



Where are the African Women in International Law?



IAWL LEADERSHIP ACADEMY



THE INSTITUTE FOR AFRICAN WOMEN IN LAW

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Executive Summary

Research conducted since the International Law Commission (ILC) was created in 1947 shows a growing presence of women in the ILC. However, there is no comparable increase in the number of African women because until recently, the ILC only had seven female members, none of whom were African. In 2021, Professor Phoebe Okowa made history by becoming the first African woman to join the ILC. In response to this stark reality of the paucity of women generally and African women specifically, the Institute for African Women in Law (IAWL), in collaboration with the African Union's (AU's) Legal Counsel office, the Kenyan Embassy in Ethiopia, and the AU's Permanent Representative to the United Nations (UN), organized a webinar to address the question, "Where are the African women in international law?" The webinar was held on the 15th of October, 2022. It had five high-level panelists who engaged with the question, focusing on African women as legal officers in international organizations such as the ILC.

The panelists discussed matters ranging from factors causing the limited presence of African women in international law to why the inclusion of women and their representation is critical. The panelists identified several key factors that hinder women's participation in international law, including nomination and election processes that are biased against women; educational structures that do not make international law attractive to law students, particularly female law students; and the career paths, choices, and attitudes of women in the law. At the end of the webinar, practical and valuable recommendations were presented aimed at enhancing greater representation of African women within international institutions.

Portfolio of Speakers in the webinar



Ambassador (Dr.) Namira Negm

Ambassador Namira Negm is the lead of the AU team for establishing the Hybrid Court for South Sudan. Before assuming this position, she served as the Egyptian ambassador to Rwanda and the legal advisor and counterterrorism expert at the Egyptian Mission to the UN in New York. She has also worked as a negotiator for the UN and several other international organizations working on legal instruments in the law of the sea, family law, human rights, counterterrorism, and sanctions. Ambassador Negm has several publications, including *Transfer of Nuclear Technology under International Law: Case Study of Iraq, Iran and Israel* (2009).



Judge Liesbeth Lijnzaad-Schellens

Liesbeth Lijnzaad-Schellens is a professor and a judge of the International Tribunal on the Law of the Sea. She has been a member of the tribunal since October 1st, 2017. Her professional experience includes lecturing at the Limburg University, Maastricht (1986 to 1994); serving as an assistant legal adviser at the Ministry of Foreign Affairs of the Netherlands (1994 to 1999); as deputy head (1999 to 2006), and then legal adviser and chair (2006 to 2017) of the International Law Department of the Ministry of Foreign Affairs of the Netherlands.



Professor Chaloka Beyani

Chaloka Beyani is a London School of Economics professor and a former UN special rapporteur on internally displaced persons (IDPs) (UN Secretary-General's High-Level Panel on Internal Displacement United Nations, n.d.). He is also a member of the Centre for the Study of Human Rights at the London School of Economics and the former chair of its Advisory Board. He joined the Department of Law at the London School of Economics in 1996 and lectures in international law and human rights.



Ambassador Jean Kamau

Ambassador Jean Kamau has been Kenya's ambassador to the Federal Republic of Ethiopia and its permanent representative to the African Union since January 2021. She is a lawyer by profession. Before this ambassadorial appointment, Kamau served as the high commissioner to the Republic of South Africa, the Kingdoms of Eswatini and Lesotho, based in Pretoria, South Africa, from February 2015 to December 2020. Ambassador Kamau previously served as the deputy head of the Kenyan mission to the UN, in Washington, D.C., from February 2013 to December 2014.



Professor Ntombizozuko Dyani-Mhango

Prof. Ntombizozuko Dyani-Mhango is the first black woman professor (in the Department of Jurisprudence) and head of a department (the Department of Public Law) in the Faculty of Law of the University of Pretoria (Mugenyi, 2021). Her teaching and research are in public international law, international criminal law, and constitutional law.

1. Introduction

The webinar ***"Where are the African Women in International Law?"*** brought together high-level panelists to discuss the factors contributing to the underrepresentation of African women in international law, especially as legal officers in international organizations such as the ILC. The panelists discussed the importance of gender inclusion and diversity in international law and how it can be achieved.

International law is a branch of public law regulating states' interactions. According to Shaw (2008, p.2), international law "covers relations between states in all their myriad forms, from war to satellites, and regulates the operations of the many international institutions. It may be universal or general, in which case, the stipulated rules bind all the states (or practically all depending upon the nature of the rule); or regional, whereby a group of States linked geographically or ideologically may recognize special rules applying only to them."

This report focuses on the ILC in light of an African woman's (Professor Phoebe Okowa's) nomination and election to the ILC. The report also highlights women's representation in other international bodies and organizations, such as the International Criminal Court (ICC), the International Court of Justice (ICJ), the African Court on Human and Peoples' Rights (ACHPR), the Economic Community of West African States (ECOWAS) Court of Justice, the African Union's Office of Legal Counsel (OLC), and the East African Court of Justice (EAJ).



2. Background

Dawuni and Kuenyehia's (2019) pioneering book, *International Courts and the African Woman Judge: Unveiled Narratives*, on African women in international courts and tribunals, showed the increasing number of African women represented on the benches of international courts and tribunals. Drawing from an earlier study by Grossman (2016), which highlighted the challenges women continue to face to be nominated and elected to international courts and tribunals, it is evident that the African experience is unique compared to other regions of the world.

Michelson (2013) demonstrated that there had been a steady feminization of the legal profession since the turn of the millennium. The study showed that 52 countries across the globe had roughly 30% female representation among employed lawyers. This percentage is considered a significant indicator of societal change. Despite the increased feminization of the legal profession globally, several international law organizations still have low levels of gender representation (Pillai, 2018).

Of the 229 members that the ILC has had since its establishment in 1947, only seven have been women (GQUAL Campaign, n.d.), and none (United Nations Office of Legal Affairs, 2018) has been an African woman. Again, as of 2020, of the 108 judges that have served in the ICJ so far, only four have been women, and only one has been an African woman (Dawuni, 2020). The Special Court of Sierra Leone has had both a female prosecutor and an African prosecutor in the past. However, to date, the court has not yet seen the appointment of a female African prosecutor to serve in its ranks (Residual Special Court for Sierra Leone, n.d.). Additionally, of the 97 women (ArbitralWomen, 2018) who serve in the International Court of Arbitration, only 14 are African. The only international court with gender parity is the ACHPR, where 6 of the 11 judges are women (African Court on Human and Peoples' Rights, n.d.).

Gender and geographic representation in international law matter because international law is expected to embody the principles of legitimacy and representativeness. Court legitimacy depends on accountability, transparency, and representativeness. As 50% of the world's population is female, it can be expected that women's representation in international courts and tribunals should be proportional to enhance fairness and equality in these courts. Further, for international courts and tribunals to shape and uphold international law legitimately, women and men must be equally involved in upholding laws that affect all.

More importantly, different feminist theorists have argued that women, unlike men, bring different and positive values and approaches, such as care and empathy to cases (Chandrachud, 2013). Gender diversity provides the legal profession with an array of perspectives. It builds public trust, just as including individuals from non-traditional backgrounds in international organizations also forces others to reckon with any prejudices they may have against such persons.

Nomination and election processes to international bodies partly explain the paucity of women (Dawuni, 2020). When states are solely responsible for the nomination of candidates, there is greater room for explicit or implicit bias against qualified female professionals. Women candidates may lack government support due to culturally embedded gender biases. They may have to navigate a complex political landscape or may not even be aware of available vacancies because of poor information dissemination.

Consequently, governments should be transparent about their nomination processes. States should raise awareness of vacancies, request applications from qualified individuals, or encourage nominations through civil society organizations (CSOs) or professional associations to expand the pool of qualified professional nominees. Samardzija (2019) suggested using quotas and aspirational statements that commit to gender equality, as courts with quotas and aspirational statements have greater gender representation on their benches.

3. Women in international law

There are several reports on women in international law, although they focus mainly on women's presence in international courts. Dawuni (2020), in "Africa: Why Gender Diversity at the International Court of Justice Matters for Africa and the World," talks about the number of women and their significance in international courts. Føllesdal (2021), in "How Many Women Judges Are Enough on International Courts?" points out how the ACHPR is the first among international courts and tribunals to secure gender parity, with 6 of its 11 judges being women. For the ICJ, Barr (2021), the associate director of the women's rights division, comments that, of the ICJ's 15 judges, only four are women. Barr's article, "The International Court of Justice Should Have More Women Judges," talks about the historical gender imbalance in the ICJ, where, of its 109 judges, only four have been women. To Barr, "a world court that is only 20 percent female displays a lack of commitment to gender equity by the UN that demands to be challenged." She noted, "it is well past time for the UN member states who elect judges to the ICJ to address the gender gap."

Comparatively, other international law institutions, such as the International Law Commission (ILC), have not received much scholarly attention regarding gender inclusion and diversity. Perhaps the growing number of women, specifically African women in international courts, could reflect the increasing literature on them or the result of the literature's advocacy for diversity. A shift in the literature or advocacy for gender parity on the ILC could help to increase the number of women on the ILC. In her article "*The Women Question in International Law*", Charlesworth (2010) sought to explain the low numbers of women in international law. She discussed how feminism has succeeded in bringing the language of women's empowerment into international law but is less adept at identifying methods to give this language life on the ground. The ILC is perhaps one of the most important international institutions as it "initiates studies and makes recommendations for ... encouraging the progressive development of international law and its codification" because the international courts work with international laws.

As a result, apart from courts and tribunals, women can contribute immensely to developing international law through participation in the ILC. Despite the increase in women's participation in international courts, there is no corresponding increase in the International Law Commission (ILC) – an equally crucial international institution. It can be questioned if this is due to the lack of opportunities for women.



4. The International Law Commission

In 1947, the General Assembly of the United Nations (UN) established the ILC to undertake the mandate of the Assembly under Article 13(1)(a) of the UN Charter. The ILC's mandate is to "initiate studies and make recommendations for the purpose of...encouraging the progressive development of international law and its codification." Per Article 2, paragraph 1 of the ILC statute, the commission "shall consist of thirty-four members who shall be persons of recognized competence in international law."

The General Assembly elects the members of the ILC from a list of candidates nominated by governments of UN member states. When elected, these members act as individuals, not representatives of their respective states. The following table represents the members of the ILC before the November 2021 election (International Law Commission, 2021, December 8th).

Table 1. Members of the ILC as of October 2021

	NAME	COUNTRY	GENDER
1	Ali Bin Fetais Al-Marri	Qatar	Male
2	Carlos J. Argüello Gómez	Nicaragua	Male
3	Bogdan Aurescu	Romania	Male
4	Yacouba Cissé	Côte d'Ivoire	Male
5	Concepción Escobar Hernández	Spain	Female

	NAME	COUNTRY	GENDER
6	Mathias Forteau	France	Male
7	Patrícia Galvão Teles	Portugal	Female
8	Juan Manuel Gómez-Robledo	Mexico	Male
9	Claudio Grossman Guiloff	Chile	Male
10	Hussein A. Hassouna	Egypt	Male
11	Mahmoud D. Hmoud	Jordan	Male
12	Huikang Huang	China	Male
13	Charles C. Jalloh	Sierra Leone	Male
14	Ahmed Laraba	Algeria	Male
15	Marja Lehto	Finland	Female
16	Shinya Murase	Japan	Male

	NAME	COUNTRY	GENDER
17	Sean D. Murphy	United States of America	Female
18	Hong Thao Nguyen	Vietnam	Male
19	Nilüfer Oral	Turkey	Female
20	Hassan Ouazzani Chahdi	Morocco	Male
21	Ki Gab Park	Republic of Korea	Male
22	Chris Maina Peter	United Republic of Tanzania	Male
23	Ernest Petrič	Slovenia	Male
24	Aniruddha Rajput	India	Male
25	August Reinisch	Austria	Male
26	Juan José Ruda Santolaria	Peru	Male
27	Gilberto V. Saboia	Brazil	Male

	NAME	COUNTRY	GENDER
28	Pavel Šturma	Czech Republic	Male
29	Dire D. Tladi	South Africa	Male
30	Eduardo Valencia-Ospina	Colombia	Male
31	Marcelo Vázquez-Bermúdez	Ecuador	Male
32	S. Amos Wako	Kenya	Male
33	Michael Wood	United Kingdom	Male
34	Evgeny Zagaynov	Russian Federation	Male

Data source: ILC website, December 2021

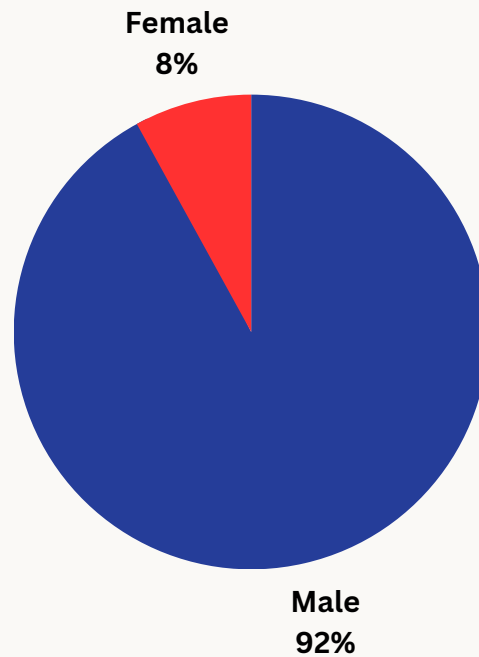
Table 1 shows the dominance of male members in the International Law Commission (ILC). It is evident from the table above that out of the thirty-four members of the International Law Commission as of October 2021, only five were female. This indicates that women's inclusion and representation at top international law organizations remain low.

Table 2. African Members of the ILC as of October 2021

	NAME	COUNTRY
1	CisséYacouba	Côte d'Ivoire
2	Fall Aly	Mauritania
3	Fatallah Ahmed Amiin	Egypt
4	Charles C. Jalloh	Sierra Leone
5	Laraba Ahmed	Algeria
6	Clement Julius Mashamba	United Republic of Tanzania
7	Mingashang Ivon	Congo
8	Phoebe Okowa	Kenya
9	Hassan Ouazzani Chahdi	Morocco
10	Alioune Sall	Senegal
11	Louis Savadogo	Burkina Faso
12	Muaz Ahmed Mohamed Tungo	Sudan

Data source: ILC website, December 2021

Figure 1. Gender Distribution of African Members of the ILC as of October 2021



Source: International Law Commission (December 8th, 2021).

Figure 1 above shows the gender distribution of the African members of the ILC as of October 2021. As the figure shows, only 8% of women have been members of ILC, against 92% of men.

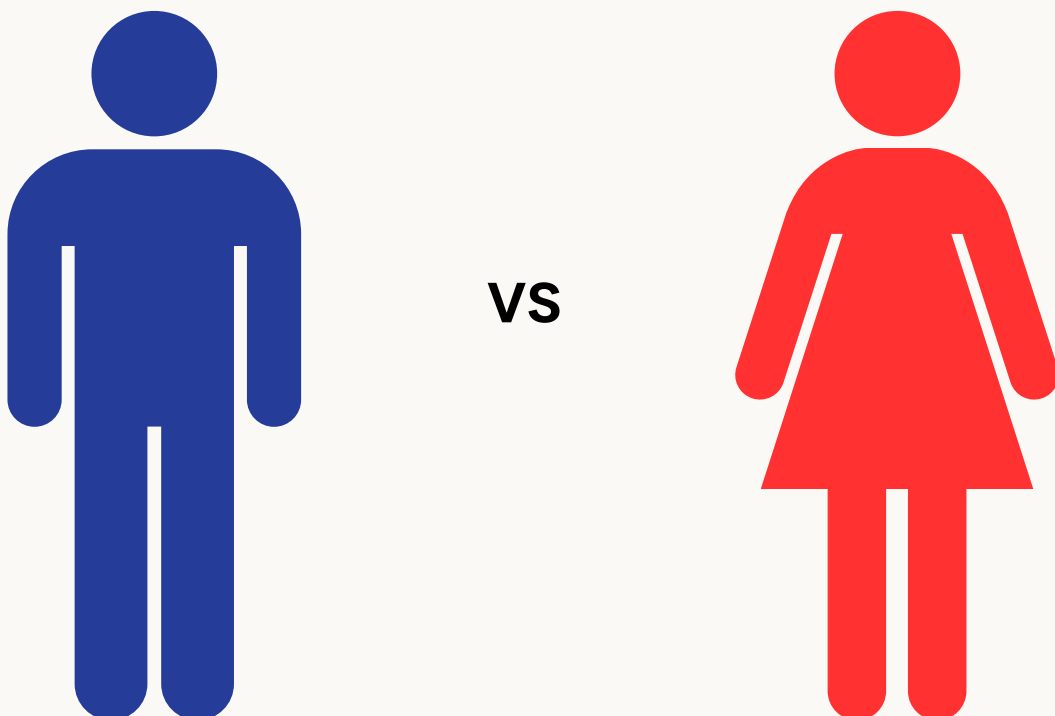
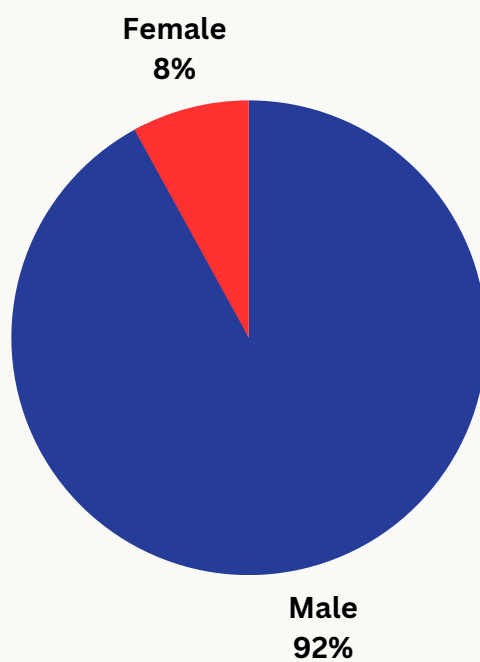
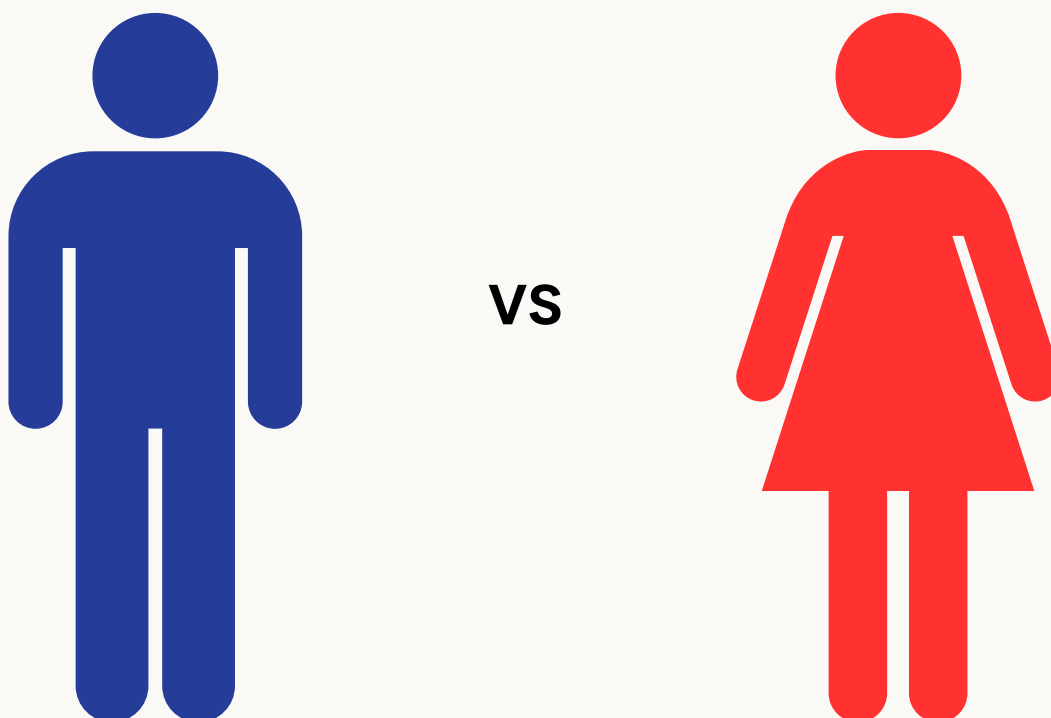


Figure 2. Gender Distribution of African Members of the ILC as of October 2021.

African members of ILC as at October 2021, disaggregated by gender



Source: International Law Commission (December 8th, 2021).



5. African Women in International Law

The current composition of the ICJ, ICC, ACHPR, and ILC reflects the number of women serving in those institutions. Of the ILC's 34 members, only 4 were women (International Law Commission, 2021, December 8th), none of which were African as of October 2021. The November 2021 elections marked the first time an African woman, Professor Phoebe Okowa (Queen Mary University of London, n.d.), a professor of public international law and director of graduate studies at the Queen Mary University of London, was nominated and subsequently elected to the ILC.

Another notable African woman in international law is Judge Julia Sebutinde from Uganda, currently the only African woman judge on the ICJ. Judges Solomy Balungi Bossa (Uganda), Reine Alipini-Gansou (Benin), and Maitta Maria Samba (Sierra Leone) are the only African women judges on the ICC. The IAWL gender scorecard (African Women in Law, n.d.) indicates that African women have the highest representation at the ICC. At the ACHPR, there are six African women judges (African Court on Human and Peoples' Rights, n.d.): Lady Justices Imani Daud Aboud (president), Ntyam Ondo Mengue, Marie Theresa Mukamulisa, Tujilane Rose Chizumila, Bensoula Chafika, and Stella Isibhakomen Anukam.



6. African Women as Legal Officers in International Courts

Table 3 African women who have served/ are currently serving in the international courts from 2004 to 2021.

Court	Women serving before 2004	Nationality	Women currently serving	Nationality	Number of male legal officers
International Court of Arbitration	No information found yet		Yas Banifatemi, vice president (2018–)	France/Iran	7
			Inka Hanefeld, vice president (2015–)	Germany	
			Yoshimi Ohara, vice president (2018–)	Japan	
			Ndanga Kamau, vice president (2018–)	Kenya	
			Wendy J. Miles, vice president (2018–)	New Zealand	
			Deva Villanúa, vice president (2018–)	Spain	
			Anne Veronique Schlaepfer, vice president (2018–)	Switzerland	
			Chiann Bao, vice president (2018–)	United States	
			Claudia Salomon, vice president (2018–)	United States	
			Sabrina Aïnouz, alternate member	Algeria	
			Nadine Dossou Sakponou, member	Benin	
			Samaa Haridi, alternate member	Egypt	
			Leyou Tameru, member	Ethiopia	
			Marietta Brew Appiah-Opong, member	Ghana	
			Njeri Kariuki, member	Kenya	
			Farah Beitelmal, member	Libya	
			Aïcha Brahma, alternate member	Morocco	
			Adedoyin O. Rhodes-Vivour and Yejide Osunkeye, members	Nigeria	
			Mahlape Sello, member	South Africa	
			Madeline Kimei, member	Tanzania	
			Affaf Ben-Mansour, member	Tunisia	
			Sana Belaid, alternate member	Tunisia	

Court	Women serving before 2004	Nationality	Women currently serving	Nationality	Number of male legal officers
International Court of Justice	Sarah Yookyung Kim (Associate Legal Officer)	South Korea	Florence Zaoui		Jason Morgan-Foster, legal officer/secretary of the court
			Nina Grange, associate legal officer/law clerk	France	François Boudreault, senior legal officer
			Mahaliana Ravaloson	Madagascar	Vladyslav Lanovoy
			Cristina Hoss, legal officer	France	Daniel Costelloe
			Hanna Vallstrom	Sweden	Hendrik Denys
			Nayomi Goonesekere	Sri Lanka	Etienne Henry
					Bin Jiang
					Emmanuel Giakoumakis
					Marcos Kotlik
					Nikiforos Panagis
					Gilles Landry Dossan (African
					Timothy McKenzie
International Criminal Court	Fatou Bensouda, deputy prosecutor (2004–2012)	The Gambia	Fatou Bensouda, prosecutor (2012–2021)	The Gambia	
Office of the Legal Counsel (African Union)	No information found yet		Namira N. Negm, first woman to take on the role of legal counsel. (The office has 9 female lawyers, 4 female commissioners. Female DCP.)	Egypt	6 male lawyers, 4 male commissioners, male CP
International Criminal Tribunal for Rwanda	Louisa Songwe, legal officer	Cameroon	Rosette Muzigo-Morrison, legal officer		Patrick Enow, legal officer
			Sharifah Adong, associate legal officer		
			Marianne Ben Salimo, legal officer		
			Wambui Mwangi, legal officer/appeals counsel		
			Constant Hometowu. legal officer		
			Suzanne Chenault, legal office		

International Criminal Tribunal for the former Yugoslavia	No information found yet				
Special Court of Sierra Leone	No information found yet		Brenda Hollis, prosecutor	United States	
International Residual Mechanism Criminal Tribunal	No information found yet				
Community Court of Justice, ECOWAS Court of Justice	Ann Darius Ishaku, court registrar	Nigerian	Franca Ofor, principal legal researcher (P5)	Nigerian	10
	Altine Abiniku, personal assistant to judge	Nigerian	Cassandra Labor, executive assistant to judge (P4)	Sierra Leone	
	N'do Blanche Pabozi, personal assistant to judge (P3)	Togolese	Emiliana Mendes, executive assistant to judge (P4)	Cape Verde	
	Ada Odoua, personal assistant to judge (P3)	Nigerian	Oluwatosin Nguher, executive assistant to judge (P4)	Nigeria	
African Court of Human and Peoples' Rights	No information found yet		18 women. 3 female legal officers: head of legal division, senior legal aid officer, legal officer	Kenya, Uganda, Algeria	9

Data collected from different sources



7. Factors Behind the Absence of African Women in International Law

According to Judge Lijnzaad-Schellens, it is strange that we see fewer women in courts, tribunals and the ILC, considering that 70% to 80% of students are young girls aspiring for a career in international law. Judge Lijnzaad-Schellens emphasized that "the quick answer is to elect more women," but she acknowledged the challenges involved in this endeavor. In her view, the discussion should commence with the nomination process, as that initiates the process of becoming a commission member. The trajectory, in part, has to do with a person's career before becoming a candidate and the rules governing the international bodies concerned. The ICJ and ICC, for example, describe a process in their statutes where national groups of the Permanent Court of Arbitration play a role in the nominations. There are no such rules at the International Tribunal for the Law of the Sea. A state only presents a candidate, but nobody knows how that candidate is found. Judge Lijnzaad-Schellens believes that attention should be given to these processes and how they work. The nomination of a woman by a group of men is unlikely. Therefore, women need a seat at the table to influence the nomination process.

Judge Lijnzaad-Schellens called for legitimacy and representativeness, especially in significant bodies such as the ILC and added that transparency in the nomination and selection processes is key. Without transparency, we will never have the required number of African female lawyers in international bodies.

For Professor Beyani, three structural imbalances are at play. Firstly, the context of the present generation was influenced by the early days of law schools in Africa, where there were few female students. In addition, public international law was always an optional course and was not considered an area of prestigious practice compared to commercial and contract law. Hence, those who focused on public international law were not taken very seriously, except when men expressed interest in it. Therefore, men dominated international law.

The second structural imbalance relates to the nomination and election process. Generally, most influential positions, ranging from national groups to the ICJ to the offices of the attorney/ solicitor general responsible for nominating candidates for the ILC are predominantly occupied by men. In most cases, men repeatedly nominate each other. The third structural imbalance involves the election process, i.e., from the nomination by the state to the endorsement by the AU. With the exception of the year 2021 (due to COVID-19), nominees for the ILC were often vetted by the AU.

There is horse trading and reciprocity among states. This is a process in which one state may ask another to support their candidate for this position, and that first state will support the other state's candidate for another position. However, this approach often raises concerns about the qualifications of the nominees being presented.

Additionally, a prevailing prejudice in many states is the reluctance to vote for female candidates. Consequently, this significant issue has contributed to the absence of an African woman member in the ILC. So, with Professor Okowa's candidacy on the horizon, there is an opportunity to remedy this. Therefore, it is crucial to engage networks in terms of advocacy, campaigns, and the electoral process and make the clarion call that it is about time.

Ambassador Negm focused on the perception women have about themselves. She believes there will always be people trying to bring you down regardless of your gender. Women need to present themselves as not only good for cooking and cleaning but also as individuals with intelligence. As the first female legal counsel in the 53 year-history of the AU and the first from the northern part of Africa, she is breaking new ground in her current position. The Ambassador mentioned how she faces major challenges every day. However, she believes that the key is always believing in yourself and proving to leaders who do the nomination at the national level how capable you are. She added that despite the internal pressures we face in our upbringing, which may create doubts at certain points, it is important to keep fighting to show how good we are so that our governments nominate us for international positions as men mostly dominate judiciaries and almost all other sectors.

7.1 Why Inclusion and Representation Matter

Ambassador Kamau, while acknowledging the timely nomination of Professor Okowa, admitted that it has taken longer to get here. She called for an appreciation of where we are currently and the opportunities available within the ongoing transformation in our societies. According to Ambassador Kamau, advocacy for equality and gender inclusivity in the public sector is key. As Grossman (2011) puts it,

Whether international law and international institutions should actively seek out diverse viewpoints is not just an inquiry reserved for the politically correct. Rather, its answer is tied to the success of international law and institutions. If inclusion strengthens the legitimacy of international institutions, they are weaker in their absence. When legitimacy declines, those normatively addressed by international law are less likely to respect and comply with it.

To Ambassador Kamau, for the women's movement to make advances and progress on inclusivity in various spaces, it takes regional, national, and international progression. Therefore, gender inclusivity and gender equality are critical. As women have proven in academia, they have the right skills and competencies to negotiate access and entry into various spaces. Professor Okowa's situation is critical. As a qualified candidate, she presents the opportunity for us to argue for more spaces to open up for women. As women, we can use our influence to negotiate opportunities in some of the spaces. Professor Chaloka described some of these spaces and spoke about negotiating for a candidate within the structures of the AU through the committee starting at the ambassadorial level, then on to the ministerial level, and then the international space. Ambassador Kamau said that Kenya has a robust constitutional framework that promotes gender equality. It also has an executive order that prescribes how women's engagement in public institutions should go over and above the constitutional threshold of 30%, with an aspiration for 50%. Therefore, she called for the push for women candidates to get to the top when nominated.

In response to the question about increasing the number of female members in the International Law Commission, Judge Lijnzaad-Schellens said that the ILC statute was drafted two years after the UN charter in 1947 and has been amended two or three times since, with the last amendment being in 1981. She suggested revising article 8 of the ILC statute, as its view of diversity in the 1940s represented the various forms of civilization and principal legal systems of the world at the time. However, diversity today is much broader and multidimensional. Admitting the essence of the representation of various legal systems, she called for "a good mix of male and female lawyers." She also emphasized the significance of the nomination process as a crucial factor in increasing women's numbers in the ILC. The judge cited the examples of Article 8 of the UN Charter, (United Nations, n.d.-a) (where there are no restrictions on the eligibility of men and women to participate) and Article 8 (United Nations Office of the High Commissioner for Human Rights, n.d.). Both articles support arguments to present female candidates. She also firmly believes that, as women lawyers, there are things we could do, including mentoring and supporting young and aspiring lawyers. Judge Lijnzaad-Schellens also stressed the need to acknowledge the expertise of female colleagues and friends. She added that women inadvertently introduce other women by saying "it's my pleasure to introduce my friend" instead of saying "it's my pleasure to introduce to you, Professor Dr. Jana Jones, who is an expert on this or that." Introducing a friend is a good gesture, but introducing her as an expert shows that you are presenting someone with exceptional expertise that can make a considerable contribution.



7.2 Recommendations and Call to Action

What role can states play in increasing the inclusivity and representation of women in international law, especially in the ILC? Professor Beyani stated that the first priority is the sensitization of men who run states and dominate important positions in the ILC and other areas within the UN and AU. The second priority is to have qualified candidates of the caliber of Professor Okowa, as the nomination of unqualified candidates for political reasons engenders negative ramifications. The third priority is for the African states to act as a bloc in nominations and elections. A compromise must be reached among the Anglophone, Francophone and Lusophone countries in Africa. There is a great deal of infighting among these regional groups that sometimes excludes qualified candidates, especially women. Acting as a bloc, removing sub-regional interests, and having a single voice where it matters would be a huge, deliberate step to increase gender inclusivity and representation at the level of the UN.

Judge Lijnzaad-Schellens explained international law organizations' strategies to achieve gender inclusion and representation. She explained that there are numerous interested students, but perhaps not as many available jobs/ positions.. She emphasized that positions must be accessible and called for programs to train interested persons. For instance, for people specifically interested in the law of the sea, there is a specialized program sponsored by Japan, the Nippon foundation capacity-building program (United Nations, n.d.-c). Such programs help you transition from theoretical legal knowledge acquired from books and academic papers to practical application. Additional programs of similar nature can be found in Hamburg and Geneva. She added that "studying law is one thing, but becoming a lawyer is another thing."

What roles can civil society and women's organizations play in increasing gender representation in international courts and organizations? To Ambassador Jean Kamau, one of the most effective strategies is to have a coalition that brings together national mechanisms for advancing women. This coalition may include ministries, state-owned enterprises, organizations in academia, some universities, and civil society organizations working together to identify positions where women can enter international spaces. For instance, the ICC in the late 1990s saw women from civil society join its committees. The Federation of Women Lawyers formed a civil society group and was pushed through by the government to enter some of these spaces. Coalition building is important as it helps to develop comprehensive national priorities. It is crucial to acknowledge the limited presence of qualified women in these spaces and work towards increasing their representation. It is also important to have a strong link with our diaspora, encouraging communities in different countries to be active members and keep in touch with our foreign ministries. This way, when an opportunity presents itself, a quick search through the diaspora network database can readily identify a qualified candidate. We can also confidently contact our embassies and start the process of nomination and endorsement through that chain of opportunity.

Advising African women interested in pursuing careers in international law, Ambassador Negm mentioned education not as all-sufficient but as the starting point. For aspiring lawyers in international law, it is crucial to direct their focus toward this specific field. Women who are interested in pursuing careers in international law should explore the diverse disciplines within the field and choose the one where they can flourish. If you want to be a generalist, you study more of these disciplines. The second factor she mentioned was training and internships, especially for young women. She urged young women to take advantage of online job opportunities and learn what is done in practice, whether within a law firm or any other legal practice. Ambassador Negm recounted that she worked as a lawyer, a diplomat, and a university professor, highlighting that these opportunities did not come to her passively.

She made the following statement:

“

You must be out there and do not get depressed, keep applying until you land something suitable. If you are not going to be an academic, you need to have experience. To go to a level other than academia, check the websites of international organizations, and engage in youth volunteer programs. We encourage women to apply. These experiences and expertise play critical roles when applying for a position. When you show experience and expertise, you will be on-demand as a specialist in international law.

”

More importantly, women must realize that even if they apply for specific positions and rank at the top of the list, they may still face exclusion, often through no fault of their own.. Often, it is no fault of theirs. She encourages women to keep pushing through, regardless.



8. Reflections by Judge Memooda Ebrahim-Carstens

Judge Memooda Ebrahim-Carstens, a retired judge of the United Nations Dispute Tribunal, proposed a rephrasing of the question "Where are the African women in international law?" to read, "Where are the African women and men in international law? Are there bars to entry and participation for both African men and, more particularly, African women, at international law platforms and institutions? Is there a lack of interest in the subject matter on our part? If so, why? And how can these matters be remedied?" She suggested possible solutions to the prevailing question, including development aid and/ or initiatives.

Development/ Initiatives–Governments, Courts, and Legal Institutions

According to Judge Memooda Ebrahim-Carstens whereas women are in the majority in Africa but their access to university as law students, the profession as lawyers, the bench, and professorships and fellowships has been curtailed by lack of enough funding. There is a lack of opportunity and peer and financial support at the university, the bar and in legal practice—as previously discussed, the stereotyping of soft law or pink law options usually force or (mis)guide women. Second, is there sufficient subject matter interest shown by Africans generally and women in this area of law? Is there a misconception or misplaced mysticism surrounding the numerous areas or aspects of international law and human rights law? How can we acquaint ourselves and young professionals with international law?

Solution: We Need Strong Justice, Administrative, and Governance Systems.

1. Adequate justice systems and finance are required to ensure equal and specialized access to legal education institutions, the bar, and the bench, among others, whether on a quota basis or by other affirmative action measures. Often, funding and scholarships offered are limited to areas of law a government or authority deems important for its local rather than international needs. Candidates, governments, and institutions need to be sensitized to the importance of Africa's role in the global forum in the various fields of international law, including banking/ finance, patent, intellectual property, data and technology, marine, administrative, and international human rights.

2. We need to move to appointments on merit and away from appointments by patronage. We need legislative mechanisms at the regional and international tribunal and institutional levels to state that, in the selection and appointment of judges, members, etc., consideration will be given to geographical and gender factors. Memooda Ebrahim-Carstens' (2017) article on "Gender Representation on the Tribunals of the United Nations Internal Justice System: A Response to Nienke Grossman". illustrates the internationally competitive method of selection and appointment of judges to the UN Dispute Tribunal and UN Appeals Tribunal. The legislative imperatives require the Internal Justice Council (IJC), an independent gender- and geographically diverse body made up of management and staff representatives and two eminent jurists, and chaired by another jurist, currently Justice Yvonne Mokgoro of South Africa, to publish and post vacancies internationally including in the international press (e.g., The Economist, Le Monde). After that, individual applicants (and not governments) submit the requisite applications and supporting documents.

Applicants sit for a written examination, attend an interview, and are eventually short-listed for two candidates per position before the UN General Assembly votes. It is only at this stage that any "horse-trading" takes place. During the voting, the General Assembly is reminded to pay particular attention to the geographical and gender distribution in the elections. Visits to the tribunals' websites illustrate the gender and geographical composition of the two tribunals.

3. One of the main obstacles to full gender mainstreaming and participation is the lack of jurisdictional interaction between national and international courts, often perceived as courts of a different order applying different sets of rules and standards and fulfilling different functions. Added to this is the contention that international courts operate in the public law domain and not in the private domain like domestic courts. There must be enforcement of the rule of law in general, and International Law in particular, in any domain. There seems to be a reluctance to use international standards, possibly due to the colonial and traditional legal customs inherited in many of our jurisdictions. We need to encourage the use of international law and standards in legal arguments before the domestic courts to assist judges in rendering decisions compliant with international obligations. Although judicial activism is often frowned upon, judges are in a unique position to affect change through creativity and activism, (rather than blindly following the law) in accordance with international human rights norms and to suggest alternate strategies where the legal status quo requires.

4. At the lawmaking and institutional level, what has truly impressed me over the years at international legal conferences and colloquia, is the diversity of solutions and models used by the different countries to meet the challenges. Often in Africa, we become so absorbed by our domestic challenges. It is insufficient if there is no cooperation and integration of international standards, even if there is no one size fits all. Rather, we would readily buy some briefcase solution from a visiting legal salesman from abroad in amending our laws, than have recourse to regional examples and precedents. We do not collaborate sufficiently to draw from others in the region. Networking enables the sharing of different national and international experiences.

We must acquaint, familiarize, and encourage interest and knowledge of the subject matter: How many symposia are held to encourage women on the appropriate subject matter of international law with its many facets? We need to be role models for and mentor our youth and establish systems to identify worthy candidates and actively find funding and scholarship for qualified candidates.

5. Law reporting and information sharing are insufficient across the continent. There is no sharing of our legal precedents, some of which have received international coverage but not local, regional or continental coverage. We need a robust legal database and source of seminal international and human rights law decisions from our African sisters and brothers, whether on the local, regional, or international bench. We need colloquia, symposiums, and conferences on various topics to inform, educate and familiarize one another with landmark international law judgments rendered on our local benches or during our international tenure as judges.

6. As regards governments, often we are quick to ratify international instruments but hesitant in the enforcement through amendment of our domestic laws. For example, a state may have ratified numerous ILO Conventions that may look good on paper but are not implemented. The Industrial Court of Botswana was robust in its application of international labor standards and human rights law, and forthright in holding that by ratification. Law is an instrument of change. Knowledge is power. The dissemination and sharing of knowledge empower, motivate political will; and strengthen legal processes for promoting women's leadership, reforming laws and institutions, and promoting access to justice the rule of law and international human rights law, collaboration on law reforms, harnessing top legal opinions to lobby causes, and sharing different national and international experiences.

Career Atrophication as a Consequence of Being Female

Career atrophy as a consequence of being female is a reality. Career progressions can be interrupted by pregnancy, household running, and a woman's role as the primary caregiver. Does a woman's role as a homemaker and caregiver ever end?

A woman's role as a caregiver extends throughout her life—caring for her children, immediate family, grandchildren, and often her aging parents and other extended family members, including special needs children. In Africa, there are no old age homes or retirement villages, which are alien to our culture and tradition; and social security systems are nonexistent or wholly inadequate. Often, women assist single-parent daughters in raising grandchildren and paying school fees for private college tuition to give them the best opportunities in life.

Solution: We must have adequate socio-economic and community support structures.

There is a grave need for socio-economic and community-based support structures. Many of these institutions were/ are often set up by expatriates in our countries, and our people rely on support from charitable communities (Red Cross, Gift of the Givers in South Africa, etc). We need to convince our governments and people to set up the necessary structures and to inculcate our long-lost culture of charity and giving, empathy and compassion (remember, it takes a village to raise a child), especially to support women who are overwhelmed with responsibilities.

Patriarchy

The dominance of patriarchy in Africa at all levels is a serious bar to women's participation in all institutions and fora. The old boys club manifests on many levels from the local golf club to the private male-only or gentleman's clubs. Often these clubs are internationally linked.

Solution: We need the equivalent women's organizations and clubs—and regional and international networking.

We must strive for more merit-based appointments rather than patronage appointments. We must bring our male counterparts on board. We must collaborate as women and refer one another for candidacy and appointment. We must harness our local and regional community, charitable assets, and persons to take the lead. The UN African Mother's Association (UNAMA) for example is committed to improving the socioeconomic conditions of women and children in Africa. We need African women who will responsibly and professionally (with annual audits) establish and run institutions funded by charitable organizations from abroad or locally as often the criticism is that there is no proper accounting or reporting back on how we use donations given to us. We need to compile a "Who's Who" of our excellent women professionals. We must network and compile online registers and databases akin to LinkedIn, listing our women professionals and specialists in the different fields of international law.

9. The Effect of Professor Phoebe Okowa's Election to the ILC

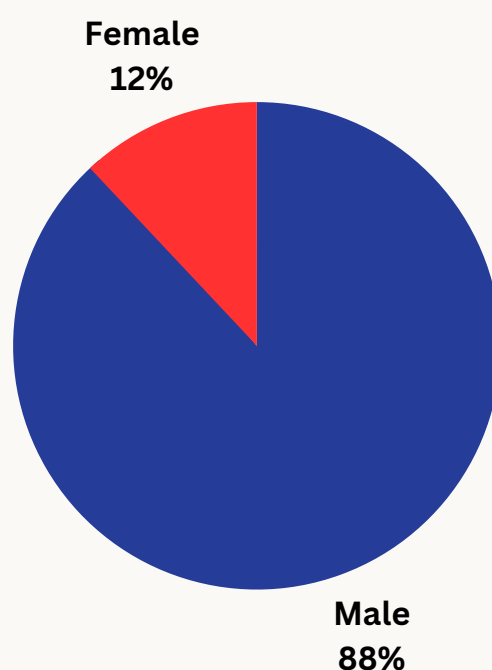
At the November 12th, 2021 election of the ILC (International Law Commission, 2021, November 12th), 34 members were elected in the following order: Eight, seven, and three nationals from African, Asia-Pacific, and the Eastern European states, respectively; six nationals from Latin American and the Caribbean states and eight nationals from Western European and other states. In rotation, each national came from the African or Eastern European states. A seat was allocated to a national of an African State in the first election held after the adoption of the resolution 36/39 and from the Asia-Pacific States or Latin American and Caribbean States in rotation. A seat was also allocated to a national of an Asia-Pacific State in the first election held after the resolution 36/39.

Thus, the allocation of seats at the Commission for the five-year term beginning on January 1st, 2023, will be as follows (International Law Commission, 2021, November 12th): nine nationals from the African states, eight from the Asia-Pacific States, three from the Eastern European states, six from Latin American and Caribbean states, and eight from Western European and other states.

Table 4. The number of men and women elected to the ILC in 2021.

MEMBERS	MALE	FEMALE
34	30	4

Figure 2. The number of men and women elected to the ILC in 2021.



Source: International Law Commission (2021, November 12th).

Table 5. African nationals elected to the ILC in 2020.

	NAME	COUNTRY	GENDER
1	Cissé Yacouba	Côte d'Ivoire	Male
2	Fall Aly	Mauritania	Male
3	Fatallah Ahmed Amin	Egypt	Male
4	Jallo Charles C.	Sierra Leone	Male
5	Laraba Ahmed	Algeria	Male
6	Mashamba Clement, Julius	United Republic of Tanzania	Male
7	Mingashang Ivon	Congo	Male
8	Phoebe Okowa	Kenya	Female
9	Ouazzini Chahdi, Hassan	Morocco	Male
10	Sall Alioune	Senegal	Male
11	Savadogo Loius	Burkina Faso	Male
12	Tungo Muaz Ahmed Mohamed	Sudan	Male

Data source: ILC website, December 2021

10. Conclusion

Although the number of African women in international courts and tribunals is increasing (Dawuni and Kuenyeia, 2018), the same cannot be said about the ILC. Since its establishment in 1947, the ILC has had only seven female members, none of whom were African until the election in 2020. Thus, the nomination and election of Professor Okowa, although long overdue, was timely. Her nomination and election deserve all the endorsements and support as the first African woman ILC member and qualified candidate.

The low number of African women in international law calls for more women lawyers to take up an interest in international law. Each of the webinar speakers endorsed Professor Okowa and added concluding remarks. Ambassador Negm said, "Don't give up, the road is not easy. Keep going ahead and persist in reaching what you want; the sky is the limit. Do not stop anywhere and keep going." For Judge Liesbeth, there is a need for career support. Senior lawyers should take mentorship as a matter of duty and look out for young female lawyers trying to rise the ladder. Professor Chaloka Beyani urges women to envisage their career paths early with some foresight. "You have to be calculating about what you want to do with your life, which area of international law you want to belong to", he emphasized. Ambassador Jean Kamau concluded by indicating that Professor Okowa's case study demonstrates how you must have all your ducks in a row to get the nomination and endorsement. Finally, Professor Ntombizozo Dyani-Mhango appreciated the speakers and stated how profitable the webinar had been.



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REPORT

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