2017 AFRICA REGIONAL CONFERENCE

CONCEPT NOTE

“Women Judges Enabling Sustainable Development Goals: Opportunities, Challenges and Strategies”

16TH – 20TH MAY, 2017
NAIROBI, KENYA.
WELCOME TO THE 2017 INTERNATIONAL ASSOCIATION OF WOMEN JUDGES (IAWJ) AFRICA REGIONAL CONFERENCE, NAIROBI.

"Women Judges Enabling Sustainable Development Goals: Opportunities, Challenges and Strategies"

Overview

The International Association of Women Judges (IAWJ) is pleased to announce the 2017 Africa Regional Conference that will be hosted by the Kenya Women Judges Association (KWJA) from 16th to 20th May, 2017 in Nairobi.

The IAWJ was founded in 1991 as a forum through which women judges from all over the world can convene, share experiences and seek solutions that will collectively influence global and domestic jurisprudence. It currently comprises over four thousand members representing over ninety countries. The IAWJ holds a global convention once every two years and continental (regional) conventions once every year.

The KWJA is an affiliate of the IAWJ and has been selected as the host of the 2017 Annual Africa Regional Conference of the IAWJ. The theme will be “Women Judges Enabling Sustainable Development Goals: Opportunities, Challenges and Strategies”. It will be the second time that KWJA will be hosting an IAWJ Conference in its 23 years of existence.

Conference Objectives:

The overall objective of the Conference is to offer a forum for comparative inquiry into the special roles played by women judges in promoting global and municipal development with specific reference to their roles as judges.

Specifically, it is envisaged that the conference will provide a platform for participants:

- a) To probe the outstanding social, economic and legal factors that continue enabling gender-based discrimination and violence against women in Africa and frame issues for renewed deliberation and improved advocacy by the IAWJ, its chapters and members in Africa.

- b) To analyze emerging trends in the prevalence and manifestations of gender-based discrimination and violence and assess the impacts of these trends on the projection of Sustainable Development Goals in Africa.

- c) To showcase, discuss and benchmark on emerging jurisprudence, policy interventions as well as research that has been undertaken towards ameliorating responses to gender-based discrimination and violence against women in Africa.
d) To recommend mechanisms by which the leadership role of women judges can be applied to overcome structural gender equality gaps, to enhance access to justice and to stimulate the attainment of the Sustainable Development Goals especially for women and children in Africa.

e) To foster networks, partnerships, and mobilize resources towards the sustainable implementation of the recommendations and programs of the IAWJ, its chapters and members in Africa.

1.0. Women’s Leadership in the Judiciary for Sustainable Development Goals

In September 2015, the world adopted and committed to the 2030 Agenda for Sustainable Development, which is composed of 17 Sustainable Development Goals and 169 associated targets. The International Women Judges Association views law is a tool to be leveraged in the achievement of sustainable development. At the same time, the rule of law continues to be a fundamental pillar upon which peaceful and prosperous nations are built and is a target to be achieved under the Sustainable Development Goals\(^1\). The judiciary is therefore a crucial partner in upholding the rule of law and promoting the realization of sustainable development. The women judges should take the lead in the important role of achieving both the rule of law and sustainable development.

The critical role of strengthening the rule of law and achieving sustainable development can be executed through judge’s contributions in the form of orders, decisions and rulings that promote the rule of law while positively contributing to the achievement of these goals.

During the course of the conference participants will explore the role of the judiciary, opportunities and challenges in contributing to the realization of five of the seventeen sustainable development goals namely:

1. Goal 1 – End poverty in all its forms everywhere
2. Goal 3 – Ensure healthy lives and promote well-being for all at all ages
3. Goal 5 – Achieve gender equality and empower all women and girls
4. Goal 16 – Promote just, peaceful and inclusive societies for sustainable development
5. Goal 17 – strengthen the means of implementation and revitalize the global Partnerships

Poverty manifests itself through lack of income and resources to sustain a livelihood, hunger, malnutrition, limited access to education and other basic services, social discrimination and exclusion as well as lack of participation in decision making. In order to end poverty the judiciary should address itself to ensuring all men and women, in

\(^1\) [https://sustainabledevelopment.un.org/sdg16](https://sustainabledevelopment.un.org/sdg16) target 16.3
particular the poor and vulnerable, have equal rights to economic resources as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources and financial resources\(^2\).

Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity\(^3\). An unhealthy population affects sustainable development by impeding productivity and channeling development funds to healthcare provision. In order to ensure that populations enjoy good health, the women judges should take leadership in promoting access to quality essential health-care services, access to effective and affordable medicines, reduce the number of deaths and illnesses from hazardous chemical, air, water and soil pollution and contamination as well as reduction of maternal, child and neonatal mortality\(^4\).

Gender equality is not only a fundamental human right, but a necessary foundation for a peaceful and prosperous and sustainable world. Women and girls represent half of the world’s population and therefore half of its potential. Ensuring women and girls have equal access to education, health care, decent work, equal pay for equal work done, representation and decision making in political and economic sphere will fuel sustainable economies and benefit societies and humanity at large\(^5\). Women judges, who are at the top of the social pyramid, should take the lead in the implementation and enforcement of laws, including those that provide for equal access to justice. Notably, without access to justice, investments in women and girls will likely fail to yield maximum impact or have lasting results. As a result, women judges emerge as important agents of poverty reduction, sustainable development, and global economic growth.

The investment in women and girls has a multiplier effect. This effect is felt when the investment in the women and girls yields positive impact on the families and societies in which they live. For instance, where there are increased educational opportunities for women and girls the society experiences a decrease in child mortality rates, an increase in children’s education, and an increase in the per capita income and GDP growth of nations. The participation of women judges in upholding the rule of law is salient in establishing a judiciary that is reflective of the society of whose laws it interprets. Interestingly, people are more likely to put their trust and confidence in courts that represent all of the individuals that constitute a society. Furthermore, a judiciary comprised of judges with


\(^3\) Preamble of the Constitution of the World Health Organization as adopted by the International Health Conference, New York, June, 1946


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diverse experience may provide a more balanced and thus impartial perspective on matters before the court.

It is through this continuous engagement that women judges provide leadership for women and girls bringing about a level field in terms of gender inequalities that are experienced by women.

While all sectors are beginning to acknowledge that the educational and economic participation of women are important levers of development and growth, progress will be significantly hampered if women are not afforded basic human rights, such as the right to vote and the right to own and inherit property, among others. One critical area that continues to lag, including in the developed world, is the implementation and enforcement of laws relating to the eradication of violence against women and girls. The elimination of harmful practices such as child, early and forced marriage and female genital mutilation is urgent. These harmful practices affect girls more than boys thus affecting their education. This translates into lack of access to skills and limited opportunities in the labour market.

Promoting a just, peaceful and inclusive society requires that justice be accessible to all and that the judiciary plays its role in ending abuse of human rights, promoting and enforcing laws and policies in a non-discriminatory manner, stemming corruption and bribery in all its forms and ensuring fair, impartial and expeditious delivery of justice.

Achieving the 2030 Agenda requires a revitalized and enhanced national and global partnership that brings together Government(s), civil society, the private sector, the United Nations system and other actors and mobilizes all available resources. Such partnerships can be forged for purposes of mobilizing financial resources, capacity building, sharing knowledge and expertise. The judiciary as an arm of government is a crucial partner which plays the key role of weaving the Sustainable Development Goals with the law. Judiciaries can forge partnerships aimed at exchange of judicial decisions, information and experiences between jurisdictions.

Harnessing women’s leadership in the judiciary for sustainable development ensures that female jurists take cognizance of the SDG’s and consciously contribute towards their achievement, by finding linkages between the goals and the legal framework and concepts, applying the law to facilitate and promote sustainable development and applying legal solutions to challenges to the achievement of sustainable development.

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6 https://sustainabledevelopment.un.org/sdg16
7 https://sustainabledevelopment.un.org/sdg17
8 The Role of Judiciary in promoting sustainable development: The experience of Asia and the Pacific by Hon. Justice Brain J Preston.
9 www/sustainabledevelopement.un.org/partnership/?p=11063

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2.0 Conference Sub Themes

The conference thematic area is further divided into three key sub themes to facilitate discussion amongst the participants. The sub themes focus on pertinent areas that are aligned to the SDGs thus ensuring contribution to sustainable development.

2.2.1. Gender Vulnerability and Access to Justice

Access to justice is a human right that should be and is considered key to the realization of all other human rights including the rights to non-discrimination and equality. Yet, many obstacles impede access to justice, including the cost of legal representation, corruption and lack of awareness of human rights. Women often face specific barriers in their efforts to seek justice based on their sex/gender. These barriers include male guardianship laws, fear of stigma and reprisals and cultural perceptions of men (and not women) as rights-bearers. For women victims and survivors of gender-based violence, the barriers to justice are often even greater.

Gender related issues have resulted in making women vulnerable in the justice systems and more often than not these issues serve to impede access to justice for women. Justice systems should stop aggravating poverty through expeditious disposal of matters.

- Women in the justice system: the poverty question

An impartial justice system is necessary to ensure that there is no miscarriage of justice and re-victimization of women in the justice system. If we are serious about achieving gender equality, we must devote more energy to dismantling prejudicial presumptions about women and men. We must stop perpetuating misguided ideas of what women should or should not be or do, based solely on the fact of being female. Instead, we must see them for who they are – unique human beings in all their diversity. This is the demand of equality, which is the foundation of human rights law.

Interventions under this sub theme should be able to depict the plight of women in the justice system, as consumers of justice and the role the judicial officers play in mitigating the issues that affect this group of consumers of justice, overcoming the challenges and paving the way forward. The interplay between access to justice and poverty should be underscored.
Promoting Maternal Health & Reproductive Rights: The Kenyan Experience

Taking a right-based approach on matters of maternal and reproductive health is salient. Right based approach within the field of sexual and reproductive health has participation, inclusion and accountability are central principles. This approach views citizens not as passive receivers of services or beneficiaries of programmes but as active rights-holders, who should be empowered to claim their rights.

States have obligations to respect these rights and protect their citizens against violations. Fulfilling the right to sexual and reproductive health will require the building of responsive, equitable health, education and legal systems, as well as addressing underlying determinants of sexual reproductive health. It is recognized that fulfilling these rights will require time, money, commitment and action.

This thematic area will focus on the efforts of the First Lady of Kenya in the Beyond Zero Campaign that has served to ensure the fulfillment of maternal and reproductive rights. With this background the focus of the discussions shall revolve around the efforts made in various jurisdictions to ensure fulfillment of these rights for their citizen.

Mobilizing Positive Masculinity for Women Empowerment

Gendered norms and behaviors are taught and learned rather than being natural or genetic. While mass culture likes to assume that there is a fixed, true masculinity, in fact, each societal construct of masculinity varies over time and according to culture, age and position within society. All men, though, while unique individuals, share one thing in common—gender privilege. By virtue of being born male, men are granted access to power, position and resources on a preferential basis to women. These are often assumed, taken for granted and seldom earned. A sense of entitlement, in fact, comes simply from having been born male.

Engagement of boys and men in gender mainstreaming to address inequalities that result to poverty is a key strategy in reducing poverty among women and impact on the society. This integrated approach is beneficial to both men and women.

The sub theme shall focus on sharing best practices of male led interventions in various jurisdictions that have resulted to empowerment of women.

2.2.2. Evolution of SGBV

Violence against women is perhaps the most widespread and socially tolerated of human rights violations, cutting across borders, race, class, ethnicity and religion. Sexual and gender-based violence (SGBV) is a particularly disturbing phenomenon, which exists in all regions of the world. SGBV has elicited a lot of concern and programmatic interventions.
Apart from contracting sexually transmitted diseases, SGBV has many other serious effects and consequences which impact both the individual and her community. Physical harm such as injury to reproductive organs, traumatic fistulas, and infertility often accompany brutal or repeated rapes. Attempts at abortion following unwanted pregnancies from rape may also have severe medical complications.

In addition to these physical effects, SGBV also has serious psychological consequences, including depression, anxiety, post-traumatic stress disorder, shock, memory loss, and sexual dysfunction. Suicidal tendencies, behavioral and eating disorders have also been frequently reported. Fear of additional sexual violence may also keep women from going about their normal activities, such as attending school, engaging in the market, or participating in decision making in the communities which they live in.

- **Emerging Issues in the Implementation of Legislation on Sexual Gender Based Violence: Good Legislation, Absurd Results??**

Every day, throughout the world, women are subjected to extreme acts of physical violence, which take place within the beguiling safety of domesticity. The violence is severe, painful, humiliating, and debilitating. And it is common. It is a phenomenon that stretches across borders, nationalities, cultures, and race. A binding characteristic of communities throughout the world, almost without exception, is the battering of women by men. SGBV is an express violation of human rights and mostly against women.

Many governments have committed themselves to prevent and end gender-based violence by ratifying international conventions and declarations, thus acknowledging the seriousness of the problem. Despite these efforts, violence against women is still rampant, hence the need to continuously conduct research in order to expose the hidden problem and suggest strategies that SGBV against women and children, but also prescribe how the victims can be compensated and supported. States have an obligation to promote and protect all human rights and fundamental freedoms of all citizens, and they must exercise due diligence to prevent, investigate and punish acts of violence against women and children.

Within this sub-theme focus will be on tracing the evolution of the law criminalizing SGBV, the impact of the application of the law, emerging issues as a result of implementation and application of the law as well as sharing notable best practices from various jurisdictions.

- **Emerging Gender Concerns in the Electoral Process**

In many conflict settings throughout the world, women continue to experience gender-targeted violence, such as rape, sexual slavery, and a host of other human rights abuse, as part of militia and military campaigns. Violence against women in this context is meted out by government actors, non-state militaries (including rebel forces and dissidents),
community members, and even, tragically, the peacekeeping forces that are sent to protect them and restore order.

In addition, the needs of women who are victims of SGBV are either overlooked or inadequately addressed by transitional justice mechanisms, including truth commissions, war crimes hearings, and reparation schemes. Interestingly, there are no protective measures and interventions that have been developed to prevent or protect women against this violence within conflict situations.

This sub theme will address the plight of women experiencing violence and especially SGBV in conflict situations that arise during electoral processes. Focus will be on a comparative study of various gender concerns that arise before, during and after elections in various jurisdictions and whether the law has been instrumental in preventing and protecting women as well as punishing the perpetrators of these offences.

The role of state and non-state actors before, during and after the conflict should also be addressed and how they were instrumental in mitigating and alleviating the situation.

2.2.3. Women in Leadership

- Towards Sustainable Stakeholder Engagement and Partnerships

For there to be sustainable development, linkages and partnerships must be created. The discussion here will be geared towards encouraging participants to network and develop sustainable partnerships that can be applied to guide programmatic interventions to enhance access to justice as well as to achieve the IAWJ ideals.

The IAWJ Global Leadership of Women (GLOW)

Women in leadership positions have attracted significant attention globally in terms of both dialogue and initiatives. While focus has previously been on women’s political leadership, women's institutional/ corporate leadership has also taken front stage. Participation of women in all leadership levels is vital to the success and sustainability of the world economy.

Proactive leadership needs to promote and include women, as gender equality is one of the goals’ that rears its head in all the other seventeen goals. The SDG's cannot be achieved without gender equality. This translates into women in leadership.

The focus of this sub theme shall lean towards how justice systems have grown to incorporate women in the leadership. The impact of having women in leadership positions and the opportunities available for women as they continue to grow in their careers within the justice systems should also be explored.