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GENDER EQUALITY IN LAW CAMPAIGN

The Institute for African Women in Law

A Keynote Speech by:

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the UN Special Rapporteur on the Independence
of Judges and Lawyers

Preface

The Gender Equality in Law Campaign (GELC) is a Pan-African initiative by the Institute for African Women in Law (IAWL) to raise awareness about the challenges women in the legal profession face. The Campaign uses evidence-based research, stakeholder engagement and public advocacy to ignite policy reforms for equitable and women-inclusive institutional practices and policies that support women's career development and leadership.

This brochure features a powerful message from the UN Special Rapporteur on the Independence of Judges and Lawyers, who underscores the urgent need for collaboration among legal practitioners, institutions, and advocates to ensure women's full participation and representation across all areas of the law.



Your Ladyship the Chief Justice of Ghana, Honorable Supreme Court Justices, Members of the Diplomatic Community, Learned Professors, Leadership of the Ghana Bar, Dear Colleagues: It is an honor to be here with you today. It is too rare in our world to see a woman Chief Justice and a woman leading within the Bar gracing the same stage. I offer you my deepest appreciation and highest respect. I currently serve as the UN Special Rapporteur on the Independence of Judges and Lawyers.

What is a special rapporteur?

Special rapporteurs, also commonly known as “mandate holders”, are independent human rights experts. They are appointed by the 47 country members of the UN Human Rights Council to report and advise on human rights issues affecting specific countries, or on particular human rights themes which have a global impact. Mandate holders are independent of any government and serve as volunteers.

Mandate-holders have a diverse array of official titles, from independent experts, to special rapporteurs, to representatives or special representatives of the Secretary-General, to working groups. Together, these various expert mechanisms make up the system now known as special procedures. The system has expanded rapidly since the creation of the first mechanism in 1980. As of 2023, there are 14 country-specific mandates, more than 40 thematic mandates, and six working groups.



Currently, the thematic mandates cover matters as diverse as torture, arbitrary detention, racism, the right to housing, business, cultural rights, the rights of Indigenous Peoples, and climate change, as well as many more including my mandate on the independence of judges and lawyers.

The primary activities of special procedures mandate-holders fall into 3 buckets:

First, mandate-holders can respond to complaints of human rights violations, usually by engaging in correspondence with the alleged violator state or non-state actor, through a process that results in a public statement of the mandate-holder's concerns. I will return to this in a bit.

Second, mandate-holders carry out official country visits, usually two each year, to examine and report publicly on issues within their mandate in that country.

The visits result in recommendations to remedy human rights problems, as well as comments on good practice, which are addressed to the relevant national government and to the Human Rights Council.

And third, mandate-holders prepare thematic reports. My mandate presents two thematic reports per year—one to the Human Rights Council, and one to the UN General Assembly. These reports can focus on any aspect of the mandate, and contain recommendations for states and other actors on how best to protect rights.

Madam Chief Justice, Excellencies, Colleagues: Gender equality is a priority on the global agenda for development. Achieving gender equality requires collaboration among all professions and within all communities. The legal profession, in particular, is a critical player because the law is one of the most powerful tools for creating and enforcing equality in society, including gender equality.

Gender equality is one of the bedrock guarantees of international HRL. It is included in all major HR treaties.

To ensure women's full equality, States are required to change discriminatory laws and extend non-discrimination protections to the private sphere.

Under HRL, States must also take steps to eliminate prejudices and change practices which are based on the idea of the inferiority or superiority of men or women or on stereotyped roles for men and women. As a former holder of my mandate has explained, "Developing a gender-sensitive judicial system is a prerequisite for the full and non-discriminatory realization of human rights for all, and the achievement of gender equality on the ground. Despite important progress over the past few decades, globally women have yet to be considered as key actors in the administration of justice, and their equality before the law and the courts has yet to become a reality in many countries."

Recent findings from studies carried out by the International Bar Association found that, after significant efforts to advance women's opportunities in the law in the past several decades, some 49% of all lawyers are now women. However, only 38% of lawyers in senior positions are women.

In general, participation rates are approaching equality, but promotions to leadership lag behind: In law firms, 42% of lawyers are women, but only 26% of those in senior positions are women. In the judiciary, 48% of judges are women, but only 38% of senior judges are women. These data are aligned with IAWL's research on women in law and leadership, "which revealed that women face numerous challenges in the legal profession, including sexual harassment, equal pay for equal work, equitable hiring and promotion, and gender stereotypes and biases."

IAWL's research findings are similar to those from around the world, where cultural expectations of women—such as the requirement that they take responsibility for household chores and child-rearing make it difficult for them to be “always available” as is often required at law firms; or open to moving home alongside transfers from one jurisdiction to the other, as may be demanded of judges.

These obstacles sometimes sit alongside informal all-male networks and men-only clubs that serve as channels for recruitment and promotion to leadership positions in the law. Such networks and clubs can be especially important when seeking to reach the highest echelons of the bench or the private bar.

The issue of sexual harassment and even sexual violence against women in the legal sector must also be addressed. In my work I have seen the gendered attacks—both online and in the real world—that women lawyers and judges face. These attacks may take the form of vicious and viral commentaries on the physical person of a leading lawyer, or insinuations and unfounded allegations concerning a woman judge's personal life. All of these issues are human rights issues, and they require thoughtful, far-reaching, and coordinated efforts by the private and public sectors acting in tandem.

As the legal profession and practice becomes more transnational and international, global mechanisms have a role to play in supporting advocates as they work for gender equality in the legal profession.

The Sustainable Development Goals make a bold call for gender equality in SDG 5, and SDG 16.7 calls for gender equality in the judiciary. These goals expand on binding law concerning gender equality.

The major HR treaties, including the ICCPR and CEDAW, require concerted action to achieve both formal and de facto equality. These treaties require that the Government take active and effective measures to ensure that women can enjoy full equality in all spheres, including in the private and commercial sectors. This means that those Governments that have ratified these treaties are obligated to join with leaders in the legal sector to advance equal pay for women lawyers, end sexual harassment within the law, and combat gendered stereotypes and biases.

At the international level, international mechanisms like the Special Procedures can play a role by shining the light on the very real human rights impacts of gender discrimination and sexual harassment. These issues can be brought to the attention of Special Rapporteurs like me. Once I receive a letter from an individual or group of individuals setting out the facts about a human rights violation, I can intervene directly with Governments about those allegations so long as they come within my mandate.

The intervention can relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. This process involves my office preparing and sending a letter to the concerned State: identifying the facts of the alleged human rights concern, setting out applicable international human rights norms and standards, stating my concerns and questions about the alleged violations, and requesting follow-up action. Such communications, along with any response from the relevant State, are made public 60 days after they are sent. It is then up to advocates to ensure that the relevant Government ministries or offices pay adequate attention to the issue. There are many examples of times when such letters have offered advocates an opportunity to sit down with decision-makers to seek action to address key human rights issues.

Attention can also be drawn to the issues raised through the communications process through the media or educational activities. My office can also provide Technical Assistance to Governments seeking to amend their laws, formulate policies, or review practices for compliance with human rights law relevant to gender equality.

My office can also simply accompany, witness, and share the insights of women judges and lawyers across the world. Indeed, the last year and a half since I was appointed have demonstrated the incredible work that women judges and lawyers are doing, and how international support and solidarity can make a difference.

For example: I have met with women judges in the Caribbean nation of Haiti who are continuing to prioritize the needs of survivors of sexual and gender-based violence even as armed gangs have taken over vast portions of the country. I have spoken with Indigenous women justice workers from several countries who have asked that their role in seeking self-determination for Indigenous Peoples be recognized. I have met with women lawyers facing criminal charges solely for defending human rights and fighting corruption-for insisting on the rule of law. And I have met women lawyers who lead Prosecution Services, Anti-Corruption Commissions, Ministries of Justice, and Defense Services who must do their work with too little support. We are all familiar with the common legal symbol: a woman holding the scales of justice aloft, ensuring all are treated equally and fairly under the law.

That personification of justice reminds us that even when the road seems long and the change needed is daunting, the effort required is the same. We must come together to diagnose the problems, find solutions, and ensure that women judges, lawyers, and community justice workers can find their voice, open the until-now locked doors, and make way for those coming behind. It is in this light that I heartily commend the efforts of the Institute for African Women in Law to bring evidence-based recommendations to the legal systems on the Continent. The Gender Equality in Law Campaign is a crucial moment for women in the legal profession. I am proud to be a small part of the launch of this campaign. I offer my support for these efforts, and I look forward to amplifying and sharing your work at the global level. Thank you.

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