring them to be gender-sensitive;
- Distinguish adjudicatory approaches between a child and an adult survivor of SGBV, witness or accused
- Allowing for the exclusion of the public on the request of the victim/survivors in certain circumstances;
- Persons who have suffered from domestic violence should have access to legal aid and be exempted from legal fees;
- Waive all court fees and other associated costs for financially dependent people who seek justice through courts;
- Adopt measures that prevent secondary traumatization of victims/survivors.

However, a victim-centered approach should not in any way prejudice the right of the accused to a fair trial.

17. Judges should also be mindful of the victim's/survivor's gender-specific needs and concerns, including but not limited to maternal care, reproductive rights, and protection from sexual or other forms of gender-based violence.
18. When determining which law to apply to a particular case, judges should:
  - a) Evaluate if the law is directly or indirectly discriminatory towards a particular gender and assess if it is based on a stereotype or a sexist viewpoint.
  - b) Evaluate the purported gender neutrality of the law and the consequences of its application, including whether the law may lead to indirect discrimination and discriminatory impacts;
  - c) Consider whether there are reasonable constructions and interpretations of the law that better guarantee substantive equality, equal protection and non-discrimination and where appropriate, apply such an interpretation;
  - d) Consider the domestic application of international treaties to which their State is a party and related jurisprudence and adopt an interpretation that is consistent with the application of any such applicable treaties;
  - e) Consider developing new jurisprudence on gender equality and non-discrimination practices, where applicable, based on, inter alia, rulings rendered by courts of different countries to resolve ambiguity in domestic law and/or fill gaps in domestic law.
  - f) Adopt an interdisciplinary approach to investigation and adjudication in order to avoid gender stereotyping and the use of tools and methodologies and findings of other disciplines, such as psychology or psychiatry, forensic medicine and sociology to debunk outdated knowledge and expose and challenge gender stereotypes and other harmful beliefs and practices;
  - g) If their State is not a party to international human rights treaties, or is a party but has not adequately incorporated them into domestic law, judges must resort to these and other applicable international law treaties to resolve ambiguities present in domestic law and fill gaps in domestic law. These standards may also serve as an interpretative guide and as a source of definitions that judges might not find in their domestic legal systems; and
  - h) Where it is not possible to invalidate laws that discriminate against women, judges should bring this to public attention in order that they may be modified or amended in conformity with the country's obligations under international human rights law and standards.
19. When deciding on the merits of a case or whether a case merits judicial review, judges should:
  - a) Apply domestic law in compliance with international law and standards;
  - b) Apply human rights principles of accountability, equality, universality, indivisibility, interdependence, interrelatedness and inalienability;
  - c) Identify any international standards that have been applied and explain their application;
  - d) Identify and take into account the existence of any unequal power relation or structural discrimination, as well as any stereotype or gender bias detected in the facts or in the legal process;
  - e) Give a reasoned explanation as to why they are applying a particular law to the case;

- f) Explain why applying a particular standard would cause illegitimate differentiated treatment;
  - g) Incorporate a gender analysis meaningfully, taking into consideration external factors that may influence the circumstances at hand; and
  - h) Avoid re-victimization of survivors of violence.
20. It should be recalled that under international law, any person who has suffered a human rights violation, including as a result of gender-based discrimination, has a right to an effective remedy and reparation for harm suffered. If reparation measures are necessary or appropriate, judges should apply measures that:
- a) Are consistent with the principles and standards of international human rights law;
  - b) Are free from gender stereotypes;
  - c) Effectively redress the harm caused to the victim, including as a result of sex or gender;
  - d) Contribute to efforts to address unequal power relations and structural discrimination; and
21. Judges should, to every extent possible, use inclusive or gender-neutral and gender-sensitive language in court proceedings, decision-making, mediation, judgments and other court issuances and ensure that the language used protects and in no manner undermines the dignity of the persons involved.
22. Judges must seek to be particularly sensitive when drafting judgments in cases relating to sexual and gender-based violence. The judiciary must take all appropriate measures to ensure the confidentiality and protection of victims, including by redacting their personal information.
23. In as much as it is possible for the judges to do, they must employ a gender perspective in court management. This includes but is not limited to the following steps:
- a) Judges must ensure listing of cases are not subject to implicit gender bias
  - b) Judges must be sensitive to spacing issues: Priority should be given to women with children
  - c) Specific time slots should be allocated for sensitive cases

### **Recommendations for Institutional Policies in the Judiciary**

24. The Judiciary of each country should ensure the widest dissemination of this guidance to the judges and all its staff.
25. Developing a gender-sensitive and gender-responsive judicial system means not only including gender considerations in rules for adjudication of cases and mediation, but more generally in the administration of justice. This principle should extend even after the conclusion of a case, particularly in ensuring the full implementation of the judgment.
26. Gender equality should be a principle that guides judicial appointments. There must be gender parity on the bench as women judges bring a diversity of perspectives, approaches and life experiences to adjudication, which influence the interpretation and application of laws. To that end, legislative, administrative and judicial authorities responsible for judicial appointments and promotions, should move expeditiously and progressively to achieve gender parity.

27. Women judges should not be assigned exclusively to cases involving family law or sexual violence, but to any other area that falls within their legal expertise. Women judges should be made eligible and considered for any level of the judiciary.
28. Temporary affirmative measures –like quotas, which may be imposed along with other requirements, such as integrity and competence - should be implemented in order to attain gender parity in the judiciary. Evaluation procedures for the appointment and promotion of judges should be merit-based and considered with a gender perspective to avoid rules and situations that might place women at a disadvantage in judicial appointments and promotions.
29. Evaluation panels for the appointment and promotion of judges should reflect gender diversity. Gender stereotypes should never be a factor, express or implicit, in the evaluation of judges for appointment or promotion. One criterion for the evaluation of candidates should be demonstrated commitment to human rights and gender equality.
30. All judges and other justice sector personnel shall be entitled to the same remuneration for work of equal value.
31. The commitment to gender sensitivity in relation to individual judges should be recognized, endorsed and incentivized to encourage other judges to follow suit and to boost morale in general.
32. The principle of gender equality should be applied in the appointment and promotion of all administrative and other staff of the judiciary, in addition to other applicable criteria, especially merit.
33. Judges should identify and appoint legal aid providers, para-legal volunteers and offer their services to vulnerable litigants who are in need of such services.
34. Judges may take steps to make their court more gender responsive by instituting a court management system that considers sensitive cases, gives time slots and ensures that victims are not re-traumatized within the court room setting. Judges must require their staff to be respectful and sensitive when dealing with female litigants.
35. Judges and, in general, all judicial staff should be adequately trained to apply a gender perspective in their daily work. Judicial training institutions should include courses on gender mainstreaming in their curriculum. It is important that such trainings be contextualized, focusing on the specific national and/or local needs and challenges. Where possible, the judicial training institutions should be involved in the training of all stakeholders in the judicial process including the police, prosecutors and lawyers.
36. Judicial system stakeholders should take effective measures to tackle all forms of corruption, including the practice of sextortion (*"the abuse of power to obtain a sexual benefit or advantage"*) throughout the judicial process as an important contribution to eliminating gender discrimination in accessing to justice. This may include the creation of a specific mechanism to receive complaints, petitions or comments about all personnel involved in the justice system. However, these measures should in no way prejudice the access to justice and effective remedies for victims of sextortion who wish to report their complaint to the relevant authorities
37. It is advisable to establish a gender office or unit or working group in the judiciary in order to effectively promote the inclusion and institutionalization of a gender perspective in the administration of justice and monitor compliance thereto.
38. Gender disaggregated data collection pertaining to issues relating to women must be periodically collected on the cases that are brought before each individual court.

39. Gender-friendly procedures should be adopted to ensure substantive access to justice. This should include the institution of specialized courts for domestic/family violence cases featuring:
  - a) Specialized judicial personnel, including judicial officers, prosecutors, lawyers, victim support workers, and community corrections officers. Ensuring gender parity in all such appointments is also important.
  - b) Specialized procedures inclusive of special days in court dedicated to family violence matters. They may also include case coordination mechanisms to identify link, and track cases related to family violence, such as integrated case information systems.
  - c) Specialized safety and support services for victims and witnesses
40. Gender friendly infrastructure should be built to ensure that the physical process of access to justice is not without basic and essential accommodations. This shall include but may not be limited to:
  - a) Designated waiting areas
  - b) Designated toilets that are well-maintained and hygienic
  - c) Child-care rooms for lactating mothers who have to visit courts
  - d) Crèches for women with children having to visit the court in any capacity, be it as a judge, lawyer, court staff, litigant, witness, etc.
  - e) Witness assistance rooms
  - f) Sanitary napkin dispensers and incinerators
41. Appropriate accommodations, including shelters the provision of immediate medical services, social welfare and interim protection orders should be made available to women in special situations, such as victims of domestic violence, adolescents, the elderly, pregnant or lactating women.
42. In times of prolonged court closure in times of crisis, due, for example, to natural disasters, “national security” or public health emergencies, the judiciary should set up procedures and mechanism to hear urgent and necessary cases, including those pertaining to domestic violence instances.
 

While fully or semi-remote/virtual hearing facilities shall be made available, the judiciary must ensure the means to provide these facilities for victims and witnesses living in poverty who do not have access or lack the knowledge to use such technology.

However, the judiciary should be mindful of concerns relating to access, confidentiality, data collection etc. Therefore, these measures must be regularly reviewed and revised accordingly.
43. The judiciary should endeavour to actively engage with the major stakeholders of the judicial system to ensure the implementation of the abovementioned general guidance.





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