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**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

## Independence of judges and lawyers

### Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, submitted in accordance with Human Rights Council resolution [44/8](#).

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\* [A/76/150](#).



## **Report of the Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán**

### **Participation of women in the administration of justice**

#### *Summary*

In the present report, the Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, focuses on gender equality in the judiciary. The report examines the current status of women's representation in judicial systems, identifying the barriers hindering their adequate access to, and promotion and retention in, the judiciary and prosecution services.

Throughout the report, the Special Rapporteur documents a number of constraints faced by women in accessing and advancing in a judicial career. Discrimination against women in the judicial system stems from various regulatory obstacles and institutional, structural and cultural barriers that lead to the underrepresentation of women in decision-making positions or to their confinement to certain areas of the judicial system. The report indicates that gender stereotypes are one of the main causes of inequality in the proportion of women judges in the different courts and tribunals, also placing women judges and prosecutors at a higher risk of suffering aggression or various forms of harassment at work.

While acknowledging the progress made by several States in promoting gender equality in the judicial system, the Special Rapporteur warns that the development and implementation of policies to that effect have been uneven and inconsistent. The results achieved – although substantial – are still insufficient. While stressing the importance of gender equality for the equal and effective protection of human rights, the Special Rapporteur underlines that the elimination of discrimination against women will require systemic changes in social structures, which, in turn, call for strong political will.

The Special Rapporteur makes a number of recommendations. These include taking steps in each country to achieve the target of at least 50 per cent of women at the various levels of the judiciary and prosecution services by 2030 as part of the 2030 Agenda for Sustainable Development.

## I. Introduction

1. This is the fifth report submitted by the Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, in accordance with Human Rights Council resolution 44/8.

2. As the Special Rapporteur stated in his report to the Human Rights Council, the coronavirus disease (COVID-19) pandemic has increased cases of gender-based violence and discrimination against women and has had a negative impact on their professional development (A/HRC/47/35, paras. 38–42). Women judges and prosecutors, and other women in the judicial system, have not been immune to this phenomenon, which has affected them both professionally and in their personal and family lives.

3. Discrimination against women, despite various existing international instruments and national laws, remains a structural and systemic problem. Accordingly, the present report will analyse the conditions and barriers hindering women's adequate access to, and promotion and retention in, the judiciary and prosecution services.

4. Both the United Nations High Commissioner for Human Rights, Navanethem Pillay (A/HRC/17/30 and Corr.1, para. 48) and the Committee on the Elimination of Discrimination against Women (see CEDAW/C/GC/33) have highlighted the need to ensure and promote equal representation of women in the administration of justice.

5. The obstacles confronting women in exercising their rights within the justice system have been analysed in thematic reports on gender and the administration of justice (A/HRC/17/30 and Corr.1) and gender in the criminal justice system (A/66/289).

6. The term “gender” is used in the sense adopted by the Committee on the Elimination of Discrimination against Women in its general recommendation No. 33 on women's access to justice. We therefore understand gender as socially constructed identities, attributes and roles for women and men and the cultural meaning imposed by society onto biological differences, which are consistently reflected within the justice system and its institutions (CEDAW/C/GC/33, para. 7).

7. The Special Rapporteur requested, via a questionnaire, contributions from States, international and regional human rights bodies, professional associations of judges and prosecutors, and civil society. At the time of writing the report, 64 responses to the questionnaire had been received. The Special Rapporteur is grateful to all States and non-State actors who contributed to the preparation of the report (see annex). The questionnaire and the submissions are available on the website of the Office of the United Nations High Commissioner for Human Rights.

8. The Special Rapporteur expresses his appreciation to the Cyrus R. Vance Center for International Justice and its network of 52 law firms that provided responses to the questionnaire circulated. He also thanks the International Bar Association's Human Rights Institute (IBAHRI) and the Due Process of Law Foundation for their support for consultations on gender equality in the justice system. The Special Rapporteur also wishes to thank the Human Rights Clinic of the Human Rights Research and Education Centre at the University of Ottawa for the considerable support it provided for the preparation of the present report.

9. Lastly, the Special Rapporteur acknowledges the commitment and strong support received for the writing of the present report from the many judges, prosecutors and lawyers consulted. In May and June 2021, six consultations were held in different countries and regions to gather their views and suggestions. Many of the recommendations included in the present report are based on their enriching testimonies confirming the need for the report, which is dedicated to those professionals who, despite discrimination and violence, carry out their duties on a daily basis.

## II. International standards

10. There is no need to reiterate the international instruments that establish equality between men and women and the prohibition of gender-based discrimination and violence against women, or the State's obligations to prevent, address, investigate, punish and redress all forms of discrimination and violence. These peremptory norms are fully applicable to women's access and promotion in all spheres of society, including the judiciary and the prosecution service.

11. The principle of non-discrimination against women on the basis of gender and that of substantive equality between women and men are fundamental components of international human rights law, set out in both the Universal Declaration of Human Rights and the core universal and regional human rights treaties. The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women each explicitly prohibit discrimination on the basis of gender. At the regional level, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women establishes concrete measures to achieve substantive equality for women in all spheres of society.

12. Other instruments relating to gender equality, such as the Beijing Declaration and Platform for Action or the Brasilia Regulations Regarding Access to Justice for Vulnerable People, contain similar provisions. General comment No. 25 (1996) and general comment No. 28 (2000) of the Human Rights Committee also refer to and complement these standards.

13. However, international and regional standards pertaining to judges and prosecutors do not include any general principles guaranteeing gender equality within the judiciary or the prosecution service at different career levels. The analysed regulations on selection and appointment are usually limited to a general prohibition of any kind of discrimination on the basis of gender.<sup>1</sup>

14. International standards prioritize protection and the duty of the State to take steps to protect vulnerable groups, including measures prohibiting discrimination against a person on the basis of his or her membership of a national, ethnic, religious or linguistic minority. The State must ensure that women belonging to these groups, at both regulatory and functional levels, have equal access to and promotion in judicial and prosecutorial careers.

15. Gender discrimination is structural, and it is aggravated if the person is part of a vulnerable ethnic, racial, cultural or religious group or suffers from a disability. This is reflected in the composition of the judiciary and the prosecution service, where the level of participation of women belonging to these groups is very low.

16. The Special Rapporteur notes that the problem does not lie in the absence of international standards in judicial and prosecutorial bodies but in the unequal or poor implementation of parity measures by States. This has meant that, in many cases, the principles and norms of equality and non-discrimination in the justice sector have become mere programmatic references with limited effect.

17. At times, discrimination against women stems not only from certain explicit regulatory obstacles but also from institutional, structural and cultural barriers that lead to underrepresentation in public decision-making positions or confinement to certain areas of the judicial system. One example would be the assumption, based on unacceptable stereotypes, that family courts or lower courts are more suitable for

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<sup>1</sup> Africa, the Americas, Asia, Europe, questionnaire responses.

women, or because the circumstances are not conducive to women's access to more senior positions (see [A/66/289](#)).

18. The Special Rapporteur calls on States to ensure women's access to and promotion in the judicial and prosecutorial professions in order to achieve substantive equality and help ensure the ethnic, racial and cultural diversity of society.

### III. Gender approach in the judiciary and prosecution services: a pending task

19. An independent, impartial judiciary and prosecution system committed to gender equality is crucial for the realization of human rights, the strengthening of democracy, the inclusion of all voices in matters of public interest and the eradication of gender-based violence against women. For this reason, the equal representation of women and men in the system of administration of justice is both an objective in itself and an essential condition for the equitable and effective protection of human rights and substantive equality.

20. A diverse composition brings different voices and perspectives to the judiciary and reinforces the legitimacy of the judiciary and the prosecution service. The effective implementation of tools and policies aimed at equal and proportional representation in the judiciary and the prosecution service is the exercise of a right and does not imply a concession to a particular group, but rather the pursuit of a benefit for the general good and society as a whole.

21. Finding the path towards equality in justice systems is a pending task in various regions of the world. Nonetheless, substantial progress has been made, as reflected in the present report by the Special Rapporteur.

22. In terms of the proportion of female judges by region, Europe leads the way with an average of 54 per cent, followed by the Americas with 51 per cent. These figures contrast, however, with those for Oceania, Africa and Asia, where women account for 31 per cent, 30 per cent and 29 per cent of the total, respectively.<sup>2</sup>

23. In Europe, Latvia and Romania have 81 per cent and 79 per cent of women judges, respectively. Spain has 54 per cent female judges and 65 per cent female prosecutors, and Poland has 65 per cent female judges and 53 per cent female prosecutors, while Armenia and Azerbaijan have 25 per cent and 15 per cent, respectively.<sup>3,4</sup>

24. In Western Asia and the Middle East, Israel has 52 per cent women judges, while in the eastern part of the region, Azerbaijan has 16.6 per cent, Mongolia 66 per cent and Kazakhstan 51 per cent. In Africa, Mauritius and Madagascar have a 61 per cent and 51 per cent proportion of female judges, respectively.<sup>5</sup> In the United Republic of Tanzania, women represent 49 per cent and in Lesotho 66 per cent; in Uganda, 75 per cent of the country's 432 prosecutors are women.

25. In the Latin American and Caribbean region, Saint Kitts and Nevis has a proportion of women judges of 83 per cent; the Bahamas and Saint Vincent and the

<sup>2</sup> United Nations Statistics Division, Minimum set of gender indicators, qualitative indicator 47: Percentage of female judges (see <https://genderstats.un.org>); United Nations Economic and Social Commission for Western Asia, Office of the United Nations High Commissioner for Human Rights and International Commission of Jurists, *Women in the Judiciary in the Arab States: Removing Barriers, Increasing Numbers*, 2019, pp. 26 et seq.; and European Commission for the Efficiency of Justice, *European Judicial Systems: Gender equality in courts and public prosecution services*.

<sup>3</sup> Consultations with women judges in Europe, IBAHRI, 25 May 2021.

<sup>4</sup> European Commission for the Efficiency of Justice, *European Judicial Systems*.

<sup>5</sup> United Nations Statistics Division, Minimum set of gender indicators.

Grenadines both have a proportion of 64 per cent, while Argentina has 30 per cent female judges and 26 per cent female prosecutors; Peru has 42 per cent female judges and Colombia has 43 per cent.<sup>6,7,8</sup> In Uruguay, 81 per cent of prosecutors are women.<sup>9</sup> As for North America, in the United States of America, according to data provided by the National Association of Women Judges, of the 20,270 judges in the judicial system in 2021, a total of 7,296 are women, representing 36 per cent.<sup>10</sup>

26. In Australia, the proportion of women judges and magistrates is 33 per cent and, of prosecutors, 43 per cent. In New Zealand, women judges make up 39 per cent of the judiciary.<sup>11</sup> In other regions, countries such as Nepal have a proportion of women judges and magistrates of 6 per cent; the figure is 9 per cent in the Maldives and, in Malaysia, 33 per cent.<sup>12</sup> In Pakistan, Saudi Arabia, Egypt or the United Arab Emirates, women judges represent less than 1 per cent.<sup>13</sup>

27. The data analysed by the Special Rapporteur show that the general trend in recent years has been a gradual increase in the number of women in the judiciary and the prosecution service. In many countries, women outnumber men as judges and prosecutors.

28. In Chile, although women judges already represent 60.2 per cent of all judges, in absolute terms between 2016 and 2021, the number of women judges has increased more than that of men.<sup>14</sup> In Finland, the 2020 report of the Judicial Appointments Board states that, of the 1,149 applicants for judgeships, 757 (66 per cent) were women. In Cyprus, male judges always outnumbered female judges until 2021.<sup>15</sup>

29. However, two facts are surprising. First, this trend is reversed in some European countries that base their judicial system on common law. In those countries, men are in the majority in terms of professional judgeships (Ireland, Malta, United Kingdom of Great Britain and Northern Ireland).<sup>16</sup> Second, as one moves up the professional ladder, the number of women in managerial or high-ranking positions decreases considerably, and this is a constant trend at the global level.

30. Gender bias and stereotypes continue to affect younger women, as they are often assigned to certain jurisdictions that are considered “social”. This is a widespread trend with few exceptions. In New Zealand, the social and family courts are the only courts where women judges outnumber men. In Pakistan, all family court judges are women.<sup>17</sup>

31. On other occasions, the conditions of work and promotion in judicial and prosecutorial careers, which at first sight may seem reasonable, have a differentiated impact on women having a lower economic capacity or who have to combine their jobs with taking care of the family and the home. One example of this would be the

<sup>6</sup> Ibid.

<sup>7</sup> Argentina, questionnaire responses.

<sup>8</sup> International Commission of Jurists, questionnaire responses.

<sup>9</sup> Uruguay, questionnaire responses.

<sup>10</sup> The questionnaire submitted by the National Association of Immigration Judges shows that, of the 538 judges, 225 are women, or 41.8 per cent.

<sup>11</sup> United Nations Statistics Division, Minimum set of gender indicators.

<sup>12</sup> Nepal, Maldives and Malaysia, questionnaire responses.

<sup>13</sup> United Nations Statistics Division, Minimum set of gender indicators and United Nations Economic and Social Commission for Western Asia, Office of the United Nations High Commissioner for Human Rights and International Commission of Jurists, *Women in the Judiciary in the Arab States...*

<sup>14</sup> Chile, questionnaire responses.

<sup>15</sup> Cyprus, questionnaire responses.

<sup>16</sup> Ireland and United Kingdom, questionnaire responses, and European Parliament, *Mapping the Representation of Women and Men in Legal Professions across the EU*, Brussels, 2017.

<sup>17</sup> Pakistan, questionnaire responses.

requirement of higher education beyond a bachelor's degree or training courses for promotion that require financial resources and time outside working hours.

#### IV. Obstacles to the appointment of women in the administration of justice

32. On 28 April 2021, the United Nations General Assembly adopted resolution [75/274](#), in which it decided to proclaim 10 March of each year the International Day of Women Judges. This resolution provides an opportunity to remove the obstacles faced by women judges and is a call for the empowerment of women.

33. These obstacles can be attributed, inter alia, to prejudices and stereotypes ([A/HRC/44/47/Add.1](#), para. 64), difficulties in reconciling personal and professional life, the shortage of effective mentors and support networks, the clash with the “glass ceiling” or the lack of transparency in the appointment procedure.<sup>18</sup> The absence or weakness of explicit and sustained public policies in this area, and of political will or strong State institutions in charge of promoting them, has a negative impact on the existing constraints in the judicial or prosecutorial systems in terms of achieving an equal presence of women.

##### Access to the judicial profession

34. Legal, cultural and social constraints on pursuing a profession of their choice, as well as lack of funding for studies, examinations and other expenses related to access to the judiciary, are constant barriers to women's participation in the judicial system.<sup>19</sup> In some countries, personal status laws maintain restrictions in these areas. For example, some countries have established the duty of obedience of wives to their husbands, allowing the latter to decide whether or not it is appropriate for women to pursue professional and academic careers.<sup>20</sup>

35. The Special Rapporteur has noted in recent years remarkable progress in several countries in terms of women's access to the judiciary. Suffice it to cite as an example the case of Italy, where the share of women entering the judiciary is around 70 per cent, which appears to indicate that the presence of women in the judicial system will continue to increase. In Trinidad and Tobago, women make up the majority of persons entering the judiciary, a fact that has changed its very composition.<sup>21</sup> However, the Special Rapporteur has also noted little progress – and even setbacks – in Kuwait, Oman, Saudi Arabia or Somalia, which, as of 2019, had yet to appoint female judges.<sup>22</sup>

36. Although most countries have legislation that prohibits discrimination against women in gaining access to the judicial profession and obtaining promotions, the absence of effective policies discourages women from being part of it. These shortcomings include the non-existence of social and political support networks, the

<sup>18</sup> Federal Glass Ceiling Commission, *A Solid investment: Making full use of the nation's human capital: recommendations of the Federal Glass Ceiling Commission*, Washington, D.C., November 1995.

<sup>19</sup> Organisation for Economic Co-operation and Development, *Women's Economic Empowerment in Selected MENA Countries: The Impact of Legal Frameworks in Algeria, Egypt, Jordan, Libya, Morocco and Tunisia*, Paris, OECD Publishing, 2017, p. 3.

<sup>20</sup> International Commission of Jurists, *Women and the Judiciary*, ICJ, Geneva Forum Series No. 1, Geneva, 2014, p. 37.

<sup>21</sup> Consultations with judges from the Middle East and North Africa Region (18 May 2021), Europe (25 May 2021) and Latin America (31 May 2021), IBAHRI.

<sup>22</sup> United Nations Economic and Social Commission for Western Asia, Office of the United Nations High Commissioner for Human Rights and International Commission of Jurists, *Women in the Judiciary in the Arab States...*, pp. 15 and 25.

lack of visibility, in some countries, of women's contribution as judges or prosecutors or generally unfavourable conditions for the professional development of women.

37. In its general comment No. 25 (1996), the Human Rights Committee considered that, to ensure access on general terms of equality, the criteria and processes for appointment, promotion, suspension and dismissal must be objective and reasonable, and affirmative measures may be taken in appropriate cases to ensure that there is equal access to public service for all citizens.

38. In countries in Asia, Latin America or Europe, women's access to the judiciary and the prosecution service is trending upwards and is on an increasingly equal footing with men. In those countries where entry is by public competition and where written and oral examinations are held, the scoring of which is based on objective criteria unrelated to gender, there is greater participation and appointment of women in the judicial profession, which does not necessarily occur in respect of promotions, especially in the appointment of women judges to the higher courts.<sup>23</sup>

39. In Chile, the Plenary of the Supreme Court approved a new order in April 2021 modifying the judicial appointments system, which aims to ensure that the appointment process reconciles the principles of objectivity, equality, transparency and merit-based selection with existing legal requirements and provisions.<sup>24</sup> In Mexico, the Federal Judiciary has issued two calls for applications exclusively for women to compete for positions as district judges and magistrates, as part of the temporary affirmative measures that have been adopted to promote greater incorporation of women into the higher levels of the judicial profession.<sup>25</sup>

40. Transparency in the commissions or bodies responsible for appointments and promotions would ensure equality of access to and development in the judicial and prosecutorial field. This would require giving reasons for promotions and the right of the judge or prosecutor to appeal a decision if he or she considered it subjective. In Belgium, the presidents of the higher courts are selected by secret ballot by the totality of the judges. Although this does not mean that the process is completely impartial, the voting is guaranteed to be anonymous, which allows the judge to avoid possible external pressure.<sup>26</sup>

41. The appointment of women to the judiciary sometimes takes place under conditions of systemic and cultural discrimination. Gender stereotypes influence the allocation of tasks to women judges, who are often relegated to social, family or juvenile courts, thereby excluding them from other offices and limiting their access to leadership and decision-making positions.<sup>27</sup> Patriarchal patterns and gender stereotypes are one of the major perpetuators of inequality and disparity in the proportion of women judges among the different courts and tribunals, with the social and family courts having a greater presence of women, as opposed to the criminal, business and national security courts, which are mainly composed of men.

42. Another element that stands out in certain regions is that of subjectivity in the assignment of judicial cases.<sup>28</sup> This circumstance is accentuated where the distribution is not based on objective criteria. Thus, we can identify obstacles in some countries to a judicial career that are clearly related to socioeconomic factors, such as the

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<sup>23</sup> Consultations with women judges in the Middle East and North Africa Region, Europe and Latin America, IBAHRI.

<sup>24</sup> Chile, questionnaire responses.

<sup>25</sup> Mexico, questionnaire responses.

<sup>26</sup> Consultations with women judges in Europe, IBAHRI.

<sup>27</sup> International Development Law Organization, *Women delivering justice: contributions, barriers, pathways*, Rome, 2018.

<sup>28</sup> Consultations with women judges in the Middle East and North Africa Region and Europe, IBAHRI; Serbia, Malawi.



preference of men over women in accessing university and higher education, the social restrictions imposed by gender or the economic and social dependence of women on a male figure. In these situations, the exclusion of women is an expression of the prevailing traditional social structure and the resistance to changing the status quo.<sup>29</sup>

43. Such institutional and structural barriers prevent or discourage women's participation. In the opinion of the judges consulted, this phenomenon is also due to the existing patriarchal culture, which pigeonholes female judges as being competent in certain matters and functions.<sup>30</sup>

44. The executive branch and the governing bodies of judicial systems and prosecutors' offices should promote efficient public policies to ensure substantive equality for women judges and prosecutors so that they have equal opportunities not only in access to the judicial profession, but also in the distribution of responsibilities and in substantive work, especially in highly complex cases or in matters historically reserved for men.

### **Working conditions and promotions**

45. The lack of transparency in certain selection and appointment processes blocks the entry of women into the judiciary. Disproportionate job requirements or lack of transparency in qualification and selection criteria are examples of such barriers. These opaque processes are factors that drive qualified candidates away.<sup>31</sup>

46. According to the Organisation for Economic Co-operation and Development, gender equality in the justice system is achieved by promoting flexibility, transparency and equity in public employment systems and policies so that they ensure fair remuneration and equal opportunities for women and men.<sup>32</sup>

47. For women with family responsibilities, it is particularly difficult to find the time to meet certain academic requirements, especially for promotions and advancement. In some countries, such as Peru, a postgraduate degree, which is not necessarily synonymous with professional quality, is required as a prerequisite for promotion in the judicial or prosecutorial profession. In practice, this may exclude women who, in many cases, do not have the extra time after work or the resources to take these courses, which are expensive in many countries.

48. From all the consultations carried out, it is clear that family burdens constitute another main obstacle to the promotion of women.<sup>33</sup> In general, it is women who are responsible for child-rearing, family care and housework and who take maternity leave. This circumstance places them at a disadvantage, distancing them from the courts and creating obstacles to resuming their judicial work and being promoted, in that they do not have the number of years or the seniority necessary to compete on equal terms.

49. This makes it too difficult for women to be promoted to higher positions in the judiciary or prosecutors' offices. The absence of an academic profile also impacts their salary. It should be noted that this situation has become even more accentuated

<sup>29</sup> International Commission of Jurists, *Women and the Judiciary ...*, p. 24.

<sup>30</sup> Consultations with women judges in the Middle East and North Africa Region and Latin America, IBAHRI.

<sup>31</sup> International Development Law Organization, questionnaire responses, and International Development Law Organization, *Women's Professional Participation in Kenya's Justice Sector: Barriers and Pathways*, Rome, 2020.

<sup>32</sup> Organisation for Economic Co-operation and Development, *OECD Toolkit for Mainstreaming and Implementing Gender Equality: Implementing the 2015 OECD Recommendation on Gender Equality in Public Life*, 2018, p. 69.

<sup>33</sup> Consultations with women judges in the Middle East and North Africa Region, Europe and Latin America, IBAHRI.

with the onset of COVID-19, as women, in addition to carrying out their professional work, have had to return to private life to take on care-related and domestic tasks.

50. Significant steps have been taken to dismantle these practices. In Spain, the Constitutional Court granted an injunction in 2016 to a magistrate whose promotion was not recognized while she was on leave and furlough because she was pregnant and at risk. In Estonia, consideration is being given to changing the Prosecutor's Act to allow prosecutors to work part-time as well. These initiatives represent a great opportunity for women on maternity leave to return to work more quickly and flexibly.<sup>34</sup>

51. From the consultations held by the Special Rapporteur, it appears that steps are gradually being taken to create appropriate working conditions for judges and prosecutors. These initiatives require political will to enable women to fully dedicate themselves to their judicial or prosecutorial functions.<sup>35</sup> For example, the High Council of the Judiciary of the Italian administrative courts ruled that female judges, during pregnancy and up to the first year of a child's life, are entitled to a one-quarter reduction in the number of cases assigned to them. Women judges, during this period, participate in a small number of hearings in which all the cases assigned to them are concentrated in a limited number of sessions. In addition, it is possible to request the concentration of hearings if the child is under three years of age.<sup>36</sup>

52. In Finland, maternity and paternity leave are guaranteed for female and male judges without any discrimination. Maternity or paternity leave does not affect the accumulation of experience that is taken into account for salary increases. In addition, pension rights accrue only in proportion to the salary received, and the retirement age is the same for both male and female judges.<sup>37</sup>

53. Adequate remuneration is important to ensure judicial independence. In most of the countries analysed, there are no significant conditions of gender equality in the remuneration of judges and prosecutors.<sup>38</sup> In European countries where access to the judiciary is by competitive examination, working conditions relating to remuneration, retirement and conditions of service are regulated by law.

54. At the European level, there is a wide disparity in the salaries of female judges and prosecutors in different countries. For example, in the Balkan region, women judges consider that their salaries are insufficient to cope with the various obligations arising from work and personal life. On the other hand, women judges in Poland and Scandinavian countries consider that their salaries are adequate to meet these commitments with a guarantee of impartiality and independence.<sup>39</sup>

55. However, there are a number of salary supplements based on the responsibilities and tasks performed in certain positions that are discretionary, and it is in this area that situations of gender discrimination could arise. The fact that a woman cannot access certain positions or perform certain functions or duties has a direct impact on her remuneration. In the Russian Federation, both female and male judges, in addition to their basic salary and statutory allowances, may receive bonuses and material assistance in unlimited amounts.<sup>40</sup> In Sweden, it has become clear that there is a considerable disparity between men and women in terms of career advancement and

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<sup>34</sup> Estonia, questionnaire responses.

<sup>35</sup> Consultations with women judges in the Middle East and North Africa Region, Europe and Latin America, IBAHRI.

<sup>36</sup> Italy, questionnaire responses.

<sup>37</sup> Finland, questionnaire responses.

<sup>38</sup> Africa, Asia, Europe and Latin America, questionnaire responses. The laws provide for equal pay without discrimination on the basis of gender or race.

<sup>39</sup> Consultations with women judges in Europe, IBAHRI.

<sup>40</sup> Order No. 116 of the Judicial Department of 5 June 2013, agreed by the Council of Judges of the Russian Federation.

earnings. Although women generally have better academic results and similar incomes in the first years of their judicial career, their pay trajectory tends to slow down once they begin to take on family responsibilities.<sup>41</sup>

56. In the United Kingdom, there is a type of fee-paid, non-career judge who is remunerated on an ad hoc basis. A significant number of fee-paid judges are women, under the false assumption that it gives them the flexibility to combine their personal and professional lives. During the COVID-19 pandemic, this category of judges significantly reduced their work activity and thus their income, owing to the restrictions imposed to cope with the pandemic.

57. In countries where greater equality in the justice sector has been achieved, this has meant requiring higher standards for women. Unlike male judges, female judges feel that they are subject to more rigorous supervision, greater pressure and more gender-based criticism. According to the International Development Law Organization, resistance to women's participation is exacerbated because their progress exposes a system of access and promotion designed to favour men.<sup>42</sup> The Special Rapporteur has also received information stating that, as women are the ones who mostly take maternity leave, they often end up being less interested in being appointed to higher positions.<sup>43</sup>

58. Finally, it should be noted that in some places the retirement age of male and female judges is different, which has an impact on the pension they may receive. The Pension Provision Act in the Republic of Kazakhstan provides for women to retire at the age of 59.5 years, while men retire at the age of 63. This law establishes an annual increase in the retirement age and, from 2027, the same retirement age for women as for men.<sup>44</sup>

### **Threats, sexual harassment and violence against women**

59. There is an increased risk that women judges and prosecutors will suffer aggression or various forms of harassment in the workplace, or “sextortion”, as the International Association of Women Judges has called it. In Uganda, there have been reports of a large number of threats and violence against women who are prosecuting sensitive or media-related cases. In El Salvador, Mexico, Honduras and Guatemala, women judges reported on the violence to which they are subjected, simply because they are women, when hearing or ruling on certain cases.<sup>45</sup> In Guatemala, Judge Erika Aifán has had several ongoing suits and complaints filed against her for the mere fact of doing her job. Another example is that of two female Supreme Court justices killed in Afghanistan in January 2021, whose names were not made public.

60. It is worth noting the many obstacles faced by women in the Middle East and North Africa Region. Given the social context in which they find themselves, women in some countries are not allowed to serve in religious or criminal courts or to pass judgment. Their presence is rejected or questioned by different judicial actors, and they are victims of threats and violence.<sup>46</sup>

<sup>41</sup> Consultations with women judges in Europe, IBAHRI.

<sup>42</sup> International Development Law Organization, *Women delivering justice...*

<sup>43</sup> Czechia, questionnaire responses.

<sup>44</sup> Kazakhstan, questionnaire responses.

<sup>45</sup> Mexico (state of Tabasco), questionnaire responses.

<sup>46</sup> United Nations Economic and Social Commission for Western Asia, Office of the United Nations High Commissioner for Human Rights and International Commission of Jurists, *Women in the Judiciary in the Arab States...*

61. Regardless of their region, women judges have reported being victims of workplace or sexual harassment at some point in their careers.<sup>47</sup> There is a widespread reluctance to talk about such experiences because, in many cases, a report could aggravate the problem and prevent any possibility of career advancement. Associations of women judges have demanded better conditions, guarantees and transparency in order to be able to denounce these actions.

62. Harassment in the workplace or sexual harassment is illegal, and women judges and prosecutors are, in theory, protected by law. Despite the formal protection that exists in most countries, women judges in jurisdictions in the United Kingdom, for example, have described the existence of blatant, normalized sexism on the part of judges and lawyers.<sup>48</sup>

63. Gender stereotypes facilitate harassment and violation of the personal integrity of women judges by those who take advantage of the anonymity provided by new technologies, sometimes acting in connivance with public opinion, which is mostly dominated by men. This is exacerbated by social media being used as a platform to criticize, discredit or spread false rumours originating in groups outside the judicial system against judges and prosecutors.<sup>49</sup>

64. The Special Rapporteur wishes to highlight the efforts made to correct the effects of these stereotypes in judicial systems. The adoption of a number of measures has been noted, such as training programmes in gender perspective or the inclusion of the gender perspective in law faculties.<sup>50</sup> The Judicial Academy of Honduras has created the Diploma in Gender and Human Rights, the main theme of which is violence against women in all its manifestations and the national and international legal instruments on the subject.<sup>51</sup> Initiatives aimed at adopting gender equality plans, such as the one led by the Economic Commission for Latin America and the Caribbean (ECLAC) for that region, should be highlighted.<sup>52</sup>

65. The Special Rapporteur urges States to adopt clear and safe procedures for women judges and prosecutors to report acts of violence or sexual harassment in safety and without fear of retaliation, unjustified dismissal or stigmatization. States must take the necessary measures to ensure that such acts do not go unpunished.

### **Dismantling the “glass ceiling”**

66. According to the Federal Glass Ceiling Commission, a “glass ceiling” in justice systems is defined as the unseen, yet unbreachable barrier that keeps minorities and

<sup>47</sup> Consultations with women judges in the Middle East and North Africa Region, Europe and Latin America, IBAHRI.

<sup>48</sup> Consultations with women judges in Europe, IBAHRI.

<sup>49</sup> Consultations with women judges in Latin America, IBAHRI.

<sup>50</sup> Suprema Corte de Justicia de la Nación de México, *Protocolo para juzgar con perspectiva de género*, Mexico City, 2013; Comisión Nacional de Género de la Rama Judicial y Consejo Superior de la Judicatura de Colombia, *Criterios de equidad para una administración de justicia con perspectiva de género*, Bogotá, 2011; and Poder Judicial de la República de Chile, *Cuaderno de buenas prácticas para incorporar la perspectiva de género en las sentencias. Una contribución para la aplicación del derecho a la igualdad y la no discriminación*, 2018.

<sup>51</sup> National Report of Honduras on Progress in the Application of the Montevideo Strategy for Implementation of the Regional Gender Agenda within the Sustainable Development Framework by 2030, May 2019 (Fourteenth session of the Regional Conference on Women in Santiago, Chile, November 2019).

<sup>52</sup> ECLAC, *Gender equality plans in Latin America and the Caribbean: Road maps for development*, Santiago, 2019. There are numerous examples of ECLAC collaboration in this area. See, for example, the National Plan for Gender Equality and Equity (PLANEG III) of the Dominican Republic, 2019.

women from rising to the upper rungs of the system, regardless of their qualifications or achievements.<sup>53</sup>

67. Women represent a disproportionately low percentage in the hierarchy of justice systems. In many countries, statistics reveal that the percentage share of women in senior positions in both the judiciary and the prosecution services is not proportional to the number of women in the two careers. In both cases, women tend to be the majority of members in overall percentages, but their presence in senior positions is significantly lower than that of men.<sup>54</sup> Discretionary and subjective criteria significantly affect the promotion and selection of women in leadership positions. In Sri Lanka, following the adoption of the twentieth amendment to the Constitution, all judicial appointments to the higher courts and the post of Attorney General have been made at the discretion of the President.<sup>55</sup>

68. In India, of the 245 judges who have made it to the highest court, fewer than 3.3 per cent have been women. No woman has ever been chief justice of the Supreme Court. In the Maldives, it was not until September 2019 that a female Supreme Court justice was appointed for the first time, and in September 2020 the first female judge was appointed to the Criminal Court.<sup>56</sup> In Malaysia, the first female chief justice was appointed in 2019.<sup>57</sup> In Peru, the first female president of the Judicial Branch in 196 years was elected in 2021.

69. In Israel, according to the Knesset Research and Information Center, based on data as of November 2020, of the 13 judges currently presiding over the Supreme Court of Justice, only 4 are women (31 per cent), including the female chief justice.<sup>58</sup> In Italy, as far as senior management positions in the judicial sector are concerned, women represent 32 per cent and men, 68 per cent. In the prosecutors' offices, women account for only 23 per cent and men, 77 per cent.<sup>59</sup>

70. Female Supreme Court justices in 18 Latin American countries represented, at the end of 2019, an average of 27.5 per cent of the total. There were 8 countries below 30 per cent (Argentina, Bolivia (Plurinational State of), Brazil, Colombia, Costa Rica, Dominican Republic, Panama and Peru), 4 countries between 30 per cent and 40 per cent (Chile, El Salvador, Honduras and Mexico), 2 countries between 40 per cent and 50 per cent (Guatemala and Uruguay) and 1 above<sup>60</sup> 50 per cent (Ecuador). In the case of Guatemala, out of a total of 57 presidents (between 1839 and 2017), only 2 women (3.5 per cent) have presided over this judicial body.<sup>61</sup>

71. Australia and the Republic of Korea have a proportion of women on their high courts of around 30 per cent.<sup>62</sup> In the Russian Federation, while women occupy 50 per

<sup>53</sup> Federal Glass Ceiling Commission, *A Solid investment: Making full use of the nation's human capital ...*, p. 4.

<sup>54</sup> Africa, Asia, Europe and Latin America, questionnaire responses.

<sup>55</sup> International Commission of Jurists, questionnaire responses.

<sup>56</sup> Maldives, questionnaire responses.

<sup>57</sup> Malaysia, questionnaire responses.

<sup>58</sup> Israel, questionnaire responses. Note that both the current and previous presidents of the Supreme Court of Justice are women.

<sup>59</sup> Consultations with European female judges, IBAHRI, presidents of courts or the Court of Appeal, public prosecutors or prosecutors general of the Court of Appeal.

<sup>60</sup> UN-Women, *Towards parity and inclusive participation in Latin America and the Caribbean. Regional overview and contributions to CSW65*, 2021; and Observatorio de Derechos y Justicia del Ecuador, questionnaire responses.

<sup>61</sup> Consultations with women judges, researchers and academics, civil society, Due Process of Law Foundation, 2–4 June 2021.

<sup>62</sup> Organisation for Economic Co-operation and Development, *Government at a Glance 2019*, OECD Publishing, Paris, 2019, pp. 43 and 93, illustrations 1.4 c and 3.10: Gender equality of professional judges by level of court, 2016.

cent of prosecutor's office positions, only 25 per cent have been promoted to managerial positions. As far as the courts are concerned, women represent the overwhelming majority of the Russian judiciary, a fact that is not reflected in the higher courts.<sup>63</sup>

72. In Trinidad and Tobago, Rwanda or Uganda, while there is gender parity in the supreme courts, women remain underrepresented at all other decision-making levels of the judicial system.<sup>64</sup> But there are also exceptions to this trend. In Romania and Montenegro, we find a proportion of female judges in the high courts reaching 79 per cent and 71 per cent of the total, respectively.<sup>65</sup> In Serbia, where two thirds of judges are women, the presidency of the Constitutional Court is held by a woman, and 9 of its 15 judges are women. Moreover, the president of the Supreme Court of Cassation of Serbia is also a woman. Suriname, Barbados and Jamaica have 74 per cent, 71.5 per cent and 68 per cent of female judges in the high courts, respectively.<sup>66</sup>

73. The limited participation of women in selection and promotion processes in the judicial and prosecutorial careers leads to a kind of corporatism that consolidates discrimination against women, as it is men who appoint other men to these management positions. This behaviour is so internalized that women's participation in these processes is discouraged.<sup>67</sup>

74. The Special Rapporteur notes that, in consultations with female judges and prosecutors, concern was expressed that, under the guise of appointments based on a gender approach, political appointments may be concealed that are not compatible with the requirements of autonomy, independence and suitability. The Special Rapporteur considers it essential to promote diversity in the judiciary, but never at the expense of the independence of the people who sit on the courts.<sup>68</sup>

## V. Measures for an equitable presence of women

75. The Special Rapporteur urges States to promote merit-based recruitment and to adopt policies that ensure gender equity in the judicial and prosecutorial spheres by removing implicit barriers in the personnel selection and promotion processes. Some of the elements identified in the present report focus on increasing the presence of women in the judiciary and the prosecution service, particularly in leadership positions.<sup>69</sup>

### Policies to ensure gender equity

76. Most States have incorporated gender equality standards in their constitutions.<sup>70</sup> However, not all of them effectively ensure that these standards are enforced and have

<sup>63</sup> Russian Federation, questionnaire responses.

<sup>64</sup> Consultations with women judges in the Middle East and North Africa Region and Latin America, IBAHRI.

<sup>65</sup> Prepared by the authors on the basis of data presented in European Commission for the Efficiency of Justice, *European Judicial Systems ...*, Administrative non-judge staff.

<sup>66</sup> Prepared by the authors on the basis of data provided by ECLAC (n.d.): *Judicial branch: percentage of women ministers in the highest court of justice or supreme court* (available at <https://oig.cepal.org/en/indicators/judicial-power-percentage-women-judges-highest-court-or-supreme-court>).

<sup>67</sup> Consultations with women judges in Latin America, IBAHRI.

<sup>68</sup> Consultations with women judges in Europe and Latin America, IBAHRI.

<sup>69</sup> Organisation for Economic Co-operation and Development, *OECD Toolkit for Mainstreaming and Implementing Gender Equality: Implementing the 2015 OECD Recommendation on Gender Equality in Public Life*, 2018.

<sup>70</sup> UN-Women, *Progress of the World's Women 2011–2012: In Pursuit of Justice*, 2011.

a positive impact on women's access to the justice system. It is imperative that effective measures be adopted that include public review and accountability.

77. States should ensure that the fight against gender discrimination, in order to achieve equality in women's access to the judicial and prosecutorial systems, includes affirmative policies and measures to overcome identified barriers. In Nepal, the Judicial Council Act of 2016 provides that female judges have priority over more senior male judges during the appointment process. Similarly, the 1993 Civil Service Act stipulates that women are entitled to be promoted to senior positions one year earlier than their male counterparts, and/or may have one year less experience in order to participate in competitive examinations for promotion to higher levels.<sup>71</sup>

78. Rwanda, Nigeria and other countries, together with the European Union, have committed to having a gender balance in appointments and designations to positions of responsibility. In Spain, the legislation establishes that, in the filling of posts, measures that favour the promotion of women with merit and ability will be encouraged and developed, and it even provides that when several candidates with similar merits compete, the appointment of women will be facilitated.<sup>72</sup> For senior positions in the administration of justice, provision is made for reserved posts and alternating positions for both sexes on lists of candidates.

79. In the Maldives, where women's empowerment policies are being promoted, programmes are needed to address the culture of a patriarchal society that expects women to stay at home or to take men's opinions into account in their career choices.<sup>73</sup> In the Special Rapporteur's view, the only way out of this vicious circle is through long-term planning and sustained public policies that promote, from childhood onwards, the values of equality and respect between the two genders, involving all social and political strata.

80. States, organizations, companies and regional and international bodies should promote gender diversity and equality.<sup>74</sup> These measures should have a pedagogical element that highlights the importance of how these initiatives improve coexistence, democracy and justice systems, benefiting society as a whole and changing patterns of behaviour in the long term.<sup>75</sup>

81. In the meantime, temporary strategies can be effective if implemented with a participatory and multisectoral approach. Encouraging financial support and training for women candidates, changing electoral procedures, developing campaigns aimed at equal participation and setting numerical targets and quotas or selecting women for appointment to public positions such as the judiciary can play a key role in visualizing the importance of gender equality.<sup>76</sup>

82. Following the European Commission for Democracy through Law (Venice Commission), the Special Rapporteur supports policies aimed at ensuring gender

<sup>71</sup> Nepal, questionnaire responses.

<sup>72</sup> Organic Law 3/2007, of 22 March, on effective equality of women and men, Spain, *Boletín Oficial del Estado*, No. 71, 23 March 2007.

<sup>73</sup> Maldives, questionnaire responses.

<sup>74</sup> "The Role of Women Judges and a Gender Perspective in Ensuring Judicial Independence and Integrity" (available at <https://www.unodc.org/dohadecclaration/en/news/2019/01/the-role-of-women-judges-and-a-gender-perspective-in-ensuring-judicial-independence-and-integrity.html>); and ECLAC, National Report of Honduras on Progress in the Application of the Montevideo Strategy for Implementation of the Regional Gender Agenda within the Sustainable Development Framework by 2030, May 2019 (Fourteenth session of the Regional Conference on Women in Santiago, Chile, November 2019).

<sup>75</sup> The Law Society of England and Wales, *Advocating for change: Transforming the future of the legal profession through greater gender equality*, June 2019, p. 25.

<sup>76</sup> Spain, questionnaire responses.

balance in public institutions, and all efforts in this direction should be supported as long as the independence of the judicial and prosecutorial system is guaranteed.<sup>77</sup>

### **Importance of the quota system for gender equality**

83. The establishment of quotas in the administration of justice is an effective and necessary tool in reversing historical trends of male dominance in this sector. The adoption of quotas represents a step forward in incorporating women into all sectors of the State, in general, and into the judicial and prosecutorial professions, in particular.<sup>78</sup>

84. Several consultations noted the impact that the establishment of quotas at the political level has had on increasing the number of women in justice systems. In Costa Rica, the judicial interpretation of the quotas established by law permeated all areas of the administration, contributing to an increase in the presence of women in the courts. Likewise, the quotas for participation in elected office led to a rise in the proportion of women in the Legislative Assembly from 19 per cent to 37 per cent. This, in turn, significantly raised the number of appointments of female judges.<sup>79</sup>

85. In South Africa, the Commission for Gender Equality, after receiving a complaint from civil society actors, made a number of recommendations in terms of quotas. In Malawi, the Gender Equality Act of 2013 requires a 60/40 gender quota in any public institution. Despite this obligation, the implementation of the law has been insufficient. There has been only one female chief justice, who retired in 2014, and one female appellate judge out of the 10 Supreme Court justices. Of the 35 judges sitting on that court, only 13 were women.<sup>80</sup> The implementation of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) demonstrates the need for more time for the quota system to reverse the trend of patriarchal systems and discriminatory attitudes against women in the judicial and prosecutorial system.<sup>81</sup>

86. While quotas and affirmative action are important tools that facilitate women's access to the judiciary or the prosecution service, they cannot be the only means to that end. This system visualizes women's participation, but it still takes time to have an impact.<sup>82</sup> Changing structural discrimination against women requires sustained policies aimed at ensuring equality between women and men and democratizing life in the judiciary and prosecution services.

## **VI. Conclusions**

**87. The design and implementation of public policies and measures towards gender equality has been uneven and inconsistent.<sup>83</sup> States have an obligation to guarantee women's rights and ensure their full participation in the judicial and**

<sup>77</sup> Council of Europe, Venice Commission, Opinion on the draft law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (CDL-AD(2014)008), paras. 32 and 35.

<sup>78</sup> UN-Women, *Progress of the World's Women 2011–2012 ...*, p. 119.

<sup>79</sup> Consultations with women judges in Latin America, IBAHRI, Costa Rica: from 2 to 8 at present, out of a total of 22.

<sup>80</sup> Consultations with women judges in the Middle East and North Africa Region, IBAHRI.

<sup>81</sup> Institute for Security Studies, "Women, peace and security: Implementing the Maputo Protocol in Africa", ISS Paper 295, July 2016.

<sup>82</sup> Consultations with women judges in the Middle East and North Africa Region, Europe and Latin America, IBAHRI.

<sup>83</sup> United Nations Sustainable Development Group, *Resource Book for Mainstreaming Gender in UN Common Programming at the Country Level*, 2018 (available at <https://unsdg.un.org/resources/resource-book-mainstreaming-gender-un-common-programming-country-level>).



prosecutorial system.<sup>84</sup> The mere adoption of laws and public policies will not change structural and systemic discrimination against women. These measures are very important, as they send the message that gender-biased attitudes and behaviours are unacceptable.

88. The Special Rapporteur acknowledges the efforts made by a number of countries to try to ensure gender equality in the judicial and prosecutorial system. Substantial results have been achieved, but they are still insufficient. States must redouble their efforts because, according to the World Economic Forum, at the current rate of change, it will take nearly a century to achieve equality.<sup>85</sup> This time lapse is unacceptable.

89. The judicial system must contain plural and diverse representation at all levels as a way of preserving and enhancing public confidence and the credibility, legitimacy and independence of justice institutions.<sup>86</sup> To this end, selection and promotion processes in the judiciary and the prosecution service should be adapted in order to prevent objective, a priori criteria from becoming barriers that contribute to marginalizing women's equal participation, particularly in leadership positions.

90. The gender approach in the judicial sphere implies much more than promoting equality policies aimed at achieving equal conditions in access to and performance in the workplace. Measures are required to ensure equal access to the higher courts so that equal career progression is achieved. Above all, it is necessary to guarantee a work-life balance that makes the acceptance of greater professional responsibilities compatible with family responsibilities, a deficiency that often constitutes the structural causal factor in the lower presence of women in the higher courts of justice.

91. The limited presence of women in high courts and senior prosecutorial positions is a widespread pattern globally. Even in countries where there is equal representation of the sexes in the different courts, the percentage of women judges decreases significantly as one moves up the ladder of power. This circumstance is more evident when political bodies are in charge of making appointments.

92. Bias against women has been a recurring theme in all regions at the consultation meetings with women judges organized by the Special Rapporteur. Prejudice against women is widespread and present in all social structures. Strong political will is required to change this through legislation, policies, training campaigns and education.

93. The Special Rapporteur understands that it is not enough to consider the gender perspective when analysing the lack of equal representation of women in the higher courts of justice. A closer look reveals that, in certain areas with a large concentration of indigenous or Afrodescendent populations, very few, if any, of the women in these high positions belong to these groups. Efforts must be made to allow all women access to the justice system, regardless of their origin or race.

94. The incomplete affirmation of women's rights in their role as judges or prosecutors, the scarcity of female role models in several countries or the lack of support networks are relevant factors that need to be addressed in order to have

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<sup>84</sup> International Commission of Jurists, *Women and the Judiciary ...*, p. 2.

<sup>85</sup> World Economic Forum, *Global Gender Gap Report 2020*, Geneva, 2019, p. 33.

<sup>86</sup> Mónica Castillejos-Aragón, "A need for change: Why do women in the judiciary matter?", Country Report, March 2021, Konrad-Adenauer-Stiftung.

an impact on new generations and society as a whole and to encourage the incorporation of women at all levels of the judicial profession.

95. Countries with strong associations of women judges and prosecutors have a better platform to defend the rights of women judges and prosecutors and to denounce discriminatory conduct. The creation and strengthening of networks of women legal professionals provides an opportunity for career counselling, skills development and timely advocacy. Such networks help women in the justice sector make professional connections to advance their careers and provide them with platforms to train, challenge barriers and support each other.<sup>87</sup>

96. Given the stereotypes that still exist, women are at greater risk of intimidation, violence, threats and harassment, both from society and from their own co-workers.

97. At times and in some places, sexual harassment and extortion persist in courts and prosecutors' offices, both against the women who are part of these institutions and against those who are related to them, including lawyers, defenders, victims and others. Among the serious consequences of these practices are women's lack of confidence in the justice system and the early termination of their judicial careers.

## VII. Recommendations

98. Design and implement a quota system that is not merely symbolic in order to ensure equality in access to positions in the administration of justice and to achieve greater equality from a geographical or regional perspective.

99. Use the Sustainable Development Goals to ensure that, by 2030, 50 per cent of public positions, both in the judiciary and in prosecution services, are held by women.

100. Adopt norms, public policies and quantifiable goals on equality and the gender perspective, and create a public, autonomous and independent institutional framework to coordinate compliance by all entities. In particular, institutional training on gender issues should be strengthened, its permanence and mainstreaming being ensured through national public education policies that integrate a gender perspective at all levels of the education system.

101. Urge States to implement sustainable public policy guidelines incorporating a gender perspective. The barriers that have prevented women from accessing and retaining positions of greater responsibility should be identified, based on the legal, institutional and cultural context of each country.

102. Adopt substantive and procedural standards to ensure women's equal participation in decision-making roles in public institutions, including the judiciary and prosecution services.

103. Review the formal requirements for entering or being promoted in the judicial profession so that the "glass ceiling" does not persist and there are no bureaucratic barriers that hinder women's access to positions in the judiciary.

104. Eliminate stereotypes that pigeonhole women in specific areas of law or at certain levels in the judicial hierarchy, such as family law, or at the lowest levels

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<sup>87</sup> Consultations with women judges in the Middle East and North Africa Region, Europe and Latin America, IBAHRI.

of the judiciary, such as magistrates' courts or provisional courts with no guarantees of employment or tenure.

105. Encourage the offering of scholarships or other incentives to enable women to cover the costs of test preparation. With regard to the deficit in representativeness, it is recommended that competitions be held specifically for women, especially when the courts are composed only of men or when there is a higher percentage of male judges.

106. Establish gender commissions to institutionalize a gender perspective in the administration of justice, which will enable their members to participate in the design of programmes for the modernization and reform of the justice system and the prosecution service and to create conditions for women's participation in the justice sector.

107. Encourage the creation of associations of women judges and prosecutors that strengthen women's participation in the judicial and prosecutorial professions, defend their rights and enable them to participate in the adoption of policies to promote gender equity in the judiciary and the prosecution service.

108. Establish a legal framework to protect judges and prosecutors from attacks, threats or harassment simply for doing their job. Justice bodies and prosecutors' offices must institute safe and effective procedures that guarantee the anonymity of the complainant and avoid re-victimization.

109. Create efficient operational mechanisms for the follow-up and sustained implementation of public policies on gender equality in the administration of justice, with regular accountability. This includes the development of diagnostics and indicators to measure the results achieved in this area, such as the percentages of appointments of women and men to the judiciary and prosecution services, and to identify the limitations of these policies in order to continue promoting women's access to the administration of justice.

110. Eradicate the gender stereotypes that plague the courts and prosecutors' offices and make the gender perspective an unavoidable duty of the State, in such a way that the criteria used to study and resolve cases are modified so that the possible differentiated impacts between women and men can be identified. To that end, a gender perspective must be adopted as a method of reasoning and objective, rigorous analysis that identifies, at first hand, the power relations and the differentiated consequences experienced by women and men in almost any situation.

111. Urge civil society organizations and universities to design and develop monitoring and analysis strategies to stimulate proactive policies on the relevant presence of women in the judicial and prosecutorial system.

## **Annex**

### **States**

1. Albania
2. Algeria
3. Argentina
4. Austria
5. Azerbaijan
6. Bulgaria
7. Cambodia
8. Chile
9. Croatia
10. Cyprus
11. Czechia
12. Denmark
13. Estonia
14. Finland
15. Georgia
16. Greece
17. Hungary
18. Iraq
19. Ireland
20. Israel
21. Italy
22. Kazakhstan
23. Lithuania
24. Luxembourg
25. Malaysia
26. Maldives
27. Mexico
28. Montenegro
29. Nepal
30. Netherlands
31. Pakistan
32. Poland
33. Qatar
34. Romania
35. Russian Federation

36. Rwanda
37. Slovakia
38. Slovenia
39. Spain
40. Sweden
41. United Kingdom of Great Britain and Northern Ireland
42. United Republic of Tanzania

**Judges' and prosecutors' associations**

43. Association of Portuguese Judges
44. National Association of Immigration Judges of New York State
45. Association of Court-Appointed Defenders of Uruguay
46. Prosecutors' Association of Uruguay
47. Association of Portuguese Public Prosecutors
48. Professional Association of the Judiciary (Spain)
49. Union of Judges of the Republic of Kazakhstan
50. Dutch Association for the Judiciary
51. Judges' Association of Paraguay
52. Association of Women Judges of Spain

**Civil society organizations**

53. Rights and Justice Observatory of Ecuador
54. GQUAL Campaign
55. Law Society of England and Wales
56. The Cyrus R. Vance Center for International Justice
57. Human Rights Commission of Mexico City.
58. International Commission of Jurists
59. International Bar Association's Human Rights Institute (IBAHRI)
60. Due Process of Law Foundation (DPLF)
61. Women's Link Worldwide
62. Institute for African Women in Law

**Intergovernmental organizations**

63. United Nations Office on Drugs and Crime, Global Judicial Integrity Network
64. International Development Law Organization