

ISSUE BRIEF

NAVIGATING COMPLEX PATHWAYS TO JUSTICE: WOMEN'S PARTICIPATION AND LEADERSHIP IN CUSTOMARY AND INFORMAL JUSTICE SYSTEMS



TABLE OF CONTENTS

Executive Summary	05
1. Introduction	06
Background and context	06
Key terms	07
Research framework and methodology	08
2. International human rights standards	09
3. National legal and policy frameworks	10
4. Women’s participation and leadership in customary and informal justice systems: a multifaceted reality	11
State customary court officials	11
State religious court officials	13
Community mediators and arbitrators	14
Family mediators	19
Mediators on peace, conflict and security concerns	20
Women as mothers, spouses, sisters and close relatives of male CIJ providers	22
Women paralegals	23
Women lawyers as legal aid providers and CIJ advisors	24
Women as customary law assessors and reviewers in higher formal courts	25
Custodians and teachers of CIJ operations and practices	25
5. Barriers to women’s participation and leadership in CIJ	26
Limited access to economic and other resources	26
Societal attitudes and stereotyping	26
Insecurity and GBV	27
Formal legal and constitutional impediments	28
Lack of support for women’s organizations	29

6. Pathways to women's participation and leadership in CIJ	30
Enhanced representation across public and political arenas	30
Capacity development and support for women CIJ actors	32
Gender-responsive legal and customary normative reforms	32
Positive media portrayal of women in CIJ systems	33
Community awareness, education, accountability and engagement	33
Gender-responsive CIJ systems	35
Understanding privilege and intersectionality	36
Access to and use of technology	36
7. Recommendations	37

TABLE OF CASE STUDIES

Case Study 1: Customary actors ending child marriage in Malawi	12
Case Study 2: Women's participation and leadership in the aksakal courts in Kyrgyzstan	17
Case Study 3: Localizing international standards: UNSCRs 1325 and 1820 and National Action Plan for Women, Peace and Security in the barangays of the Philippines	21
Case Study 4: Customary justice system in Kenya: Kenya National Council of Elders	30
Case Study 5: Restorative justice facilitation at the community level in Bangladesh	34

EXECUTIVE SUMMARY

The majority of justice seekers worldwide resolve their problems through customary and informal justice (CIJ) systems. Women constitute the largest group of users of CIJ systems for diverse reasons and rely on them for resolution of justice problems related to family and civil matters, access to land and natural resources, housing and debts, among other issues. Women often face obstacles in accessing and navigating formal justice systems due to high costs, inaccessibility of courts and other infrastructure, use of unfamiliar languages for proceedings, and procedural rules that are difficult to understand or culturally alien. In contrast, CIJ solutions are perceived as low-cost, accessible and able to provide prompt rulings and justice delivery. These benefits notwithstanding, CIJ systems are often skewed against women and girls, favouring male-dominated structures and patriarchal values, and discriminatory and harmful outcomes for women and girls. This limits their benefits as viable justice alternatives.

Women are not only users of CIJ systems, but also providers of justice within those systems. Women's participation and leadership in CIJ systems is widespread, though their various roles and contributions are often under-recognized. This issue brief brings together existing research, expert perspectives and programmatic experience on the various roles women play in CIJ systems; the factors that impede their participation and representation; and pathways and recommendations for promoting women's leadership in CIJ systems.

As the only intergovernmental organization exclusively devoted to promoting the rule of law, the International Development Law Organization (IDLO) is committed to enhancing access to justice for women and girls and gender equality and women's empowerment more broadly. This issue brief builds on earlier work undertaken by IDLO on women's access to justice in the context of CIJ. It reinforces the need to broaden approaches to advancing justice for women beyond legal measures by engaging at the nexus of culture and political economy in specific contexts, and determining how these factors impact women's participation and leadership in CIJ systems.

By documenting women's leadership and participation in justice delivery, this issue brief aims to elevate the priority assigned to women's agency in CIJ systems in rule of law policy development and programming. The rule of law plays an instrumental and enabling role in the recognition and fulfilment of women's rights, contributing to gender equality, the empowerment of all women, and the promotion of peaceful, just and inclusive societies. CIJ systems that respect the rule of law and women's human rights, especially their right to participate equally in the delivery of justice, have a particularly positive impact on access to justice for all.

The issue brief concludes with seven recommendations for policymakers, intended to support strengthening of women's participation and leadership in CIJ systems:

- 1.** Recognize and amplify the important and varied roles that women play as leaders and justice providers in CIJ systems.
- 2.** Affirm women's human rights as a significant and critical component of engaging with CIJ systems.
- 3.** Support women's movements and protect civic space to increase advocacy for women's participation and leadership in CIJ systems.
- 4.** Eliminate discriminatory laws and reform legislation to improve women's rights, including as justice providers in CIJ systems.
- 5.** Combat gender-based violence and discrimination against women justice providers in CIJ systems and ensure an enabling environment for their participation.
- 6.** Strengthen investment in CIJ systems as part of people-centred, gender-responsive justice reforms.
- 7.** Deepen partnerships and alliances for women's participation in CIJ systems.

1. INTRODUCTION

Customary and informal justice (CIJ) systems are a crucial part of the justice landscape throughout the world. The majority of justice problems in many countries worldwide, and especially in fragile and conflict-affected States, are resolved using CIJ systems:¹ recent surveys found that 2 per cent of justice problems in Kenya were settled in formal courts, for example, while 8 per cent of Bangladeshis who took action to resolve a justice problem did so through the courts.² CIJ systems are often the first and likely only port of call for people living in remote and rural areas, women, those living in poverty and vulnerable and marginalized people.³ Strategic engagement with and utilization of the systems therefore enables enhanced access to justice, especially for women and marginalized groups, and ensures that no one is left behind.

Women constitute the largest group of users of CIJ systems, for diverse reasons: in rural and peri-urban areas, CIJ is often cheaper, quicker, accessible in local languages and regarded as more culturally legitimate than statutory

alternatives.⁴ Women rely on these systems for the resolution of their justice problems, including those related to family and other civil matters, access to land and natural resources, housing and money or debt.⁵

It is less widely acknowledged that women are not only users, but also providers and administrators of justice in CIJ systems. In fact, there is widespread participation of women in CIJ systems, though the various roles they play and contributions they make are often under-recognized and under-reported.

This study brings together existing research, expert perspectives and programmatic experience on the various roles women play in CIJ systems; the factors that impede their participation and representation; and pathways and recommendations for promoting women's leadership in CIJ systems. The issue brief builds on earlier work undertaken by the International Development Law Organization (IDLO) on women's access to justice in the context of CIJ.⁶ It reinforces the need to

broaden approaches to advancing justice for women beyond legal measures by engaging at the nexus of culture and political economy in specific contexts,⁷ and determining how these factors impact women's participation and leadership in CIJ systems. By documenting women's leadership and participation in justice delivery, this issue brief aims to elevate the priority assigned to women's agency in CIJ systems in rule of law policy development and programming.

Anchored in Sustainable Development Goals (SDGs) 5 and 16, this research showcases how the rule of law plays an instrumental and enabling role in the recognition and fulfilment of women's rights,⁸ contributing to gender equality, the empowerment of all women, and the promotion of peaceful, just and inclusive societies for sustainable development at all levels. CIJ systems that respect the rule of law and women's human rights, especially their right to participate equally in the delivery of justice, have a particularly positive impact on access to justice not just for women, girls and children, but for all.

BACKGROUND AND CONTEXT

CIJ systems are justice and conflict resolution mechanisms that operate outside the formal system of State-based laws and courts, ranging from traditional and indigenous systems to local alternative dispute resolution (ADR).⁹ These systems offer justice solutions to local communities in situations where they would otherwise be absent. Women, in particular, often face obstacles in accessing and navigating formal justice systems due to high costs, inaccessibility of courts and other infrastructure, use of unfamiliar languages for proceedings, and procedural rules that are difficult to understand or culturally alien. Conversely, CIJ solutions are perceived

as low cost, accessible and providing prompt rulings and justice delivery.¹⁰ These benefits notwithstanding, CIJ systems "are often skewed against women and girls, favouring male-dominated structures and patriarchal values, and discriminatory and harmful outcomes for women and girls".¹¹ This limits their benefits as viable justice alternatives.

Recognizing these challenges, together with the commitment to ensure justice for all, there is a growing shift in the discourse on CIJ systems – one that is increasingly focused on strategic engagement and grounded in respect for human rights, especially women's

human rights, rather than on an absolute ban on working with these systems. IDLO has committed to promoting reforms in CIJ systems in order to "advance greater respect for, and the full enjoyment of, human rights for all, including women and girls as well as justice seekers from vulnerable and disadvantaged groups",¹² also recognizing that: "Any and all engagement with CIJ systems must focus on improving women's human rights and ensuring their practical realization. This means also thinking about the diverse groups of women that access these systems, their justice needs and the range of contexts they are situated in".¹³

As strategic engagement with CIJ systems occurs, it is critical to ensure that such work is undertaken with the acknowledgement that women are not only justice seekers but also justice providers in those systems. Focusing on women as justice providers situates them as active, informed and knowledgeable actors in CIJ systems, which contributes to improving access to justice, not only for women and girls, but also for vulnerable and marginalized people and communities.¹⁴

Despite the growing recognition of the importance of CIJ systems and women's representation in delivering justice for all, there is limited focus and understanding on women's representation in these systems. This gap needs to be addressed with evidence-based research. By documenting women's leadership and participation in justice delivery, this paper seeks to contribute to raising the profile of this critical issue in justice sector policy development and programming.



KEY TERMS

Customary and informal justice: CIJ systems are justice and conflict resolution mechanisms that operate outside the formal system of State-based laws and courts, ranging from traditional and indigenous systems to local ADR such as mediation and arbitration.

Customary and informal justice

While State recognition can vary, numerous terms are used to describe justice and dispute resolution practices that operate outside the formal, regulatory or State-based legal system. These may include, but are not limited to, alternative, community, customary, grassroots, indigenous, informal, local, non-State, people's, popular, religious, village and traditional law and justice forms. No universal agreement on terminology exists, given contextual differences across time and place, as well as different disciplinary or theoretical approaches and engagement priorities. In practice, the justice mechanisms this terminology covers include chiefs and elders, religious leaders or institutions, paralegals, mediators and local leaders providing dispute resolution services to individuals living within their communities. The nomenclature of CIJ thus refers to a broad spectrum, with authority and legitimacy deriving from a combination of custom, tradition, social and community norms, religion, as well as State law in some instances. Importantly, CIJ systems are not static and have also evolved or been adapted over time in response to colonization, conflict, globalization as well as changing social norms. Finally, as distinct from formal State courts, CIJ systems often exhibit a different approach, emphasizing restorative justice, flexible rules and procedures and consent-based negotiated solutions.

Excerpt from: [IDLO \(2020\) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems'](#)

Assessor: A person appointed to advise a judge, magistrate or other adjudicator in legal or court proceedings. In relation to customary law, assessors are usually appointed for their special knowledge or expertise to advise and guide the courts in reaching their decisions.¹⁵

Alternative dispute resolution: ADR includes "any process for resolving a dispute other than adjudication by a judge in a statutory court".¹⁶ The most cited ADR methods are negotiation, mediation, conciliation and arbitration (consensus-building and facilitation are also used but less common), and are distinguishable from conventional, court-based mechanisms by their reliance on

collaborative, non-adversarial resolution. These methods trace back to practices and traditions in many societies, such as *lok adalat* adjudication applied in *panchayats* (people's courts) in India.¹⁷ Modern interest and general acceptance of these practices have been spurred by the desire to improve access to justice and, in some contexts, to revive traditional justice mechanisms.¹⁸

Paralegal: A paralegal is a person, qualified by education, training or work experience, who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.¹⁹ While in most countries in the Global North paralegals work in law firms and other highly formalized settings, in many developing countries, they are often associated with civil society organizations (CSOs) or are community-

based. Paralegals provide basic advice and assistance to individuals who cannot afford lawyers, or do not know how to access the justice system or protect their rights. Their focus is often on empowering justice seekers to tackle problems. In some contexts, they also provide quasi- or complementary legal services such as mediation, conduct community legal education, or undertake advocacy work. IDLO recognizes that "Paralegals usually serve specific geographical areas and may at times

work under the guidance of lawyers, including pro bono lawyers. However, paralegals assume neither the status of a lawyer nor practice as one, and unlike lawyers, they often do not need specific academic qualifications, but may be required to meet minimum standards and have certain qualities".²⁰

RESEARCH FRAMEWORK AND METHODOLOGY



The analytical framework used for this study is both normative and conceptual. It builds on analytical legal research focusing on applicable provisions in CIJ systems, and in particular women's participation and leadership therein. It also applies literature and facts available on CIJ systems and the lived realities of women who play leadership roles as justice providers in those systems. The study also builds on theories underpinning CIJ, gender equality and women's human rights, and access to justice, among others, read in light of social, political, economic, cultural and religious realities.

This interdisciplinary approach

recognizes that the law does not apply in a vacuum but interacts with individuals and constituencies embedded in societies. It also recognizes the social, cultural, religious and historical realities of CIJ systems and how they include or exclude women or impede or facilitate women's participation and leadership.

The research recognizes that the inclusion of women as justice providers in CIJ systems brings them into platforms that are often biased and prejudiced against women. With this in mind, the research aims at ensuring that women's participation and leadership in CIJ also helps identify and break down biases and prejudices. It

also acknowledges that colonialism affected the understanding of customary norms by formal justice systems, with codification of traditional customs as "repugnant to justice and morality"²¹ leading to a convoluted approach to application and recognition of customary law in post-colonial States.

The research includes a political economy analysis that recognizes the main actors and power relationships and locates the available negotiation spaces for women as participants and leaders in CIJ systems. This analysis is elaborated in chapter 4.

In terms of methodology, the issue brief was developed using mixed research methods, namely: a desk and literature review as well as key informant interviews with experts, including researchers and practitioners relevant to justice reform, CIJ systems, and women's rights and gender equality, working at national and international levels.²² Previous IDLO research and consultations on CIJ systems,²³ especially on women and CIJ systems, formed an important backbone for the literature review as the study sought to build on existing research and institutional knowledge. Key informants and experts were identified from different national contexts with a view to soliciting varied views on the operations of CIJ systems in diverse jurisdictions. The paper was also informed by a focus group discussion²⁴ and an expert group meeting.²⁵

2. INTERNATIONAL HUMAN RIGHTS STANDARDS

Despite the documented advantages of CIJ systems for many justice seekers, these systems often have adverse effects on women's enjoyment of their human rights and on gender equality more broadly, impacting women's access to justice and their right to lead and participate in CIJ systems on an equal basis with men. Given the disparate forms and dispersed nature of CIJ systems, some level of standard-setting becomes imperative in ensuring human rights protection. The adoption of human rights-based approaches can lead to the evolution of norms towards enhanced participation and leadership of women in CIJ systems.

Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) specifies that State Parties must "take all appropriate measures to eliminate discrimination against women in the political and public life of the country" and to this end they must ensure women's right "to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at the level of government". According to the CEDAW Committee, political and public life refers to: "the exercise of political power, in particular the exercise of legislative, judicial, executive and administrative powers".²⁶ This means that States should institute all appropriate measures, including temporary special measures, to ensure women's equal participation in judicial and other legal institutions, where equality in law has not resulted in substantial equality in practice.²⁷

In General Recommendation 23, the CEDAW Committee noted the exclusion of women from top-ranking positions in cabinets, public administration, the

judiciary, and in justice systems, and that women formed a tiny minority in lower levels of decision-making. To address these challenges, the Committee urged State Parties to ensure that their constitutions and legislation comply with the principles of the Convention, and to put in place measures to achieve women's enjoyment in practice of the equal right to hold public office, perform public functions and participate in the country's political and public life.²⁸

Other human rights conventions, declarations and commitments have also placed importance on the participation of women in public life as part of setting an international normative framework of equality. These include the Universal Declaration of Human Rights (article 21), the International Covenant on Civil and Political Rights (article 25), the Beijing Declaration and Platform for Action (Strategic Objective G – Women in Power and Decision-Making) and the 2030 Agenda for Development (SDGs 5 and 16).

While attention is often given to the instrumental value of women as justice providers, the intrinsic value of their leadership and participation in justice systems, including in CIJ ones, is of primary importance. The participation of women in decision-making bodies is a human right. As such: "The effective involvement of women in all aspects of justice delivery is a core aspect of their participation in public and political life, and a crucial component of good governance. It is a matter of fairness and equal opportunity, and representation of women and men in decision-making bodies is a human right inscribed in all of the core human rights instruments – a right that all

States have an obligation to respect and promote."²⁹

A focus on human rights is particularly important at the community level where many CIJ systems operate, and where the need or desire to safeguard cultural alignment and responsiveness of CIJ systems to the needs of local communities must be combined with ensuring respect for the rule of law, including human rights standards and gender equality. This calls for constructive engagement with semi-autonomous social fields to ensure that "they promote gender equality in the overarching legal and normative terrain".³⁰ Strengthening normative frameworks that support women's rights, especially on participation and leadership, is therefore a priority, together with better strategic alignment between CIJ systems and international standards, constitutional protections and linkages with the relevant enforcement mechanisms.

International human rights frameworks are an important source of guidance for CIJ systems. Realizing the synergistic relationship between international human rights law and CIJ demands reform strategies aimed at improving CIJ systems and ensuring alignment with and localization of international law and human rights standards.³¹



3. NATIONAL LEGAL AND POLICY FRAMEWORKS

Legal and policy frameworks at the national level have a bearing on CIJ systems and women's participation and leadership therein. Challenges encountered in CIJ systems are often a reflection of formal State law and how it regulates or treats justice delivery in its different dimensions. The inequalities that isolate communities and persons from formal justice also leave them on the sidelines of CIJ systems. There are countries with legal frameworks that recognize CIJ systems or have policies and regulations in place to manage CIJ through processes such as referrals, reviews and appeals. For example, "in Indonesia, courts are legally obligated to account for customary processes, local values and customs, and outcomes of customary law tribunals when deciding cases."³² The Constitution of South Africa recognizes that "the Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill."³³ In such cases, the Constitution and formal law

can either enhance or diminish women's participation and leadership in CIJ systems. By subordinating all other laws, norms and practices, including customary law, to the Bill of Rights and the Constitution, there can be better protection for women and their increased participation in CIJ systems. However, where customary or religious laws are exempted from constitutional scrutiny, the outcome is increased violation of women's rights and diminished gender equality.

Formal laws can also help bring to the fore the ongoing debate about constricted human rights spaces in CIJ systems, and their lack of recognition of women's participation, leadership and inclusivity. As such, there is a need to create a "context-informed and clearly defined interface between formal and CIJ systems".³⁴

Legislative and policy prescripts generally have the effect of regulating the relationships among the mechanisms, institutions and practices

within plural justice systems in order to reduce the potential for conflict, and ensure compliance with constitutional protections and international human rights standards, including those protecting women's rights.³⁵

In the context of women in CIJ systems, legislative provisions for temporary special measures, including quotas, could play an important role in improving women's participation and representation. As with formal systems, they can help in rectifying women's limited representation and normalizing the participation of women in CIJ systems, which are traditionally viewed as men's spaces. Legislation or policies providing for temporary special measures, including quotas, in these systems should go beyond numbers and elaborate on all appropriate measures that the systems must take to address de facto discrimination and guarantee meaningful participation and contribution by women.

4. WOMEN'S PARTICIPATION AND LEADERSHIP IN CUSTOMARY AND INFORMAL JUSTICE SYSTEMS: A MULTIFACETED REALITY

The discourse on women's engagement with CIJ systems tends to focus on women as justice seekers and beneficiaries of justice provision. Where women's participation and leadership in CIJ systems is discussed, it is often limited to the role of women as decision-makers or adjudicators. Yet, women can play multiple and varied roles in the process of ensuring access to justice and effective remedies. As there is a significant research gap in the types of leadership roles women play in CIJ systems, this paper looks at both the legal provisions that open up spaces for women's participation as well as examples of women occupying roles in justice delivery. The listing is by no means exhaustive, but rather seeks to highlight the variety and extent of women's participation in dispute resolution and justice delivery in CIJ systems.

STATE CUSTOMARY COURT OFFICIALS

Women participate as justice providers in State customary courts, which bestride the formal and informal justice systems. These courts generally use customary law to adjudicate cases, but often have no formal rules of procedure and are not courts of record. They are usually recognized in statute and sometimes even in national constitutions.

For example, Zimbabwe's 2013 Constitution states: "The institution, status, and role of traditional leaders under customary law are recognised". It also provides for the resolution of disputes among people in their communities in accordance with customary law as one of the functions of traditional leaders.³⁶ Though adopted before the 2013 Constitution, the Customary Law and Local Courts Act³⁷ elaborates on the functions of customary courts and the appointment of presiding officers who are mostly traditional leaders. The first female chief in the country was only installed in 1997; since then, more women have been appointed to traditional leadership positions of chief, headperson and village head. By 2018, there were six female chiefs (out of 272) and 13 female headpersons (out of 452).³⁸ Subsequent

constitutional provisions on equality and non-discrimination and the subordination of customary law to the Constitution³⁹ have played an important role in elevating women as traditional leaders and adjudicators in customary courts. However, the number of women traditional leaders remains low, mainly because of traditional and patriarchal structures that frown upon their assumption of such positions.

In Papua New Guinea, section 172 (2) of the Constitution established the village courts. This is the lowest level of the justice system, wherein the Justice Minister appoints court magistrates.⁴⁰ The village courts may apply local rules and customs with the ultimate objective of promoting peace and harmony within communities.⁴¹ A 2014 amendment to the Village Courts Act has as one of its objectives "to improve access for women to Village Courts and to eliminate discrimination against women in Village Court Proceedings". It also has a specific provision stating that a village court should have between three to ten members and that at least one village court magistrate must be a woman. The Act further states that village courts are to be informal, open and accessible to all,⁴² emphasizing

their characteristic of straddling the formal and informal. While legislative provisions help articulate the participation and leadership of women in the system, the participation of women in the village courts remains constrained, despite progress since the appointment of the first woman village court magistrate in 2003.⁴³

Case Study 1: Customary actors ending child marriage in Malawi

Country: Malawi

Theme: Ending child marriage

CIJ Platform: Chief's courts

Similar to many other countries, child marriage is a significant problem in Malawi, with United Nations Children's Fund (UNICEF) statistics showing that it has one of the highest prevalence rates in the world. Some 42 per cent of girls get married before the age of 18 and 9 per cent before the age of 15; boys are also affected, with 1 per cent getting married before the age of 15 and 6 per cent before the age of 18.⁴⁴ Despite the Marriage, Divorce, and Family Relations Act of 2015 banning child marriage in the country, the practice remains prevalent at the community level. Drivers of child marriage range from poverty and cultural or religious traditions to peer pressure.⁴⁵ According to the United Nations Population Fund (UNFPA), child marriage has a devastating impact on children, compromising the health and security of women and girls, preventing girls from achieving their full economic and social potential, and subjecting girls to sexual violence, risky pregnancies, fistula and exposure to HIV. It is also linked with early childbearing, which is associated with death and injury for many young mothers.⁴⁶

Realizing these challenges, Malawi's first female paramount chief, Chief Theresa Kachindamoto of the District of Dedza, made it her life's mission to end child marriage in the country.⁴⁷ Chief Kachindamoto annulled more than 4,000 child marriages after her appointment in 2003 and engaged her more than 900,000 subjects around the issue, using her authority as their traditional leader. She engages parents to support their children and encourage them to remain in school, engages the affected girls, and has persuaded 50 sub-chiefs in her district to agree to end child marriage and annul existing ones. To stamp her authority and ensure compliance, she fired four sub-chiefs, finding them responsible for continuing child marriage in their areas of jurisdiction.⁴⁸

During the peak of the COVID-19 pandemic, she warned parents against marrying off their children and advised that anyone who forced a child into marriage would be required to bring a cow as a fine,⁴⁹ and ordered sub-chiefs under her jurisdiction to annul all child marriages that took place during the pandemic and encourage the children to return to school, warning non-compliant sub-chiefs that she would not hesitate to fire them as she had previously done. She stated: "I removed some chiefs before for the same reason, so chiefs know the consequences of not adhering to my directives". The chief values education and uses her position to encourage girls who fall pregnant to return to school after giving birth.⁵⁰

Nicknamed the "terminator" of child marriages, Chief Kachindamoto's fight to end child marriage in Malawi has been viewed as necessary and effective in a country with deeply entrenched customary beliefs and gender stereotypes that sustain discrimination against women and girls. She worked with fellow women and mothers through the Mothers' Group, which goes door-to-door in an effort to ensure that girls who drop out of school as a result of pregnancy can resume their education. They spend time in the village and can identify pregnant girls, those who have dropped out of school, and those in need of help and provide the necessary help and support.⁵¹

Chief Kachindamoto has been recognized for her work in ending child marriage in Malawi. Her "achievements are against all odds – as the first woman leader in her village and in a village where child marriage is deeply embedded in cultural practice, her fight for cultural change has required determination, leadership and persistence".⁵²

Lessons from Chief Kachindamoto's experience include:

- » It often takes a female traditional leader to appreciate the importance of justice for children and child protection, including in relation to access to education and protection from child marriage and sexual violence.
- » Female traditional leaders often work with other women, leading to better access to justice for women and children, as they understand the specific challenges faced by these groups.
- » Providing international platforms to showcase female CIJ leaders amplifies their work, leading to more recognition and acceptance of their work – the recognition that Chief Kachindamoto has received internationally has made it easier for her to stamp her authority on non-compliant traditional leaders, both male and female, protecting children in the process.

STATE RELIGIOUS COURT OFFICIALS

Religious courts or religious tribunals can be State or non-State based. In dispute settlement, they ground their decisions on religion-based laws and norms, and judges are members of the particular religious community whose laws the courts apply. Linkages between the State and religious courts vary considerably from country to country or from community to community. Where religious courts are State-run or State-operated, they “enjoy either exclusive jurisdiction in a specific area – such as family law – or share their concurrent jurisdiction with secular state courts”.⁵³

The participation of women in State religious courts is contentious. For example, Israel appointed its first woman *qadi* or religious judge in the *Shari'a* court system, Hana Mansour Khatib, in 2017. *Shari'a* courts in Israel deal with personal status matters for the Muslim community, such as marriage, divorce, conversion, inheritance and prevention of domestic violence.⁵⁴ Israel's president stated that this appointment was testament to the positive changes for women in the country, and that more appointments would follow; he highlighted that it was the duty of the State to ensure that women participated in the implementation of laws in all spheres of life.⁵⁵ The appointment elicited controversy, with one *sheikh* warning the justice minister “not to intervene in matters of Islam”.⁵⁶

One senior male *qadi* who was a member of the Appointment Committee stated that, “We accept differing opinions, but during the election process we unanimously agreed that it was religiously acceptable for women to serve as *qadis*.” In interviews after the swearing-in ceremony, Khatib emphasized that she would work within *Shari'a* rules and procedures to pacify critics who argued that, as a woman, she could not be appointed as a religious judge.⁵⁷

The appointment of a female *qadi* in Israel was the culmination of more than 22 years of campaigning spearheaded by the Working Group for Equality in the Personal Status Law. In 2001, in the case of *Obeyd v. Minister of Religious Affairs*, the group lost a Supreme Court challenge after the *Qadi* Appointment Committee selected a male *qadi* over a more qualified female candidate. The Working Group continued with its advocacy work despite such setbacks, and it was a female Justice Minister who pushed for the appointment of the first woman *qadi* in 2017, an example of the importance of women's leadership in one public sphere facilitating leadership in another.

Few women serve in religious courts around the world. At the time of Khatib's appointment, there were only two female *shari'a* judges in the West Bank, one in Ramallah and one in Hebron.⁵⁸ In 2015, Scarlet Bishara became the first

woman in the Middle East to be appointed to a lifetime seat as a judge on the Lutheran Ecclesiastical Court, which governs family matters among Evangelical Lutherans in Jordan and The Holy Land. She has shown passion in easing pathways for women to be able to access the court, whereas traditionally they only came as a last resort after consulting their family, fathers and pastors. The Lutheran World Federation acknowledged this positive development stating that “women trust a woman judge to understand them”.⁵⁹

In Saudi Arabia, although a female arbitrator was appointed to a commercial court in 2016,⁶⁰ and a female lawyer as a member of the Committee for Review and Adjudication of Competition Law Violations in 2020,⁶¹ the country does not have women as full members of its judiciary.⁶² The barriers to the appointment of women judges are mainly cultural and religious, since there is no law specifically barring women from holding positions in the judiciary. Laws such as the Saudi Basic Law of Governance and the Law of the Judiciary do not prohibit women from working in the judiciary,⁶³ but instead give citizens, male and female, equal opportunity to hold public positions of authority and responsibility. In 2000, the country affirmed its commitment to gender equality by signing and ratifying CEDAW. In addition, Saudi Arabia has generally made significant progress in removing employment restrictions on

women and promoting women's employment rights. This includes eliminating restrictions in areas that were previously considered dangerous for women and removing restrictions on women working night shifts.⁶⁴ These changes, however, have not translated into increasing women's appointment as judges,⁶⁵ indicating that society resists the participation of women as leaders and decision-makers in the religious courts despite progress on the legislative front, given the interconnectedness between these courts, patriarchy and culture.

This resistance is also manifest in Israel, where Jewish women still cannot be witnesses or judges in rabbinical courts. This presents a clear dichotomy in one country where the government accepted women's participation and leadership in one religious court without delivering progress in appointments to another religious court in the same jurisdiction. In 2017, a decision of the High Court of Justice declared that Jewish women could be appointed as directors of rabbinical courts, an administrative position.⁶⁶ Women also serve as judges in the country's secular courts, making their total exclusion in rabbinical courts as judges and limited

participation in other administrative and leadership positions even more visible.⁶⁷ These examples illustrate serious religious contestations and the general impact of religion on women's rights and gender equality, which spills into their roles and positions in religious courts. It also shows that there can be a role for formal justice systems, in particular the higher courts, in influencing change in favour of women's participation.

Constitutional provisions on women's participation, though critical, may not always lead to a resolution of these contestations. In Kenya, despite the adoption of a new constitution in 2010 that has integrated gender-specific provisions, the appointment of female *kadhis* (religious judges) remains an arena of contestation. Article 27 of the Constitution states that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender, yet section 170 providing for the appointment of *kadhis* is silent about their gender. While former Chief Justice Willy Mutunga supported the appointment of women *kadhis*, many Muslim leaders and organizations in the country remain opposed, citing Islamic religious considerations.⁶⁸

Despite these contestations, some countries have made significant progress in appointing women to religious courts. For example, in 2016, Malaysian States embraced the idea of appointing women to higher Syariah courts.⁶⁹ The country started appointing female Islamic judges in 1960, and women have chaired several courts. Steady but slow progress toward increasing the presence of women in the religious courts has been hailed for boosting women's participation in the public sector and for improving access to justice for disadvantaged female litigants, especially in family matters.⁷⁰

COMMUNITY MEDIATORS AND ARBITRATORS

Somalia. Somalia draws from four legal traditions: *Xeer*, *Shari'a*, Italian civil law and British common law. *Xeer* is a customary code of conduct and a long-standing form of dispute resolution where, in cases of conflict, male elders discuss matters until they reach an acceptable agreement. *Xeer* maintains widespread legitimacy and use within Somalia, despite concerns about its alignment with human rights and gender equality standards. It is seen as an integral component of Somali life and continues to be the most used legal system in all Somali regions, applied in up to 80 to 90 per cent of justice problems. The participation of women

as decision-makers and their ability to exert influence within the *Xeer* system are subject to considerable constraints. Long-standing cultural stigmas that discourage direct engagement of women with male leaders impose restrictions on women's access to and active involvement in the *Xeer* system. Typically, women's presence in hearings before elders is mediated through male family members or appointed intermediaries.⁷¹

Recognizing the essential role of the *Xeer* system as an effective tool for promoting social cohesion and regulating inter- and intra-clan affairs,

IDLO supported the establishment of ADR Centres as a unique model of justice delivery. The process blends elements of arbitration, mediation and other conventional ADR methods while preserving alignment with *Xeer* customary norms and emphasizing consensus-building and voluntary agreement by parties. In promoting access to justice through ADR Centres, IDLO was cognizant of both the usefulness and shortcomings of the *Xeer* system and sought to embrace the positive aspects while addressing with urgency the inadequacies, in particular by ensuring gender equality and women's human rights in *Xeer* and

gender-responsive approaches in the ADR Centres, including women's effective representation as CIJ justice providers.⁷²

IDLO promoted the active engagement of women to act as adjudicators, counsellors and advisors, as well as the leadership of women in the adjudication panels. Adjudicator rosters are composed of *Xeer* elders from different clans, *Shari'a* practitioners, and a minimum of two women adjudicators to ensure representation of constituencies and legal systems. Two factors were indicative of the readiness of the State and customary leaders to integrate women as justice providers in the ADR Centres. First, male adjudicators, mostly composed of clan elders and *sheikhs*, observed the value of having women adjudicators in cases involving women in the patriarchal context of Somali CIJ. Women adjudicators played roles such as "welcoming women to the Centres, informing them of their rights and gathering evidence or hearing their statements separately to ensure their privacy. This [was] seen as important as issues of stigma and reluctance on the part of women to speak about their personal problems in public and in front of male elders in particular emerged. In these cases, female Adjudicators [spoke] with female parties in private ahead of the hearing and report[ed] relevant information to the Panel later to inform decision-making".⁷³

The second factor was the explicit endorsement by the Somali Ministry of Justice of the appointment of women in leading roles. "While the majority of Chairs and deputy Chairs [were] male, in one Centre, under the guidance of the Ministry of Justice, a female Adjudicator was appointed deputy Chair, despite the initial resistance of other male Adjudicators and one resultant resignation." The Federal Government of Somalia National ADR Policy, the policy on the *Xeer*, which IDLO helped develop between 2014 and 2016, is unequivocal in its provision of quotas for women's participation and representation. Generally, explicit recognition from the Ministry has been fundamental in enabling a female



adjudicator to acquire and maintain a leading role within the Centres and has facilitated acceptance of change by male ADR actors. Furthermore, the National ADR Standard Operating Procedures (SOPs) established in 2018 provide specific provisions for enhanced participation of women in ADR Centres, including:

- » ADR Centres should maintain a roster of 10 to 15 adjudicators with equal representation by men and women.
- » Adjudicators should be selected from among specific social categories (elders, *sheikhs*, women and businesspeople) to ensure a credible, authoritative and gender-balanced representation as well as representation of minority groups.
- » Prominent female figures from communities where the Centres are established should be encouraged to participate during all levels of the dispute resolution process.
- » Adjudicators have the same authority and decision-making power regardless of age, gender, clan or status.

- » Responsibilities of the Chair of the Adjudicator Panel include ensuring that the positive role of women in traditional dispute resolution is emphasized and encouraged.

Currently, in ADR Centres supported by IDLO, 22 per cent of adjudicators are women. Furthermore, 32 per cent of these ADR Centres have a female deputy chair adjudicator (7 out of 22), representing the significant progress enabled by the initiative.⁷⁴ Despite variations across different ADR Centres, women reported being given equal opportunities to be heard and to participate in the system. In some cases, women adjudicators reported that they were sometimes given lead roles, especially in cases involving women parties.⁷⁵ This was in contrast to earlier positions, where women's participation and leadership was generally openly resisted by male adjudicators – for example, whereby women adjudicators were required to make contributions to the process but excluded from the actual decision-making. With time, women acquired the

opportunity to sit at the table with men and progressed into adjudication roles. The women adjudicators were able to assert their voices, with one female adjudicator stating that a man "is not smarter than I am, his voice is not stronger than mine...a woman can do everything that a man can do and women have also become more educated".⁷⁶

The Somali experience suggests that working with governments and introducing legislative or policy measures for women's inclusion in CIJ systems is critical to enabling effective action and ensuring results. The National Policy on ADR prescribes that all panels of adjudicators should ensure at least 25 per cent participation of women; this constituted the basis for the development of SOPs for the ADR Centres, which call for gender parity and compel the Centres to work towards achieving that target.

The Somali example also reinforces the view that women's participation and leadership in CIJ systems not only leads to improved outcomes for women and gender equality, but also contributes to the achievement of broader justice goals. One female adjudicator noted that the participation of women as adjudicators in the Centres has helped improve access to justice for women and children, as their presence gives these otherwise marginalized groups confidence in the capacity of the Centres to adjudicate their cases in a fair and just manner.⁷⁷ The overall sense of fairness and justice emanating from the presence of women as justice providers has been echoed in research on women judges in the formal justice sector, where it has been noted that "the presence of women increases trust in the judiciary and improves justice experience for women and groups most at risk of being left behind".⁷⁸

Sierra Leone. In addition to more formalized recognition of women as community mediators and adjudicators, women may play these roles in practice. In Sierra Leone, secret societies that are exclusively composed of women, and their leaders, the *Soweis*, have an

ingrained role in community life. Known as *Bondo or Sande*, these societies count most women in Sierra Leone as members. Women political leaders have to be members of the societies before being elected to political office, and the societies exert considerable influence over various aspects of life, such as training women in crafts and historical traditions. In the context of historical traditions and culture, secret societies also play a role in the entrenchment of harmful cultural practices such as female genital mutilation (FGM). They train young girls for womanhood and on virtues that make a good wife and mother, and to conform to prescribed gender norms.⁷⁹ Often, these virtues have the effect of entrenching beliefs and practices that subordinate women to men. In these ways, some secret societies have the effect of perpetuating gender inequalities and violations of women's and girls' rights.

Admission into a secret society is usually preceded by rituals that include FGM, making the societies a power base for women but one that is steeped in harmful custom and cultural practices.⁸⁰ Despite these contestations, their positions and relative power and influence as institutions can be channelled to promote progressive principles on women's rights and gender equality and help in eliminating harmful and discriminatory practices. This view relies on the fact that culture is not static, and therefore, with engagement and education, the secret societies can be harnessed to complement and improve available justice delivery services and platforms for women, while actively discouraging the societies from engaging in harmful cultural and other practices.

The potential positive role that the secret societies can play was conceived in the context of conflict and post-conflict violence against women in Sierra Leone due to the 1991–2002 civil war, with gender-based violence (GBV) the most widespread crimes committed against women. There is also recognition that post-conflict contexts offer potential space for the creation of new institutions and ways of thinking,

and it is in this context that even institutions that are generally viewed as regressive can be transformed and reconstructed, with positive outcomes for the poor, vulnerable and marginalized. During and in the wake of conflict, the *Soweis* often played an important role in accompanying survivors of sexual violence to the relevant authorities to report crimes and obtain other assistance. They also assisted survivors to navigate the formal justice system, and in making referrals to other institutions that could provide needed help. They play other justice provision roles in the community, given that they are respected and feared in equal measure, even by the chiefs and other males from the formal structures such as the police. In this regard, it has been noted that "rural men fear and respect the Societies, especially their putative power to punish them spiritually and physically if they mistreat their wives or transgress *Sande/Bondo* laws".⁸¹

The authority of the societies and *Soweis* derives from the power they exert on traditional authorities, men and society at large in both a spiritual and physical sense, with part of the power steeped in the ideology of secrecy, ritual and use of magical power. This demonstrates that the lack of participation and leadership of women in CIJ systems is a product of power relations, and if dominant power is challenged, room is created for women to take up leadership positions. From a programming or legal and practice reform perspective, there is need for much thought to be put into processes that assist in dismantling the power that underpins inequalities in CIJ systems in order to improve and sustain women's participation and leadership.

This example shows that though the societies do not have a formally recognized dispute resolution role, they already play such a role in practice in cases affecting women. The respect that they command enables them to serve as platforms for promoting access to justice with the *Soweis* playing a key role as women justice providers or enablers of access to justice for women and other vulnerable people in communities. As

the secret societies and the *Soweis* uphold certain customary practices that undermine women's rights and gender equality as well as promote patriarchal traditions, engaging with them to end such practices is an indispensable part of the process of embracing their roles as informal justice providers.

Mammy Queens are equally important CIJ actors in Sierra Leone. These are female community leaders with the responsibility to settle community disputes, safeguard law and order, and ensure that peace and harmony prevail in the community. They are considered to be approachable and accessible as social providers. They intervene on social matters arising in the community, whether reported or not. When there is a threat to the peaceful coexistence of people in the community, they take

action to correct the situation, including through mediation.⁸²

There is a need to address the capacity challenges faced by women as community mediators and arbitrators. Capacity development in the areas of women's rights, gender equality, constitutional protections and international human rights law can help address the shortcomings and negative aspects of their operations, while repurposing CIJ systems as accessible justice provision institutions for all justice seekers, including women and girls. The participation and involvement of the State also helps promote acceptance of international human rights standards by the broader society and the relevant institutions and actors. This is important because where such standards are imposed without broader

societal consent, the different actors and structures are likely to continue acting in line with dominant social codes.⁸³ The State must take up this role as the primary duty-bearer in providing access to justice, a duty that cannot be abdicated.⁸⁴

Case Study 2: Women's participation and leadership in the *aksakal* courts in Kyrgyzstan

Country: Kyrgyzstan

Theme: Women's participation and inclusion

CIJ Platform: *Aksakal* courts

Kyrgyzstan became an independent State in 1991, following the dissolution of the Soviet Union. As the country strove to define itself socially, politically, economically, legally and historically, the revitalization of *aksakal* courts emerged as a rallying point for nation-building and national identity. Askar Akayev, the first post-independence president, saw this as an opportunity to integrate traditional institutions into State structures, and stated that this was "the revival of an ancient tradition for the sake of nation-building, for future-oriented state ventures, and out of personal motivation".⁸⁵

The *aksakal* courts were initially accused of serious human rights violations and patriarchal predispositions, leading to calls from national and international organizations as well as the United Nations for their abolition. Instead of abolishing these mechanisms, the Kyrgyz government embarked on a process to refine, reform and redefine their jurisdiction, leading to their current recognition by the public as a useful justice delivery institution.

The term *aksakal*, literally translated to mean "white beards", implied that the courts were to be composed of elderly men only. For years, this was the case. However, the calls for their reform included the need to engender them by increasing women's participation and leadership. Proposals were made to rename the courts and remove their tag as an elderly men's institution.

Proposals for reform were also informed by the realization that the *aksakal* courts could be leveraged positively, and local CSOs adopted new and innovative ways of interacting with them as they play an important justice provision role on matters such as those relating to land and other natural resources, livestock issues and economic matters between and among community members.⁸⁶ The interventions included training members of the courts in human rights, women's rights and general principles of law. These efforts led to the inclusion of women above the age of 50,⁸⁷ who are electable due to the respect they command in their communities and whose reproach is seen as tantamount to that coming from a mother or grandmother.⁸⁸ Originally a rural phenomenon, the establishment of the *aksakal* courts in urban areas, including in the capital of Bishkek and in the southern city of Osh, has facilitated improved women's participation and leadership.⁸⁹ However, young men and women remain generally excluded from representation in these courts,⁹⁰ and even the number of older women included in the courts remains low.

As such, efforts toward greater inclusion need to be taken a step further to safeguard gender balance and support the participation and leadership of younger women. Article 37 of the Constitution requires that folk customs and traditions do not infringe upon the Constitution, and article 92 (1) requires that *aksakals* act on the basis of the Constitution and other legal acts of government. This includes protection and promotion of equality regardless of gender or age as provided for in article 16 (2) of the Constitution. Article 1 of the Law on *Aksakal* Courts⁹¹ specifically mentions that these courts can be composed of men and women. The inclusion of women is important because it has been observed that women turn to the *aksakal* courts and other customary institutions more frequently when their membership includes a woman representative.⁹² Yet women *aksakal* leaders continue to face scepticism and lack of acceptance and recognition despite constitutional protections and laws requiring them to be included in the courts as leaders.

Recognizing their importance, IDLO worked with the *aksakal* courts in Kyrgyzstan. This entailed facilitating training for members of *aksakal* courts on legal jurisdiction and the mandate of the customary justice system in the Chui region. The elders who participated in the capacity strengthening activities proactively sought to improve their knowledge of the formal legal framework and viewed the training as an opportunity to enhance collaboration with the formal courts and ensure compliance with legal and human rights standards.⁹³ IDLO has also supported women *aksakal* leaders by giving them international platforms to showcase their work and advocate for the inclusion of women in these courts.⁹⁴

Lessons emerging from this case study include:

- » Collaboration with the formal courts enhances CIJ actors' capacity to handle human rights issues.
- » Capacity development of CIJ actors, especially the leaders, to ensure appreciation of women's rights, human rights and gender equality tenets facilitates women's participation and leadership.
- » CIJ systems that are recognized and supported both constitutionally and legislatively provide a platform for advancing women's participation and leadership.
- » There is a need to include young women and men so they gain the skills needed to facilitate women's inclusion and participation from a young age.
- » Transitions in governance can be used as a platform to reform CIJ systems, as with other governance and institutional arrangements, and transform them from rigid and unresponsive systems to human rights-sensitive ones that respect women's participation and leadership.

FAMILY MEDIATORS

In many cultures, women play an important dispute resolution role within families, especially as mediators, negotiators and arbitrators. In Kenya, a significant percentage of problems are solved in an informal manner, often handled by family members in the first instance, before being taken up by friends, religious and cultural leaders, and institutional third parties such as chiefs.⁹⁵

In southern Africa, a sister plays a central role in the marriage and family of her brother, and so does a father's sister (aunt) in the lives of her nieces and nephews. Variably known as *vatete*, *makhadzi*, *rakhadzi*, *ubabekazi*, *rakgadi* or *mafungwase* in the different southern African languages, the sister is seen as the voice of cohesion among her siblings and the family in its entirety. She is required to resolve disputes that arise between siblings and between her brothers and their wives, as well as their children, and plays a robust advisory role within the extended family.⁹⁶ In these cultures, her age or marital status has no relevance, and she plays this role even in relation to older siblings. In the Zulu (South Africa) and Shona (Zimbabwe) cultures, family disputes cannot be resolved or critical discussions held in her absence. Her decisions are usually adhered to.

Other female family members such as mothers and grandmothers also have a say in family dispute resolution processes in southern Africa. In Eswatini, for example:

- » *Inkhosatana*, eldest daughter, sits in key family meetings.
- » *Babekati*, contemporarily referred to as aunt, sits in and has a say in family meetings including the extended family.

- » *Gogo*, or grandmother in the family, is accorded special respect, with family meetings, including dispute resolution meetings, held in a special hut built for her, a practice upheld even after her death.⁹⁷

Leveraging these roles in dispute resolution at the family level is therefore an important aspect of promoting women in CIJ systems. They are well-positioned to influence family decisions, and at times even take the necessary decisions themselves, requiring family members to abide by them. Assisting women to use these roles to protect their own rights and those of other women within families is critical in promoting access to justice for women. A clear understanding and appreciation of these birth and marriage rights, the power that comes with the positions, and appropriating them to enable women to participate and lead in CIJ systems, is equally important.

Often, men within and outside families fight to undermine these positions, hence the need to continuously educate communities and the women themselves to ensure that their roles are not obliterated both within the family and communities and at national levels. This challenge is compounded by the fact that across African countries, the version of customary law that was adopted during and following colonization was far removed from the customary law practiced in pre-colonial society, and it is this "re-invented" version of customary law that has been used to undermine the rights that women otherwise enjoyed in the pre-colonial era.⁹⁸ Reiterating that leadership of women in CIJ systems is a long-standing customary and traditional practice is important in countering patriarchal inclinations, which tend to use the same culture, custom and tradition as bases for discriminating against women and undermining their authority.

There is no denying that women had authority that could be used in many settings, at the family and community levels, as well as in CIJ systems.⁹⁹ Elevating the role of women as leaders in CIJ systems is therefore a way of decolonizing the justice systems in many of the former colonial States in different parts of the world. In this regard, redistributing the power to deliver justice to indigenous and local communities as a principle of decolonization should specifically include women and their roles as justice providers and leaders at the local level, even in families.

MEDIATORS ON PEACE, CONFLICT AND SECURITY CONCERNS

In the Middle East and North Africa (MENA) region, women have played an important role in mediating local conflicts, including as informal mediators. Case studies from Iraq, Libya, Syria and Yemen show that, unlike men who rely on their formal positions to mediate disputes, women work more as “insider” mediators, meaning that they have some type of connection to the dispute and are perceived as credible by the disputants. Research in the four MENA countries showed that women were able to mediate a cross-section of disputes around security, displacement and return of internally displaced persons, and inter-personal or inter-family conflicts.¹⁰⁰ Other than direct mediation, women also played other less visible roles such as initiating dialogue, bringing parties to the negotiating table, and rebuilding relationships. The case studies show that while significant progress has been made in including women as informal mediators, there remains a need to focus on five strategic areas of support, namely:

1. Strengthening networks and knowledge-sharing
2. Providing resources that enable inclusion of a diverse range of women
3. Improving protection for women mediators
4. Encouraging local ownership and context-specific support
5. Continuing to raise public awareness through advocacy and research¹⁰¹

The recognition of women's roles as mediators in peace processes has seen them play an increasingly significant and effective mediation role at the community, national and transnational levels.¹⁰² Several women mediation networks across the globe have been created in line with this recognition.¹⁰³ This is in accordance with United



Nations Security Council Resolution (UNSCR) 1325, which “urges Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict.”¹⁰⁴ The Network of African Women in Conflict Prevention and Mediation, for example, “provides a platform for strategic advocacy, capacity building and networking aimed at enhancing the implementation of the commitments for the inclusion of women in peace-making in Africa.”¹⁰⁵ This is to ensure that more women are involved in peace processes, considering that “between 1992 and 2019, women constituted, on average, just 13% of negotiators, 6% of mediators, and 6% of

signatories in major peace processes around the world”. Women's participation in conflict resolution leads to improved outcomes before, during and after conflicts and “increases the probability of a peace agreement lasting at least two years by 20% and a peace agreement lasting fifteen years by 35%.”¹⁰⁶ Their growing role as mediators in peace and security processes, whether as formal or informal mediators, is likely to facilitate recognition of women's capacity for leadership roles in CIJ systems.

Case Study 3: Localizing international standards: UNSCRs 1325 and 1820 and National Action Plan for Women, Peace and Security in the *barangays* of the Philippines

Country: The Philippines

Theme: Women, peace and security

CIJ Platform: *Barangays*

The *barangay* is the smallest political and administrative unit of governance in the Philippines.¹⁰⁷ It functions as both a unit of local government and a justice delivery system. The *barangay* justice system is locally known as the *Katarungang Pambarangay* and is primarily administered through the *Lupong Tagapamayapa* (village mediation committee). As a justice delivery system, the *barangay* epitomizes a time-honoured tradition in Filipino society of amicably settling disputes among family and community members outside the court system. Although dating back to the pre-colonial period, it was formally recognized by law in 1978, under Presidential Decree No. 1508. The Preamble of the Decree notes that the utilization of the *barangay* would “promote the speedy administration of justice and implement the constitutional mandate to preserve and develop Filipino culture and to strengthen the family as a basic social institution.”¹⁰⁸ Women can take on a variety of roles in *barangay* leadership, from elected roles such as that of the *punong barangay* (*barangay* chairperson) and members of the *Sangguniang Pambarangay* (*barangay* councillors) to appointed ones, such as leading its various committees as well as participating in its justice delivery mechanism as *Lupong Tagapamayapa* members.

Initially a preserve of men, national and international legal frameworks have had both direct and indirect effects on increasing the participation of women in the *barangays*. However, “social norms, prevailing perceptions, and attitudes about gendered roles, and the power relations of men and women” still have a profoundly negative impact on women’s participation and leadership.¹⁰⁹ According to a 2008 survey, *Lupong Tagapamayapa* members were mainly male with women constituting a minority; some *barangays* had 100 per cent male membership. Most members in the surveyed institutions were middle-aged, and there were rarely any members below the age of 30. This profile of leaders in the institutions had negative implications on women and children, as they were unlikely to bring cases to a predominantly male tribunal, especially when the defendant was male.¹¹⁰

Barangays are mandated by law to have Violence Against Women and Children (VAWC) Desks.¹¹¹ According to the Philippine Commission on Women, 37,686 out of 42,045 *barangays* had established VAWC Desks as of June 2019. The VAWC Desk “serves as a frontline service provider to victim-survivors who experience physical, sexual, psychological, economic, and other forms of abuse”¹¹² and is managed by a Desk Officer designated by the *punong barangay* (*barangay* chairperson) usually situated within the premises of the *barangay* hall. Under the law’s implementing rules and regulations, the VAWC Desk Officer must be trained in gender-sensitive handling of cases, preferably a woman *barangay kagawad* (*barangay* councillor) or woman *barangay tanod* (*barangay* enforcer).¹¹³ *Barangays* serve as a critical mechanism to prevent GBV. They are empowered by law to issue a *barangay* protection order, a remedy aimed at safeguarding the survivor from further harm, minimizing disruption in her daily life and facilitating her ability to independently regain control over her life.¹¹⁴

The implementation of UNSCRs 1325 and 1820 on Women, Peace and Security and on Sexual Violence in Conflict, respectively, in the context of the civil conflict in the Philippines led to increased recognition of women as leaders in the *barangays*. Implemented through a programme on localization of the National Action Plan on Women, Peace and Security (WPS), spearheaded by the Global Network of Women Peacebuilders (GNWP) and the Women Engaged in Action on 1325 (WE Act 1325), it focused on engaging local authorities, traditional leaders and local women in the implementation of the UNSCRs at the local level. This initiative was implemented in the context of the armed conflict in the country affecting women and requiring approaches to address peace and security needs that are specific to them. Seeing the critical role of *barangays* and the increased vulnerability of women in the context of armed conflict encouraged several women to enhance their participation at the local level.

As part of the localization of UNSCRs 1325 and 1820, Ordinance No. 2013-044 mandated every *barangay* in the City of Cabadbaran to establish a functional VAWC Desk. Women VAWC Desk volunteers performed community monitoring and surveillance on behalf of VAWC survivors. In *Barangay Libertad*, Butuan City, the *barangay* council adopted UNSCRs 1325 and 1820 in a manner that addressed full and equal participation of women in all peace and security initiatives, and increased representation of women at decision-making levels in relation to peace and security. In 2013, a resolution was adopted requesting all *barangays* of Cuyapo, Nueva Ecija, to ensure equal participation of women in the *Katarungang Pambarangay* and other local bodies.¹¹⁵ An evaluation of the project in 2016 elicited generally positive commitments, with participants supporting the idea of women leaders and decision-makers, and drawing examples from other countries to support this viewpoint. An example was highlighted thus: "Women were the first to help other women who were abused, especially rape victims. That is why it shouldn't just be the men who will be involved in the decision-making."¹¹⁶

In the context of conflict and violence, women were viewed as necessary in ensuring that the correct decisions were made, balancing out men's views and leadership styles.

Lessons emerging from this case study include:

- » Conflict situations upend people's lives and disrupt their ways of doing things. In the uncertainty that ensues, people question the status quo, causing more women to take leadership positions at the family and community levels.¹¹⁷ This must be sustained after the end of the conflict.
- » Localization of international standards (in this case UNSCRs 1325 and 1820) assists in deconstructing rigid patriarchal and traditional positions, leading to increased participation and leadership of women in CIJ systems. This is because international standards invariably support human rights protection, promotion and enforcement, including those tenets focusing on women's rights and gender equality.
- » Women's active participation in CIJ systems render these systems more inclusive and responsive, including to survivors of GBV.

WOMEN AS MOTHERS, SPOUSES, SISTERS AND CLOSE RELATIVES OF MALE CIJ PROVIDERS

Women as mothers, spouses, sisters and close relatives of male CIJ providers also perform an important role in resolving disputes. In Eswatini, the Queen Mother is constitutionally recognized and officially called the *Ndlovukati/Ndlovukazi* (She Elephant). She is considered as a co-head of State alongside the king and symbolic grandmother of the nation, commanding considerable power and respect. Not only is the Queen Mother recognized as mother to the king, but she is also a co-governor of the country, taking on the role of head of State in the absence of the king.¹¹⁸ The Constitution states that, "the *Ndlovukazi* exercises a moderating advisory role on *iNgwenyama*", meaning that the king must take advice from his mother in performing his duties. Such duties include dispute resolution.

This is one of the highest profile roles given to a woman in a CIJ system, but women relatives of men in many other CIJ systems also play important roles as advisors, both officially and privately. The role of mothers in the Eswatini CIJ system extends to local-level institutions such as *Ligunqa* (princes of the realm), who are given positions as chiefs on the basis that their mothers were given "authority to oversee and exercise jurisdiction over an area accorded by *iNgwenyama* in accordance with Swazi law and custom".¹¹⁹ Given that the chieftainship is based on the mother of the chief being allocated areas to have jurisdiction over, it follows that in exercising his duties, the chief is accountable to the mother, whose advice he must take.

In Sierra Leone, women in communities often approach the chief's wife with their

problems, who in turn takes the issues to the chief for adjudication or consideration.¹²⁰ In this regard, the chief's wife has considerable influence through bringing cases to the attention of the chief, but may also have influence over how the cases are handled and decided. Older women in the community similarly have influence, with some playing the role of bringing women and their issues before CIJ systems. The influence comes from their relatively strong knowledge of the CIJ system and the respect that they command within their communities.

In Afghanistan, before the Taliban takeover, the German Agency for International Cooperation (GIZ) implemented a project that inaugurated Volunteer Gender Focal Points who voluntarily disseminated legal information and assisted women

seeking legal advice. These female volunteers were respected women in these communities, literate (often trained as teachers) and in many instances came from families that were part of the power elite in a rural district.¹²¹

Research into the roles played by women as advisors and co-decision-makers of their close male relatives in CIJ systems remains limited. There is therefore a need to research and document these practices in order to create a better understanding of women's roles in promoting leadership, participation and access to justice.

WOMEN PARALEGALS

Research and practice in countries such as Liberia show that paralegal activities ranging from awareness-raising to mediation of cases advance community members' legal literacy and agency and can help uphold the rights of women and vulnerable groups.¹²² Paralegals also play an important role in community rights awareness, redress and advocacy for law and policy reforms. This, in turn, can influence provincial, regional and national spaces where decisions are taken.¹²³

The role of paralegals is particularly important in CIJ systems given that, in many jurisdictions, lawyers are legally prohibited from directly participating in CIJ practices.¹²⁴ The justification given is that the involvement of lawyers in such systems delays proceedings and complicates procedures that are otherwise structurally and conceptually simple and can dispense justice swiftly. The absence of lawyers in CIJ systems may also encourage participation in these systems and in the exposition of the law,¹²⁵ as people are not intimidated by the presence of lawyerly language and procedural rigidity.

In the absence of lawyers, paralegals enable broader access to justice institutions. Often based in the communities and affiliated with CSOs working with the most vulnerable and marginalized, paralegals are easily accessible. In countries such as South Africa, their work straddles formal, customary and informal justice systems, and they are often the only option for legal advice and representation in rural or remote locations. Their combination of skills in relation to knowledge of the law and community and traditional practices places them in good stead to provide relevant, timely and appropriate solutions to communities' justice needs

using options ranging from mediation, negotiation, restorative justice techniques or referrals to formal justice or CIJ systems. They also help strengthen linkages between the customary justice system and the informal justice system administered by paralegals.¹²⁶

Women play an important role as paralegals in CIJ systems. The IDLO-supported ADR Centres in Somalia provide an illustrative example of a cooperative relationship between traditional justice authorities and women paralegals. The Centres work with one clerk and one paralegal, some of them women. The introduction of paralegals in the ADR Centres in Somalia was meant to augment the skills and knowledge of the ADR adjudicators in the areas of formal national law, international human rights standards and ADR techniques. Women paralegals support or supplement women adjudicators in cases involving women, for example by informing female parties of their rights, collecting evidence and statements in private, accompanying women to referred services or the police, and systematically taking record of procedural steps and case-related actions.

In Malawi, the inclusion of female paralegals within the Village Mediation Programme led to an increase in the number of cases brought forward by women, while in Uganda, the work of the women paralegals associated with the Federation of Women Lawyers Uganda led to effective follow-up on sensitive cases, including those relating to GBV.¹²⁷ Where participation of women as adjudicators of disputes might be politically sensitive or provoke backlash, the inclusion of women paralegals

advising CIJ mechanisms or female justice seekers is often a more viable approach – not only contributing to increasing women's knowledge of customary law and justice processes, but also shaping the cultural acceptance of women's participation in CIJ systems. Women paralegals thus act as "role models to other women and examples to men" and help "integrate a gender perspective in CIJ procedures that can better account for women's needs and interests".¹²⁸

Despite research showing the importance of paralegals, including women, in improving access to justice in both formal and CIJ systems, there is still a lack of formal recognition in many jurisdictions. This often undermines their role and effectiveness. It would be important for countries to put in place mechanisms for the recognition of paralegals, including through laws that promote legal aid and specifically provide for women's inclusion as paralegals. Adequate training for paralegals is also needed to ensure that they perform their functions effectively, efficiently and in line with set ethical standards. In the context of CIJ systems, this entails adequate training in international human rights standards to ensure that processes and outcomes do not infringe on the rights of the most vulnerable and marginalized, in particular women and girls who are the majority users of paralegal services. There is also a need for sensitization of key community justice actors (male and female), such as customary elders, local government representatives, police officers and lawyers, to foster acceptance of women paralegals and influence local power dynamics.

WOMEN LAWYERS AS LEGAL AID PROVIDERS AND CIJ ADVISORS

In addition to paralegals, trained women lawyers also provide legal aid and play an advisory role in CIJ systems. These lawyers mostly work in CSOs promoting human rights, including the rights of women and children. Although they generally do not directly represent the affected disputants in CIJ systems, women lawyers can give legal advice on how the disputants should approach their cases and navigate justice mechanisms. A United Nations Office on Drugs and Crime study showed that at “the global level, half (52%) of national experts indicate that lawyers or paralegals are able to provide assistance in formal mediation and alternative dispute resolution processes, while only 9% say that they are allowed to provide such assistance in customary or religious mediation/adjudication processes.”¹²⁹ Where lawyers are required to provide legal aid and advice outside of the CIJ structures, with the disputants using the information and legal advice received in handling their cases in the CIJ systems on their own, the involvement of lawyers, including women lawyers, helps to ensure that CIJ actors perform their roles in line with ethical standards and jurisdictional boundaries.

In the *Shalish* CIJ system in Bangladesh, the participation of lawyers was identified as contributing to combating corruption and ensuring that cases outside *Shalish* jurisdiction are referred to the correct authorities. The absence of such advice or interventions can lead to the mishandling of serious cases such as those on GBV, including femicide and rape. The legal advice and advocacy role of women lawyers and women's rights CSOs in such situations plays an important function in ensuring that CIJ systems undertake their work in line with the dictates of the law.

In other cases, the presence of women lawyers can help deliver better justice outcomes for women. In Sierra Leone, for example, the CSO Timap for Justice

draws on the services of a few attorneys when their intervention is necessary while working mainly with community-based paralegals providing dispute resolution services for individuals as well as directly supporting traditional chiefs. When there is possible involvement of a lawyer, those such as traditional chiefs involved in the CIJ system are more likely to adhere to prescribed principles and fairness when handling cases. The outcome has been positive for those involved in the system, including women, following the intervention of Timap for Justice, even before the lawyers who work with the CSOs were called upon. This initiative inspired the creation of Liberia's Community Justice Advisor Programme, launched by the US-based Carter Centre and Liberian partner organizations.¹³⁰

In Gaza, lawyers have collaborated with *mukhtars* (local officials representing the lowest level of the State) as a reliable way to settle disputes. The network, created with support from the United Nations Development

Programme (UNDP), also introduced the concept of female social mediators or women *mukhtars* to better address women's access to justice, which was well received by local communities.¹³¹ The success of this initiative was based on partnering with the Palestinian Bar Association as well as law schools and local CSOs, including grassroots and community-based CSOs. This helped demonstrate that the role of lawyers and law schools in promoting justice and the rule of law should not be confined to formal justice systems, but that these roles can also extend to CIJ systems as well as grassroots and community-based organizations. Such collaboration brings the spotlight to CIJ systems and helps shape reforms, especially in the areas of women's leadership and participation and women's rights, as these issues are often ignored in the absence of such interventions.



WOMEN AS CUSTOMARY LAW ASSESSORS AND REVIEWERS IN HIGHER FORMAL COURTS

In many jurisdictions, formal courts are not expected to be experts in customary law, even though they adjudicate over customary law cases. They therefore rely on assessors to provide clarity on customary law, and they pay high regard to the restatement of customary law by these experts.¹³² The inclusion of adequately trained and experienced women as assessors in customary law cases before the higher formal courts works as a reaffirmation of women's expertise in customary law matters and their capability as justice providers not only in the formal courts, but in CIJ systems as well. In many jurisdictions, the decisions of higher courts are regarded as precedents, and can also influence law and policy reform. The participation of women as assessors in ground-breaking decisions impacting a

jurisdiction's understanding and application of customary law is therefore an important way of influencing outcomes that can have long-lasting positive effects on the treatment of women in both formal and CIJ systems.

Women in formal courts also play an important role in reviewing decisions from CIJ systems or hearing them on appeal. In Kenya, appeals from the *kadhi* (Muslim religious) courts lie with the formal High Court,¹³³ while in Zimbabwe, the Magistrates' Courts are responsible for reviewing and hearing appeals against judgments from the traditional chiefs' courts.¹³⁴ In both countries, women sit in these higher and appellate courts as judges and magistrates. In this regard, the CEDAW Committee

recommends that State Parties must "provide safeguards against violations of women's human rights by enabling review by State courts or administrative bodies of the activities of all components of plural justice systems, with special attention to village courts and traditional courts".¹³⁵ The review of and appeals against CIJ decisions helps in presenting such systems as part of the broader justice delivery framework and, in the process, encourages compliance with women's and human rights standards while improving the capacity of CIJ systems to deliver justice on a fair and effective basis. Review and appeal processes can also contribute to the harmonization of formal and informal systems.

CUSTODIANS AND TEACHERS OF CIJ OPERATIONS AND PRACTICES

Women play an important role as teachers or custodians of customary law and community practices, and consequently are significant players in knowledge transfer and in educating communities and younger people about the operations and practices of CIJ systems. Holding regular dialogues with female elders in communities, for example, is an important way of building knowledge and consistency about customary law and practices in CIJ systems.¹³⁶ This cements the role of oral traditions in transferring knowledge and information to younger generations, including their entitlements under customary law and practices.

Indigenous women in particular have a key role within their communities "in relation to the intergenerational transmission of spiritual traditions, the history of their people, their philosophy and defence of the land, territory and

natural resources".¹³⁷ To support indigenous women's roles in intergenerational knowledge and language transmission, the Australian Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council developed a "mindfulness app" that "incorporates Aboriginal languages and cultural concepts of mental health, while a repository of language and cultural content called IndigiTube features music videos, documentaries, and even comedy routines."¹³⁸ Adequate understanding of indigenous knowledge, language, traditions and practices is important in helping CIJ systems to adjudicate on and address conflicts and other concerns that may arise from the non-application or improper application of these rights and principles.

However, like all other transmitters of knowledge in CIJ systems, women cannot be considered as infallible

transmission agents of traditions, customary norms and practices in these systems. It is important that the knowledge they transmit, like any knowledge that may be transmitted by others, including men, does not perpetuate traditions and practices that negatively impact rights through the generations, especially given that conservative social norms may permeate teachings and knowledge that dictate rules about women's participation.¹³⁹ In this regard, the women transmitting knowledge must themselves be supported through education and other capacity building activities to enable them to balance these customary laws and practices with the lived realities of women in their communities, the dynamic nature of customs and human rights protection.

5. BARRIERS TO WOMEN'S PARTICIPATION AND LEADERSHIP IN CIJ

LIMITED ACCESS TO ECONOMIC AND OTHER RESOURCES

In jurisdictions where CIJ systems are prevalent, societal structures tend to emphasize women's economic dependency on men. Lack of financial independence makes it difficult for women to challenge the status quo and access leadership positions in CIJ systems.

For example, in the Issa and Gurgura clans in eastern Ethiopia, societal structures require women to tend to domestic matters while men engage in economically productive activities. Women's domestic activities include, inter alia, six-hour journeys to fetch water, taking care of children, and making food for the family. These activities do not bring any direct economic rewards to the women, leaving them dependent on their husbands or fathers. Additionally, the activities tie them to the domestic realm, and they are unable to partake in any public activities outside the home.¹⁴⁰ This impedes their participation in public spaces, including CIJ systems, by the mere fact of being physically absent from such spaces.

At a more practical level, money is sometimes a direct necessity for one to be able to participate in CIJ systems. In Afghanistan, for example, a deposit known as the *machalga* is required before dispute resolution, to ensure the acceptance of the *jirga* decision.¹⁴¹

Lack of education can also impede women's participation in CIJ systems. In many situations, required qualifications for one to be a leader in a CIJ system could include educational attainment (both general education and specific courses and requirements concerning the function of adjudicators). The Malawi Law Reform Commission, for example, recommended imposing an "educational qualification of the level of secondary education, a level of proficiency in English, adequate knowledge of the customary law and language of the area as a requirement for one to be appointed as a presiding officer in the local courts."¹⁴² When seeking to appoint paralegals, CSOs working on access to justice issues often require a certain level of education as part of their eligibility criteria. Rural communities

and societies that depend significantly on CIJ systems also discriminate against girl children in the provision of education, preferring instead to educate sons, especially when resources are scarce. Lack of education is also used to block women from participating in CIJ systems in situations where positions are elective. This can also be compounded by general social attitudes, with education being used as a justification. Although lack of education is often used as an excuse to exclude women from decision-making roles, with the necessary education, women could be better equipped to participate and lead in CIJ systems. Policy formulation and implementation targeting access to education for girls will better prepare them for assumption of leadership positions, including in the area of CIJ.

SOCIETAL ATTITUDES AND STEREOTYPING

Societal attitudes and stereotyping have a diminishing effect on women and prevent their participation and leadership in CIJ systems. This is exacerbated by the fact that CIJ systems acquire their legitimacy from the same cultures, traditions and norms that disempower women, and can therefore not be expected to be just towards them. Negative attitudes and stereotypes lead to women being viewed as second-class citizens, narrowing their significance to their roles as "obedient wives" and

performance of "reproductive activities" such as child-rearing.

In India, for example, women's courts known as *mahila mandals* deal with women's family and marital problems. However, these courts are known to validate what has been termed a "male breadwinner ideology" that reinforces expectations of wifely obedience and maintaining peace in the household, thereby reinforcing stereotypes that the courts are meant to deconstruct.¹⁴³ In

Afghanistan, in some cultures, only men can "gain accrue honour", but a wife's actions can negatively affect her husband's honour through her actions. Therefore, in some rural communities, this has been interpreted to mean that women stay inside the household so as to preserve their honour and their husbands'; they are intentionally excluded from activities that would require them to be outside of the household.¹⁴⁴ With such attitudes and stereotypes, enabling women's

participation and leadership is very challenging. Stereotypes surrounding the kinds of activities that women can partake in also impede their participation in CIJ systems. This makes women's participation and leadership in certain CIJ system difficult or impossible as such participation would be contrary to their socially assigned roles.

In some societies, decision-making in CIJ systems is a group affair and women are not allowed to participate in decisions made by the group.¹⁴⁵ Seating arrangements in the relevant group meetings are meant to demarcate the roles of men as the speakers and decision-makers and women as just listeners, with women for example seated some metres away from the main men-dominated circle of the meeting.¹⁴⁶ Even subtle cultural considerations like seating arrangements are meant to reinforce power and control among men and women in these societies.

Moreover, interpretation and application of customary and religious laws can also impede the participation and representation of women in CIJ systems. Some customary and religious values are patriarchal in nature, and women are not afforded equal status to men, affecting multiple aspects of their lives. Participation, representation and leadership in CIJ systems is not an exception. In such situations, complementary or political economy interventions that help create a broader enabling environment to foster women's participation and leadership, including in CIJ, are necessary.



INSECURITY AND GBV

Women and girls are likely to be exposed to stigma, GBV, harmful traditional practices or other forms of discrimination when seeking justice through CIJ systems,¹⁴⁷ and women who seek to participate in decision-making in these systems may face similar or more severe backlash. GBV is a key obstacle to women's participation in decision-making at all levels. Generalized insecurity in many contexts inhibits women from taking on many roles outside of their homes; this is also the case in contexts where GBV is highly prevalent. Yet, in many contexts, legal

gaps and weak enforcement of GBV laws continue to place the risk of participation in public and political life on women's shoulders.

In the MENA region, in countries such as Iraq, Libya, Syria and Yemen, informal women mediators face a variety of risks including harassment, intimidation and social control. To mitigate against such risks the women mediators had to "build partnerships with strategic male allies (such as tribal leaders or police), strengthen community trust in their role as

mediators, and work within gendered social norms while drawing attention to the history of women's involvement in conflict resolution".¹⁴⁸ Where safe spaces for women's voices in the public sphere are readily available, women have better opportunities to actively participate in and lead justice processes, including in CIJ systems. Creation of such spaces through laws, policies and practices underscores the importance of peace and security in women's participation in CIJ systems and in development generally.

FORMAL LEGAL AND CONSTITUTIONAL IMPEDIMENTS

Formal constitutional and other legal provisions can directly or indirectly prevent women from participating and leading in CIJ systems. In Botswana, for example, depending on the interpretation of the Constitution, women may be prevented from participating in CIJ systems. The Constitution of Botswana, 1966, includes a claw-back clause that exempts customary law from the application of the equality and non-discrimination clause.¹⁴⁹ Such a provision disproportionately impacts women in effect, given that it is in the areas of customary, religious and personal law that women face the most discrimination. This provision had the effect of reinforcing customary practices preventing women from participating and leading in CIJ systems, given that women could not assume the position of headman. The headman's position entails leading a group of households that form a *kgotla*, and this is the basic unit of the political structure.¹⁵⁰ The *kgotla* has been described as playing a key role in addressing conflicts that arise in Botswana communities.¹⁵¹ Because women could not be headmen, they were excluded from leadership in this customary justice system.

Despite the fact that this provision remains in the Constitution, the country's courts have played an important role in dismantling its hold on Botswanan society. In the case of *Mmusi v. Rramantele*, the Botswana Court of Appeal concluded that the exemption in the claw-back clause could not go unchecked and was subject to constitutional core values.¹⁵² This judicial interpretation had the effect of improving women's rights in customary law, including their participation in CIJ systems. It remains a point of concern that the Constitution still excludes the application of customary law to the non-discrimination clause. Having such a clause in the supreme law of the country has the effect of shaping society's views on the role and place of women. Additionally, unless the Constitution is amended to unequivocally protect the rights of women under customary law, chances remain that the decision in *Mmusi v. Rramantele* can be changed in future by a differently composed Court of Appeal.

The Constitution of Lesotho has a similar claw-back clause; however, unlike in Botswana, the Court of Appeal in Lesotho has upheld the application of

the claw-back clause and asserted that it is constitutional and legal. In the case of *Senate Gabasheane Masupha v. The Senior Resident Magistrate for the Subordinate Court of Berea and Others*,¹⁵³ a daughter to a deceased chief and his only issue with his first wife challenged Lesotho's Chieftainship Act No 10 of 1968, which denies all daughters the right to succeed to chieftainship. The application was opposed by the applicant's male relatives who were eyeing the chieftainship, as well as the Attorney General on the basis that section 10 of the Act could not be faulted or be declared unconstitutional because it related to customary law. The Court of Appeal concurred and stated that this was a constitutionally sanctioned discrimination, as it was a restatement of Lesotho customary law. To date, women cannot succeed to kingship or chieftainship in the Kingdom of Lesotho,¹⁵⁴ even though these are the most common justice delivery roles in rural areas.

The law, especially State constitutions, should advance the participation and leadership of women in CIJ systems, instead of impeding their participation based on customary law. Countries



should expedite constitutional review processes to ensure that they integrate provisions that protect women's rights and gender equality in customary law. The experiences of Kenya, Namibia, South Africa and Zimbabwe, for example, show how constitutions can become the strongest tools for the protection of women's rights, by subordinating customary law to constitutional precepts.

In 2009, Bolivia adopted a new constitution that anchors the development of an intercultural legal system that respects legal pluralism and protects fundamental and human rights. Following the adoption of the new constitution, GIZ initiated a programme to support the development of an intercultural legal system in accordance with the rule of law. A vital aspect of the programme was the protection of fundamental and human rights in the new legal system, including the rights of women and indigenous communities. Through GIZ support, the Bolivian Ministry of Justice revised human rights indicators to make them more precise and adopted new legislation to operationalize the positive constitutional provisions.¹⁵⁵

When looking at women's leadership and participation in CIJ systems, the positive strides made by Bolivia bode well for women's inclusion. In reality, however, challenges remain. It has been noted that even after the adoption of the new constitution, limited attention has been paid to interculturality in the spirit of plurinationality. This includes lack of genuine intercultural dialogues and cooperation between formal and indigenous justice systems as well as limited political will to implement the new intercultural model of justice.¹⁵⁶

Reforms to land laws in Sierra Leone also helped ensure women's leadership and participation in land administration and management, including dispute resolution aspects. The Customary Land Rights Act explicitly states that women and men have equal rights to own, access and make decisions about land under customary law, and prohibits any customary law, rule or practice that discriminates against women with respect to land. The effect of this law is that women are expected to hold important decision-making roles and positions in relation to land issues, including land dispute resolution. The National Land Commission Act of 2022

has similarly strengthened women's participation and leadership in land matters in the country, establishing institutions for land management and administration at national and local levels, all of which are required to have women fulfilling 30 per cent of decision-making roles.¹⁵⁷

Law reforms must be undertaken sensitively and with the realization that reforms have the potential to weaken or corrupt the internal integrity of CIJ systems and their effectiveness, which is premised on their social authority to command user involvement, acceptance and respect.¹⁵⁸ In addition, if not properly handled, reforms can morph CIJ systems into replicative formal systems, and in the process lose the many benefits that are associated with CIJ systems when compared to formal systems.

LACK OF SUPPORT FOR WOMEN'S ORGANIZATIONS

Civil society organizations, especially local and community-based women's groups, are often at the forefront of efforts to ensure the protection of women's rights through CIJ systems. Women's organizations have consistently lobbied for women's equal participation in all aspects of political and public life. Research shows that there is a correlation between the presence of a strong, autonomous local women's movement and gender equality outcomes, including women's economic empowerment, legislation criminalizing GBV and stronger political participation.¹⁵⁹ Thus, restricting civic spaces especially for women's organizations has a negative effect not only on gender equality in general, but also specifically on women's ability to

participate in public life, including as CIJ actors.

Limited financial resources continue to plague women's groups. Despite new funding commitments made, women's rights organizations receive only 0.13 per cent of total Official Development Assistance (ODA) and 0.4 per cent of all gender-related aid; and 99 per cent of development aid and foundation grants do not directly reach women's rights and feminist organizations. In particular, those groups working at intersecting forms of marginalization (gender and sexual identity, indigenous, young feminists, sex workers, etc.) are funded even less.¹⁶⁰ In some cases, "disempowerment, exclusion and persecution of women's rights

organizations is accompanied by the empowerment and inclusion of organizations with opposite values and goals".¹⁶¹ Broad-based political mobilization is critical to women's political participation at all levels, and lack of support for women's organizations heavily impacts women's leadership and advancement in all fields, including in CIJ systems.

6. PATHWAYS TO WOMEN'S PARTICIPATION AND LEADERSHIP IN CIJ

ENHANCED REPRESENTATION ACROSS PUBLIC AND POLITICAL ARENAS

Instituting gender parity measures in leadership positions in CIJ systems is a robust means of demonstrating women's capabilities as leaders, decision-makers and justice providers. Jurisdictions that support women's leadership in other facets of life also tend to support their participation and leadership in CIJ systems. Conversely, when women face cultural, religious and structural barriers to leadership positions in other areas of life, this tends to be reflected in the country's CIJ systems.

For example, the Solomon Islands is considered to have the "lowest percentage of women in parliament worldwide, alongside discrepancies in education results and leadership". The

implementation of an access to justice programme targeting rural areas of the country that required the nomination and appointment of community officers to support the management of grievances saw only two women participate as community officers. In this case, "older men are traditionally viewed as the decision makers and such leadership does not fall within women's prescribed roles and responsibilities".¹⁶²

The situation in the Solomon Islands contrasts sharply with that in Rwanda, the country with the highest percentage of women in parliament worldwide at 61.3 per cent.¹⁶³ This high level of women's representation in parliament is also reflected in the significant representation of women judges in

gacaca courts. The *gacaca* tribunals in Rwanda are a revived traditional system, which served as a home-grown solution to addressing the challenges wrought by the 1994 genocide, especially after the disintegration of the formal justice system. It was noted that women judges in the *gacaca* courts encouraged other women to report cases of GBV, which are often not reported due to the stigma that attaches to being a survivor.¹⁶⁴ Overall, the contrasting cases of the Solomon Islands and Rwanda show that when women face cultural, religious and structural barriers to assumption of leadership positions in other areas of life, this is reflected in the country's CIJ systems.

Case Study 4: Customary justice system in Kenya: Kenya National Council of Elders

Country: Kenya

Theme: Engaging with CIJ systems

CIJ Platform: Kenya National Council of Elders

While the values and standards of the rule of law are universal, the pathways to inclusive and equitable justice are diverse, both in substance and procedure. In this regard, ensuring access to justice for all implies understanding and promoting a multifaceted approach to justice that integrates both formal and ADR mechanisms. In Kenya, article 159 (1) (C) of the 2010 Constitution envisions legal pluralism enacted through the use of "alternative forms of dispute resolution including reconciliation, mediation, arbitration". Notwithstanding this constitutional provision, ADR practices have been limited by several interconnected factors, including weak linkages between formal and informal justice systems, limited capacity of ADR actors, limited representation and participation of women and lack of standardization of ADR practices, among others. This limited ability of duty-bearers to deliver on their mandates translates into several negative effects, including poor public confidence, inefficient administration of justice and gender-unequal outcomes.

With these challenges in mind, IDLO's Justice, Human Rights and Equality Engagement programme aims to strengthen informal justice systems to enhance access to justice through increasing coordination between the Kenya National Council of Elders (KENCOE) and other councils of elders (e.g., Njuri-Ncheke, Luo Council of Elders, Maasai Council) and the formal justice system, through their participation in Court Users Committees (CUCs); promoting regular thematic dialogues with women's rights organizations to advocate for and promote the participation of women in dispute resolution processes; and improving case management, transparency and accountability of KENCOE through the establishment of a data collection and management system for the informal justice sector.

KENCOE is an informal justice institution with the mandate to coordinate the elders' role in making and executing community laws, listening to and settling disputes, and passing on community knowledge and norms across the generations in their role as custodians of traditional culture. IDLO partnered with KENCOE because of its broad representation in Kenya (it is currently represented in almost all 42 ethnic communities). Considering the representative and diverse nature of KENCOE, engaging with its members presents a valuable opportunity to promote access to justice through the informal justice system.

In 2021, IDLO conducted a capacity needs assessment of KENCOE to determine the capacity of its members to deliver fair, equal and gender-sensitive justice and apply human rights principles. Some of the capacity gaps identified included limited knowledge of national and international human rights frameworks, limited participation of women in traditional councils, limited documentation and monitoring of cases, and limited linkages with the formal justice systems. Building on the assessment report, IDLO and KENCOE worked on the following initiatives:

1. Strengthening the capacity of KENCOE on the administration of international human rights standards, constitutional provisions, gender equality, national law and the recently adopted ADR policy.
2. Establishing engagement of CUCs with the informal justice sector to enhance access to justice for marginalized groups.
3. Supporting KENCOE to establish a data collection and management system for the informal justice sector.

Key results of the programme include:

- » Linking KENCOE to the formal justice system, facilitating the representation and participation of 28 (five female and 23 male) members of KENCOE in the CUC platforms through formal partnerships with the judiciary, the National Steering Committee on Implementation of the Alternative Justice System Policy, respective county governments, and the National Council on Administration of Justice.
- » Inclusion of women in the Meru Council of Elders (*Njuri Ncheke*) for the first time in 2023, opening opportunities for inclusion and active participation of women in community decision-making and as justice actors, and demonstrating the growth in *Njuri Ncheke's* appreciation of women's perspectives in decision-making, especially on matters affecting women and children in the communities.
- » Training of 219 KENCOE (53 female and 166 male) members on international human rights standards, constitutional provisions, gender equality, national law and the recently developed ADR policy, with 73 per cent of elders reporting increased knowledge of national and international human rights standards and the ADR policy post-training and more likely to make decisions that uphold the rights of all parties involved in a dispute.

IDLO is currently supporting the development of a case and documentation management system for the CIJ sector. The system aims to track cases processed and adjudicated by KENCOE. This is in line with the assessment report, which highlighted the need to develop systems and skills for alternative justice system actors on filing, record keeping and case management. Once developed, the system will enhance the application of customary law and practice through increased use of customary law jurisprudence.

IDLO's partnership with KENCOE has helped promote access to justice through the CIJ system in Kenya by addressing capacity gaps and enhancing coordination between formal and CIJ systems. The support has yielded several positive results, including increased knowledge of human rights standards and ADR policies among KENCOE members, improved decision-making, increased legitimacy and credibility, increased participation by women, and enhanced linkages between formal and CIJ systems. These achievements have the potential to contribute to access to justice, strengthen the rule of law and promote and achieve social justice and inclusion, particularly among groups that have been excluded from the formal justice system.

CAPACITY DEVELOPMENT AND SUPPORT FOR WOMEN CIJ ACTORS

Strengthening women CIJ actors' knowledge of the law and rights awareness is critical to support their role in CIJ systems, address resistance (especially when couched around lack of capacity) and promote their advancement. Many women CIJ actors, for example, see their participation in CIJ systems as a privilege and not as a right. Knowing more about their rights to fully and meaningfully participate in decision-making, leadership and public life, as expressed under international human rights law, as well as equality rights as translated at the national level, can help strengthen women's demand

for representation and leadership. In sensitive or difficult situations, it can also help women CIJ actors negotiate for better rights.

Equipping women CIJ actors with knowledge of formal laws and the skills to apply them can also support them where the country's formal laws apply to CIJ systems or where customary and informal norms and processes are influenced by them.

Creating linkages with women in the formal justice system, such as judges, prosecutors and lawyers, is critical to

building the capacity of women leaders in CIJ systems. For example, the linkages developed by working with professional associations of judges to promote the standing of women in justice systems generally can be extended to women in leadership in other spheres, such as politics, academia and business, as a way of normalizing women's leadership and participation.

GENDER-RESPONSIVE LEGAL AND CUSTOMARY NORMATIVE REFORMS

Comprehensive gender-responsive reforms are essential to ensure all normative frameworks, whether formal, customary or informal, equally benefit women and girls in all their diversity. Such reforms enable better protection of women's rights in all contexts and serve to remove barriers and incentivize women's participation in CIJ systems. It is acknowledged that national legislation sets an important standard. However, customary, informal or religious norms and laws are often seen as responding to dominant understandings of what is right and wrong and how wrongdoings should be addressed. Sustainable change is achieved when these normative frameworks effectively work to protect women's human rights. This is particularly important as CIJ actors often resolve cases using community norms rather than national laws, even where the latter may be legally applicable. As such, the reforms must be supported in ways that retain a certain level of complementarity with community norms, while retaining space for women to contest those norms if they are unfavourable to them.¹⁶⁵

Examples in this issue brief such as



those relating to the creation of quotas for the inclusion of women in the village courts in Papua New Guinea, or allowing the participation of lawyers in the *Shalish* system in Bangladesh, show how gender-responsive legal reforms have had a positive impact on women's participation in CIJ systems. Similarly,

the work of Chief Kachindamoto of Malawi [see Case Study 1] illustrates how reforms in the customary norms on child marriage contributed to dismantling long-held harmful cultural practices with positive impacts for women's and girls' rights and protection.

POSITIVE MEDIA PORTRAYAL OF WOMEN IN CIJ SYSTEMS

The media plays an important role in promoting women's visibility and engagement in CIJ systems. Working with media can facilitate the process of social change as a means of instituting legal change.¹⁶⁶ Positive stories of women holding positions in CIJ systems should be amplified as a way of recognizing their work and encouraging others to be capable leaders. Women should be encouraged to portray their own stories and speak for themselves rather than leaving the narration of their roles and successes to a third party. Such recognition can help create positive perceptions about women in CIJ, leading to increased acceptance of their leadership and roles.

COMMUNITY AWARENESS, EDUCATION, ACCOUNTABILITY AND ENGAGEMENT

Community awareness and education are important strategies to shift away from negative beliefs, perceptions and positions on women's participation and leadership in CIJ systems. Awareness and education must target both women and men as well as younger people. In fact, it is often the case that women, and in particular senior women, are gatekeepers upon whom patriarchal systems rely as compliance mechanisms to perpetuate the exclusion and subordination of other women.¹⁶⁷

Many jurisdictions throughout the world have specialized institutions tasked with the role of protecting, promoting and enforcing human rights. Such institutions include national human rights commissions and gender commissions; State bodies such as ministries, departments responsible for women's rights and gender equality, justice, interior and customary and religious affairs; and ombudsperson institutions, among others. As part of their work, these institutions could include awareness-raising and education on women's participation and leadership in CIJ systems. In countries where traditional or religious institutions are legally or constitutionally regulated, with organizational and representative structures in place, such structures can play an important role by educating communities about the rights of women to participate in CIJ systems on the basis of equality with men.

Community awareness and education must be complemented with feedback platforms to enhance accountability at different levels. Such interfaces ensure that challenges faced by women

community leaders and CIJ actors are flagged as early as possible and solutions to address them are collaboratively discussed. Similarly, justice seekers and interested stakeholders should be provided with platforms to ask questions, provide feedback and offer concrete proposals for improving the participation of women as community leaders and CIJ actors. These interfaces encourage community members to be active supporters of women's leadership and participation, rather than simply beneficiaries or observers of this change process.

Community engagement and awareness-raising can help women CIJ leaders become more engaged in decision-making processes from which they would be ordinarily excluded. For example, research has highlighted the positive links between the social mobilization of Latin American indigenous groups in the 1980s and 1990s and the constitutional recognition of indigenous rights and customary norms eventually leading to a degree of autonomous self-governance for indigenous peoples. A prominent example is the involvement of indigenous women in the 2008 constitutional reform process in Ecuador, which was integral to the development of the country's plurinational constitution. In this case, the Kichwa women of the Women's Network of Chimborazo played a key role in the Constituent Assembly in advancing a double agenda focusing on the recognition of indigenous rights and gender equality in communities. The resultant constitution reflects women's

efforts as it addresses indigenous peoples' rights broadly, and the specific rights of indigenous women in relation to freedom from GBV and their right to political participation.¹⁶⁸

In Indonesia, the Peace Village initiative established women-led working groups of community-based justice actors such as religious leaders, sub-village heads and village officials, or *pokjas*, to promote peace narratives and justice in the community, as well as encourage women's participation in decision-making. The *pokjas* were responsible for the development and implementation of village action plans to monitor and report cases of human rights violations and violent extremism in the village. These working groups provided women a forum to participate and lead in community decision-making to promote conflict prevention, resolution and recovery, and established a space to strengthen interfaith and community dialogue and social cohesion. The regular dialogue and coordination efforts among community-based actors led to a formalized agreement among *pokjas*, community leaders, local government legal aid service providers and women-led civil society to improve referrals between justice service providers and legal aid for women seeking justice, and increase their engagement in community monitoring systems.¹⁶⁹

Case Study 5: Restorative justice facilitation at the community level in Bangladesh¹⁷⁰

Country: Bangladesh

Theme: Restorative justice

CIJ Platform: Community-level restorative justice platforms (informal justice system)

Formal justice institutions in Bangladesh remain physically remote and time-consuming and expensive for justice seekers, and as such most citizens prefer to address their disputes locally. Therefore, facilitating justice at the community level through quick and informal channels is one of the key priorities of the GIZ-implemented Justice and Prison Reform for Promoting Human Rights and Fighting Corruption Programme.¹⁷¹ From 2013 to 2018, the programme, funded by Germany and the United Kingdom, piloted the introduction of restorative justice (RJ) facilitation in its target communities, which demonstrated effectiveness and gained interest and support from local stakeholders including community members, *thana* (local police) and *Union Parishad* (lowest tier of the local government). This approach succeeded in bringing justice closer to community members and reducing the inflow of cases into the formal criminal justice system. During the pilot project, 16,986 matters were resolved within the communities using RJ facilitation and mediation techniques. In addition, 11,349 matters were diverted from the formal criminal justice system into the community to reduce pressure and ensure quicker access to justice for the poor and vulnerable.

Building on these positive results and guided by the findings of the Justice Audit, where 87 per cent of respondents stated their preference to settle disputes at the local level, the programme introduced RJ facilitation in seven target districts. A network of community volunteers, RJ facilitators, mediators and community paralegals were trained (mostly virtually) to act as an informal local case management forum that provided redress and referral to the appropriate "door", whether at the community or at the formal level, to avoid unnecessary escalation of cases to overburdened courts. Through these services, 8,082 community-based disputes were resolved through RJ facilitation and mediation. Moreover, in line with the results of a survey launched by the programme, 98 per cent of respondents described the RJ process as fair and respectful, exceeding the target by 28 per cent.

In launching RJ facilitation, the programme anticipated difficulties in terms of recognition by local community actors, including the *thana*, *Union Parishad* and village court representatives. Despite these concerns, framing RJ as a support instrument to complement the work of existing dispute resolution mechanisms at the community level gained the acceptance of these actors. This allowed RJ facilitators to establish closer ties with key actors, including village courts, which could concentrate on tackling more complex community-based disputes. The very design of RJ facilitation also contributed to its rapid recognition and acknowledgement by community members. It emerged as a locally accessible, free and confidential mechanism to resolve community-based disputes. As disputes are tackled through RJ facilitation and mediation between parties that come together with a readiness to compromise and seek acceptable solutions for both sides, this approach not only restores relations between the conflicting parties but also contributes to strengthening social ties in communities through active participation of community members.

RJ facilitation has a positive impact on the transformation of women's socio-political role in its target communities through the contributions of women RJ facilitators. As evidenced by the programme's social mobility mapping exercise of women RJ facilitators, programme activities supported them to challenge patriarchal norms by demonstrating their positive role in their communities. They were empowered to hold and lead discussions with all the key actors, disputing parties and community members on the ground to jointly address community-based disputes and other issues, including access to social services and allowances by the most vulnerable groups of the population. Their contribution to improving the well-being of their communities and their professionalism was recognized by the existing male-dominated local power structures. A *Union Parishad* official stated: "The women RJ facilitators resolve disputes with patience and fairness. They also maintain neutrality and confidentiality". Women's participation as RJ facilitators also enhanced their mobility, allowing them to engage with various actors beyond their communities.¹⁷²

RJ work demonstrated its effectiveness in going beyond settlement of community-based disputes. For example, women RJ facilitators from Moulvibazar collected funds in their communities and provided immediate assistance to families affected by flooding in June 2022.¹⁷³ This example illustrates that RJ has promoted civic activism and mobilized communities for action. RJ facilitators also include representatives from indigenous communities, tea garden workers, the transgender community and persons with disabilities.

RJ facilitation is sustainable insofar as it has been designed and implemented by engaging community members as volunteers, mediators and RJ facilitators who work on a voluntary basis and have a strong sense of ownership. The RJ approach has been recognized and accepted by all the key local actors. Moreover, the achievements of RJ facilitators are included in the Annual Performance Agreement of the Law and Justice Division of the Bangladesh's Ministry of Law, Justice, and Parliamentary Affairs, a key document that helps ensure a systematic performance review of all government entities. These factors are essential for the further entrenchment of RJ facilitators without external support and funding.

GENDER-RESPONSIVE CIJ SYSTEMS

Women's participation and leadership benefit from gender-responsive CIJ systems. The CEDAW Committee emphasizes the need to take immediate steps to ensure gender equality in CIJ systems as an essential measure to enhance women's position as CIJ actors. Specifically, the Committee recommends that State Parties should introduce:

capacity-building and training programmes on the Convention and women's rights, for justice system personnel, to ensure that religious, customary, indigenous and community justice systems harmonise their norms, procedures and practices with the human rights standards enshrined in the Convention and other international human rights instruments.¹⁷⁴

Capacity-building activities can include peer-to-peer learning, coaching and mentoring on good practices on integrating gender equality and human rights principles, as well as concrete means of engaging women as CIJ justice providers. This is especially important in situations where engagement with women in this capacity is new or untested, and there is no blueprint or practice in place. Capacity development activities can be integrated into wider training curriculum focused on updating knowledge and skills development.

Working with CIJ systems that are open to gender reforms and CIJ actors that champion gender equality can catalyse women's participation and women's access to justice. For example:

In northern Namibia, the Uukwambi Traditional Authority has undertaken efforts to improve women's participation in CIJ and increase the number of female traditional leaders, led by a progressive chief, Herman Iipumbu. This has resulted in positive changes. For example, new female traditional leaders have been well accepted by their communities; traditional court meetings now include more women who actively participate; the majority of court users are satisfied with the performance of the court and feel that men and women are treated equally; and a new norm prohibiting relatives laying claim to a widow's property on the death of her husband is widely known and the practice has declined. Women's improved participation has thus been key to improvements in access to justice for women. These changes have occurred gradually, indicating that meaningfully improving women's participation in CIJ is a long-term process. The changes were also locally led, with strong leadership from traditional leaders themselves.¹⁷⁵

UNDERSTANDING PRIVILEGE AND INTERSECTIONALITY

Intersectionality refers to how systems of inequality based on gender, race, ethnicity, sexual orientation, gender identity, disability, class and other forms of discrimination “intersect” to create unique dynamics and effects. Intersectionality challenges affect CIJ systems as well. Often, women CIJ leaders come from privileged positions, which may be representative of a narrow cultural, sectarian, class and ethnic elite. Privileged women leaders might not understand or consider seriously the justice and representation challenges

faced by disadvantaged women. In some instances, they may seek to maintain their privilege when performing their CIJ roles.

Education and awareness-raising efforts may therefore play an important role in ensuring that women CIJ leaders are cognizant of their privileged status and that women are not a homogenous group. Thus, women CIJ actors would benefit from knowing the challenges faced by the vulnerable, marginalized and disadvantaged in their communities,

and that they have the necessary skills and tools to address these challenges. To avoid further elite capture, CIJ leaders will also need to recognize intersectionality and advocate for women who may not enjoy the same privileges as them in terms of class, race and ethnicity, among others. An intersectional lens will help advance women in all their diversity and thus contribute to supporting more inclusive and fairer CIJ systems.

ACCESS TO AND USE OF TECHNOLOGY

Access to and use of technology, including online dispute resolution platforms, can be amplified to increase women's access to justice and their participation and leadership in CIJ systems. In its Agreed Conclusions from the 67th Session in 2023, the Commission on the Status of Women (CSW) noted that “information and communications technologies present new opportunities [...] for all women and girls”, while stressing that there is a “pressing need [...] to harness information and communications technologies for development, including for women and girls.”¹⁷⁶ This acknowledgment of the importance of new technologies by CSW as a tool to improve access to justice is critical, and the rollout should be extended to CIJ systems to ensure improved justice outcomes for women, girls and other marginalized communities, including in conflict situations. The mobile internet gender gap is narrowing globally; thus, use of technology can be an equalizer in closing the gender justice gap and in improving technology-facilitated participation of women, including in CIJ systems as justice seekers and justice providers.

The COVID-19 pandemic enriched justice actors' understanding of the use and effectiveness of technology in justice delivery, with the formal courts

and institutions adapting to online service delivery.¹⁷⁷ This was facilitated by increased access to technology worldwide; for example, estimates show that in 2022, the number of smartphone users reached 6.6 billion (83 per cent) of the world population.¹⁷⁸

In Zambia, under the Enabling Access to Justice, Civil Society Participation and Transparency (EnACT) Programme, GIZ is piloting digital tools that can support the delivery of legal aid services. The programme seeks to support paralegals who work at police stations, correctional facilities and at the community level. Under EnACT, 47 per cent of the 331 paralegals trained are women, and the integration of technology in the work of paralegals in the country means that women paralegals will equally benefit from such efforts, which will improve their effectiveness, reach and efficiency as they work at the community level and in CIJ systems.¹⁷⁹

At the moment, however, the bulk of government-led tech innovations tend to favour the formal justice system, with limited evidence of its application and deployment to address the justice needs of marginalized communities, women and people with special needs.¹⁸⁰ Digitization and the use of technology in CIJ systems would assist not only with dispute settlement but could also be

used to increase communities' legal literacy, knowledge of and steps to use available CIJ systems and redress mechanisms, and to ultimately have a voice in their own justice journeys, thereby providing an opportunity for a people-centred approach to justice.¹⁸¹

7. RECOMMENDATIONS

The importance of women's leadership and participation in CIJ systems cannot be over-emphasized. And yet, the participation of women in these systems remains largely constrained throughout the world, with women facing religious, customary, social, economic, political and even legal and constitutional barriers. Continued engagement in advancing women's participation in CIJ systems at the international, regional, national and more importantly local levels is essential if we are to move towards equality. Targeted, multi-pronged efforts are needed to address structural and political economy factors that impede women's meaningful participation in CIJ systems.

Building on the findings of the research, recommendations for enabling women's leadership and participation in CIJ systems are outlined below, bearing in mind, however, that CIJ systems encompass a wide array of institutions and practices operating in various social, political and legal contexts and with varying degrees of gender-sensitivity and responsiveness.

1. Recognize and amplify the important and varied roles that women play as leaders and justice providers in CIJ systems

Embracing and supporting the rich gamut of women CIJ providers will widen avenues for their participation in CIJ systems and broaden platforms for access to justice for the vulnerable and marginalized in society. Acknowledging that CIJ systems may be inherently flawed and can perpetuate patriarchal and unjust norms and practices, gradual and sensitive approaches are needed to progressively increase women's participation and leadership in those systems, and champion women's roles as custodians of indigenous, customary and traditional knowledge and practices. Support for women CIJ providers in all their diversity can be achieved through training and capacity-building and peer-to-peer learning (including across regions and countries), as well as through mentorship, role modelling and coaching.

2. Affirm women's human rights as a significant and critical component of engaging with CIJ systems

At all levels of engagement with CIJ systems, the centrality of respecting, protecting and promoting women's human rights and ensuring their practical realization is paramount. To achieve this, the heterogeneity of women who depend on CIJ systems and those who provide justice in these systems, both as individuals and groups, must be taken into account, as well as their contexts and specific justice needs and contributions.

3. Support women's movements and protect civic space to increase advocacy for women's participation and leadership in CIJ systems

Creating and defending space for women's individual and collective advocacy will require adopting processes that uphold women CIJ actors' fundamental freedoms, building platforms that facilitate the expression of women's individual and collective voices for participation in CIJ systems. It is necessary to identify and adequately fund local women's organizations to support their work in promoting women's rights and gender equality, including in CIJ systems; to elevate individual women's rights activists and women's organizations by providing platforms for policy discourse, networking and engagement with policymakers at national and international levels; and to provide women CIJ actors with platforms and mechanisms for accountability and feedback with women and women's groups and other interested stakeholders to improve service delivery. Harnessing technology as an enabler of women's participation and leadership to facilitate and improve women's access to justice and to increase communication and networking among women, is also essential. It is also valuable to draw lessons from other initiatives focusing on women's participation and leadership in areas such as the formal justice system and policies, as the challenges and lessons learned from such work can be useful in understanding the challenges and barriers that women are likely to face in CIJ systems.

4. Eliminate discriminatory laws and reform legislation to improve women's rights, including as justice providers in CIJ systems

Strengthening women's leadership and participation in CIJ systems will require reviewing laws and constitutions in jurisdictions that still allow for discrimination on the basis of customary or religious law; ensuring that legislation or policies providing for quotas in CIJ systems go beyond the numbers and elaborate on the steps to be followed in guaranteeing meaningful participation and contribution by women; and equipping women and men in CIJ systems with the skills, knowledge and resources that make participation possible for women in practice. To complement law reform, endogenous political processes, involving the assertion of demands for change by women mobilizing together, should be encouraged to reduce discrimination and exclusion impacting women's participation and leadership in CIJ systems.

5. Combat GBV and discrimination against women justice providers in CIJ systems and ensure an enabling environment for their participation

GBV and other forms of discrimination against women continue to impede equal participation in CIJ systems. There is a need to ensure the safety and security of women CIJ actors, especially in violent contexts and in settings where GBV is prevalent, so they can fully exercise leadership roles. Adopting and implementing GBV laws and ensuring access to justice for survivors is critical. CIJ systems must not tolerate any form of GBV or discrimination against women and must promote a safe environment for women CIJ actors, free from harassment, including sexual harassment. Engagement with diverse actors is needed to raise awareness of and dismantle the power that underpins inequalities in CIJ systems, with all community stakeholders – including men and boys – included in capacity development and sensitization activities. It is also vital to enhance knowledge about the importance of women's participation in CIJ systems among decision-makers at the local level to achieve changes in attitudes, behaviour and approaches in managing and working in CIJ systems. Furthermore, there is a need to address the social and economic challenges faced by women, such as limited economic resources and education gaps, to strengthen the enabling environment for women's leadership and participation in CIJ systems.

6. Strengthen investment in CIJ systems as part of people-centred, gender-responsive justice reforms

Recognizing CIJ systems as essential institutions of justice delivery is a prerequisite for building coherent, people-centred, gender-responsive justice systems. Greater domestic and international investment is needed to deliver people-centred justice, including by linking and harmonizing CIJ systems with formal pathways to justice, and by setting standards, creating learning platforms and improving public perception of the importance of CIJ systems and the role of women therein. States and donors must establish clear criteria and develop risk mitigation tools to ensure that investment in CIJ systems contributes to enhancing access for and responsiveness to women, including through their leadership roles. Ensuring support to CIJ systems that are genuinely committed to implementing viable options for women as justice actors in the system is crucial. It is also vital to foster contact and learning exchange between and among women leaders in CIJ systems and women leaders in the formal justice sectors.

7. Deepen partnerships and alliances for women's participation in CIJ systems

Strengthened partnerships can build momentum toward change for justice for women and girls. This can include enhancing multisectoral, multigenerational alliances across women's groups, as well as with CIJ actors, community leaders, human rights actors, State entities, customary and religious leaders, community-based organizations, and international and regional actors and organizations. It also includes building research partnerships to inform policy and programming on CIJ and women's leadership, as building evidence on women's roles, experiences and contributions as CIJ actors is critical to enhancing support for their participation in CIJ systems.

ENDNOTES

- 1 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 5.
- 2 'Access to Justice in Kenya, Experience and Perception, Findings from Afrobarometer Round 8 Survey in Kenya', available at: https://www.afrobarometer.org/wp-content/uploads/2022/02/ken_r8_access_to_justice_presentation_12sep20_fin.pdf; 'Justice Needs and Satisfaction in Bangladesh', available at: <https://www.hiiL.org/research/justice-needs-and-satisfaction-in-bangladesh/>
- 3 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 5.
- 4 Lisa Denney and Pilar Domingo (2023) 'Taking People-centred Justice to Scale: The Role of Customary and Informal Justice in Advancing People-centred Justice', ODI, accessed 23 June 2023, p. 12.
- 5 For an indication of major everyday justice problems, see World Justice Project (2019), *Global Insights on Access to Justice*, available at: <https://worldjusticeproject.org/sites/default/files/documents/WJP-A2J-2019.pdf>
- 6 See for example IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO.
- 7 UN Women (2021) 'Multi-country Analytical Study on Access to Justice for Victims and Survivors of Violence against Women and Girls in East and Southern Africa', UN Women, p. xvi.
- 8 'Gender and the Rule of Law: Synergies between SDG 5 and 16', IDLO, available at: <https://www.idlo.int/fr/news/highlights/gender-and-rule-law-synergies-between-sdg-5-and-16>, accessed 26 May 2023.
- 9 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 6.
- 10 Knowledge Platform Security & Rule of Law, website, available at: <https://www.kpsrl.org>.
- 11 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 6.
- 12 IDLO (2020) 'Strategic Plan 2021-2024', Rome: IDLO, p. 26.
- 13 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 41.
- 14 The participation and leadership of women in the justice sector is one of IDLO's key strategic objectives [IDLO (2020) 'Strategic Plan 2021-2024', Rome: IDLO, p. 29]. IDLO's body of work offers entry points and good practice examples for strengthening representation and participation of women in CIJ decision-making. Engaging women as leaders in justice systems is also recognized in development strategies such as the German Feminist Development Policy, focusing on issues such as eliminating discriminatory laws and achieving legal empowerment and equal opportunities for women and girls, as well as ensuring that women and other under-represented people are involved in policy decision-making at all levels. These targeted and specific strategies support increased women's participation and leadership, with clearly defined approaches that facilitate such inclusion. [IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 31, 33.]
- 15 This role is regulated in the legislation of several countries, such as the Law regarding Jurors and Assessors of Sierra Leone (Cap. 38), South Africa's Magistrates' Courts Act (32 of 1944), rules of superior courts and practice notes in New Zealand and Australia.
- 16 World Bank (2011) 'Alternative Dispute Resolution Guidelines', Washington D.C.: World Bank, p.2.

- 17 S. Sajisivan (2016) 'People's Court: Historical Antecedence of Lok-Adalat', *International Journal of Legal Developments and Allied Issues* 2, no. 2, accessed 1 June 2023, p. 81.
- 18 IDLO (2019) 'Policy and Issue Brief: Navigating Complex Pathways to Justice: Engagement with Customary and Informal Justice Systems', Rome: IDLO, p. 11.
- 19 Definition by the American Bar Association (ABA), ABA website, available at: <https://www.americanbar.org/>
- 20 IDLO (2021) 'Navigating Complex Pathways to Justice: Community Paralegals and Customary and Informal Justice', Rome: IDLO, p. 6.
- 21 Patricia Kameri-Mbote (2002) 'Gender Dimensions of Law, Colonialism and Inheritance in East Africa: Kenyan Women's Experiences', *Verfassung Und Recht in Ubersee* 35, no. 3, pp. 373-398.
- 22 Key informant interviews and engagements with seven experts on gender and customary and informal justice working in various geographic regions including Asia Pacific, Africa and Latin America and the Caribbean region were held between 16 March and 11 April 2023. Key informants were Omaira Bolaños, Lisa Denney, Fiona Hukula, Beth Roberts, Elisa Scalise, Anna Mutavati and Christine Okeno. The interviews were carried out by Makanatsa Makonese, who contributed significantly to the drafting of the report. The key informant interviews sought to gather insights and information on challenges, good practices and entry points on women's leadership in CIJ systems.
- 23 See IDLO, 'Customary and Informal Justice', available at: <https://www.idlo.int/what-we-do/access-justice/customary-informal-justice>.
- 24 Held on 27 March 2023. The focus group discussion was attended by 20 IDLO staff from selected Country Offices including Afghanistan, Kenya, Liberia, Myanmar, Philippines and Somalia to inform and provide inputs on the development of the research study.
- 25 Held on 12 June 2023. The online Expert Group Meeting on Women's Participation and Leadership in Customary and Informal Justice Systems gathered 24 leading external experts on gender and CIJ from international organizations, academia and civil society from Asia, Africa and the Pacific as well as IDLO staff. The meeting was held to ensure that this paper is informed by broader perspectives from various countries and regions. In addition to IDLO staff, experts who participated in the meeting were: Makanatsa Makonese, Lisa Denney, Pilar Domingo, Fatmata Fouard-Kanu, Revai Makanje-Aalbaek, Diana Goff, Catherine Makoni, Anna Mutavati, Christine Okeno and Christiane Wolowiec-Musich.
- 26 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee General Recommendation Number 23: Political and Public Life, adopted at the Sixteenth Session of the Committee on the Elimination of Discrimination against Women, in 1997 [contained in Document A/52/38], para 5.
- 27 CEDAW Convention, articles 2, 4(1) and 7. See also, IDLO (2018) 'Women Delivering Justice: Contributions, Barriers, Pathways', Rome: IDLO, p. 9.
- 28 CEDAW Committee General Recommendation Number 23: Political and Public Life, adopted at the Sixteenth Session of the Committee on the Elimination of Discrimination against Women, in 1997 [contained in Document A/52/38], paras 30, 41 and 46 (b).
- 29 IDLO (2018) 'Women Delivering Justice: Contributions, Barriers, Pathways', Rome: IDLO, p. 9.
- 30 Patricia Kameri-Mbote (2018) 'Constitutions as Pathways to Gender Equality in Plural Legal Contexts', *Oslo Law Review* 5, no. 1: 21-41, accessed 17 May 2023, pp. 40 and 41.
- 31 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, pp. 25, 38, 42.
- 32 IDLO (2020) 'Practitioner Brief: Navigating Complex Pathways to Justice: Engagement with Customary and Informal Justice Systems', Rome: IDLO, pp. 6, 13, 15.
- 33 Constitution of South Africa, section 39 (3).
- 34 IDLO (2020) 'Practitioner Brief: Navigating Complex Pathways to Justice: Engagement with Customary and Informal Justice Systems', Rome: IDLO, p. 13.

- 35 CEDAW/C/GC/33, United Nations Committee on the Elimination of Discrimination against Women, 'General Recommendation No 33 on Women's Access to Justice', 3 August 2015, para 63.
- 36 Constitution of Zimbabwe, 2013, section 282 (1) (e).
- 37 Chapter 7:05 of 1992.
- 38 Tinashe Chigwata (2016) 'The Role of Traditional Leaders in Zimbabwe: Are They Still Relevant?' *Law, Democracy and Development* 20, pp. 71-72; Fungai Lupande, 'Women in Traditional Leadership', *Sunday Mail* (Harare), 14 March 2021, available at: <https://www.sundaymail.co.zw/women-in-traditional-leadership>.
- 39 Constitution of Zimbabwe, sections 2 (1) and 56 (3).
- 40 'Village Courts in Papua New Guinea (From Justice Programs for Aboriginal and Other Indigenous Communities', pp. 75-85, Kathleen M. Hazelhurst (ed.) (1985) - See NCJ-100652. US Department of Justice, available at: <https://www.ojp.gov/ncjrs/virtual-library/abstracts/village-courts-papua-new-guinea-justice-programs-aboriginal-and>.
- 41 Village Courts Act, section 43 and information from key informant interviews, 23 March 2023.
- 42 Papua New Guinea, Village Courts (Amendment) Act, 2014, sections 3.1 (2A) (d) and 2B (1) (a).
- 43 Leiao Gerega, 'Female Magistrates Breaking Barriers', *Post-Courier*, 30 December 2020, available at: <https://postcourier.com.pg/female-magistrate-breaking-barriers/>.
- 44 UNICEF Malawi (2009) 'Budget Scoping on Programmes and Interventions to end child marriage in Malawi', p. 3.
- 45 UNICEF Malawi (undated) 'Child Marriage in Malawi', p. 1.
- 46 UNFPA Malawi, 'Child Marriage', available at: <https://esaro.unfpa.org/en/topics/child-marriage>, accessed 7 August 2023.
- 47 UN Women, 'Chief Kachindamoto's Life Mission to End Child Marriage in Malawi', available at: <https://unwomen.org.au/chief-kachindamotos-life-mission-to-end-child-marriage-in-malawi/>, 18 January 2021.
- 48 Katie Morris, 'Malawi's First Female Chief Has Ended Countless Child Marriages', *Tell Me the Good News* (Belfast), 16 January 2023, available at: <https://tellymethegoodnews.com/malawis-first-female-chief-child-marriage/#:~:text=Malawi%E2%80%99s%20first%20female%20Chief%20has%20ended%20countless%20child,region%20of%20Malawi%20since%20being%20appointed%20in%202003>.
- 49 Owen Khamula, 'Chief Kachindamoto warns parents against marrying off children during the COVID-19 holiday', *Nyasa Times*, 25 January 2021, available at: <https://www.nyasatimes.com/chief-kachindamoto-warns-parents-against-marrying-off-children-during-covid-19-holiday/>.
- 50 Charles Pensulo, 'Kachindamoto orders chiefs to dissolve child marriages with schools closed', *Nyasa Times*, August 2020, available at: <https://www.nyasatimes.com/kachindamoto-orders-chiefs-to-dissolve-child-marriages-with-schools-closed/>.
- 51 Camilla Soldati, 'Theresa Kachindamoto, the Woman Saving Girls from Child Marriage in Malawi', *Lifegate Daily*, 31 January 2019, available at: <https://www.lifegate.com/theresa-kachindamoto-child-marriage-malawi>.
- 52 Ibid.
- 53 Tanja Herklotz (2020) 'Religious Courts', *Max Planck Encyclopedia of Comparative Constitutional Law*, available at: https://www.researchgate.net/publication/359258128_Religious_Courts/link/6231bcd069a350c8b912ed8/download., accessed 3 August 2023.
- 54 Jacob Magid, 'Hardline Muslim Clerics Slam Appointment of Israel's First Female Sharia Judge', *Times of Israel* (Jerusalem), 27 April 2017, available at: <https://www.timesofisrael.com/hardline-muslim-clerics-slam-appointment-of-first-female-sharia-judge/>.
- 55 Melanie Lidman, 'Israel Appoints First Female Judge to Sharia Court', *Times of Israel* (Jerusalem), 15 May 2017, available at: <https://www.timesofisrael.com/israel-appoints-first-female-judge-to-sharia-court/>.

- 56 Jacob Magid, 'Hardline Muslim Clerics Slam Appointment of Israel's First Female Sharia Judge', *Times of Israel* (Jerusalem), 27 April 2017, available at: <https://www.timesofisrael.com/hardline-muslim-clerics-slam-appointment-of-first-female-sharia-judge/>.
- 57 Melanie Lidman, 'Israel Appoints First Female Judge to Sharia Court', *Times of Israel* (Jerusalem), 15 May 2017, available at: <https://www.timesofisrael.com/israel-appoints-first-female-judge-to-sharia-court/>
- 58 'Israel Appoints Country's First Female Sharia Judge', *Arab News* (Riyadh), 4 April 2023, available at: <https://www.arabnews.com/node/1090226/middle-east>; See also: 'A female Qadi appointment in the Sharia Court: Religious Law and Public opinion', available at: <https://dayan.org/content/female-qadi-appointed-sharia-court-religious-law-and-public-opinion>.
- 59 Lutheran World Federation, 'Palestine: Women Trust a Woman Judge to "Understand Them"', 19 November 2021, available at: <https://www.lutheranworld.org/news/palestine-women-trust-woman-judge-understand-them>.
- 60 In 2016, the Saudi administrative Court of Appeal in Dammam approved the appointment of Shaima Aljubran as the first Saudi female arbitrator in a case involving a dispute in a commercial court. This was not a permanent appointment to a court as the rules for appointing an arbitrator in commercial disputes are different from those pertaining to the appointment of judges in the judiciary. Judicial appointments to the courts are administered by the Ministry of Justice and the Administrative Court. United Nations Economic and Social Commission for Western Asia (ESCWA) (2019) 'Women in the Judiciary in the Arab States: Removing Barriers, Increasing Numbers', p. 25.
- 61 In 2020, Dr Arwa Al Jalal was appointed a member of the Committee for Review and Adjudication of Competition Law Violations of the General Authority for Competition. Peter Shaw-Smith More, 'Saudi Competition Law Watchdog Appoints First Ever Woman to Committee', *Law.Com International*, 26 June 2020, available at: <https://www.law.com/international-edition/2020/06/26/saudi-competition-law-watchdog-appoints-first-ever-woman-to-committee/>
- 62 ESCWA (2019), 'Women in the Judiciary in the Arab States: Removing Barriers, Increasing Numbers', p. 25.
- 63 Samah Al-Agha (2023) 'Female Judges in Saudi Arabia, Hope Versus Reality', *Arab Law Quarterly* 37, pp. 288-310, p. 297.
- 64 World Bank (2020) *Women, Business and the Law*, Chapter 1, Findings, Washington D.C.: World Bank, available at https://wbl.worldbank.org/content/dam/sites/wbl/documents/2021/02/211652_Chapter%201_Findings.pdf. p. 18.
- 65 Samah Al-Agha (2023) 'Female Judges in Saudi Arabia, Hope Versus Reality', *Arab Law Quarterly* 37, pp. 288-310, p. 289.
- 66 Case No. 8213/14, *Dror v. Minister of Religious Services*, 2017.
- 67 See: The Israel Democracy Institute, website, available at: <https://en.idi.org.il/publications/6859>.
- 68 Tito Kunyuk, 'The Female Kadhis Controversy', *The Elephant*, 12 November 2021, available at: <https://www.theelephant.info/features/2021/11/12/the-female-kadhis-controversy/>.
- 69 Kerstin Steiner, 'One Decade of Female Judges in the Malaysian Shariah Judiciary,' Cambridge University Press, 21 October 2021, available at: <https://www.cambridge.org/core/books/abs/women-and-the-judiciary-in-the-asiapacific/one-decade-of-female-judges-in-the-malaysian-shariah-judiciary/80CFD709E07F16F687BF052D7BDEC4D>.
- 70 Euis Nurlaelawati and Arskal Salim (2013) 'Gendering the Islamic Judiciary: Female Judges in the Religious Courts of Indonesia', *Al-Jami'ah* 51, no. 2, available at: <https://doi.org/10.14421/ajis.2013.512.247-278>, accessed 3 August 2023, p. 250.
- 71 IDLO (2011) 'Accessing Justice: Somalia's Alternative Dispute Resolution Centers', Rome: IDLO, pp. 8-9.
- 72 IDLO (2020) 'Practitioner Brief: Navigating Complex Pathways to Justice: Engagement with Customary and Informal Justice Systems', Rome: IDLO, p. 11.
- 73 IDLO (2011) 'Accessing Justice: Somalia's Alternative Dispute Resolution Centers', Rome: IDLO, p. 27.
- 74 Data taken from two IDLO programmes: ADR Somalia, Phase 2, and Strengthening the Social Contract through Access to Justice in Somaliland. Under both programmes, 22 ADR Centres in Somalia and Somaliland are supported by IDLO. Seven ADR Centres have a female Deputy Chair, six in Somalia and one in Somaliland.

- 75 IDLO (2020) 'Practitioner Brief: Navigating Complex Pathways to Justice: Engagement with Customary and Informal Justice Systems', Rome: IDLO, p. 29.
- 76 See: <https://www.youtube.com/watch?v=E-sjmxKm2kQ>
- 77 IDLO (2011) 'Accessing Justice: Somalia's Alternative Dispute Resolution Centers', Rome: IDLO, p. 30.
- 78 UNDP, 'In Africa, Women Judges Improve Trust in Courts, Bring Justice to the Less Privileged and Empower Women and Girls', 6 June 2023, available at: <https://www.undp.org/news/africa-women-judges-improve-trust-courts-bring-justice-less-privileged-and-empower-women-and-girls>.
- 79 Fredline M'Cormack-Hale (2018) 'Secret Societies and Women's Access to Justice in Sierra Leone: Bridging the Formal and Informal Divide', *Stability: International Journal of Security & Development*, 7, no. 1: 1-17. pp. 2 and 7.
- 80 US Department of State, 'Sierra Leone: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC)', 1 June 2001, available at: <https://2001-2009.state.gov/g/wi/rls/rep/crfgm/10108.htm>.
- 81 Fredline M'Cormack-Hale (2018) 'Secret Societies and Women's Access to Justice in Sierra Leone: Bridging the Formal and Informal Divide', *Stability: International Journal of Security & Development*, 7, no. 1: 1-17. pp. 4 and 8.
- 82 Kevin Grieco, 'The Role of Traditional Leaders in COVID-19', available at: [sierra-leone-the-role-of-traditional-leaders-final.pdf \(opml.co.uk\)](https://www.opml.co.uk/sierra-leone-the-role-of-traditional-leaders-final.pdf), p. 14; Sarah MacGuire (2002) 'Access to Justice for Women and Girls in Sierra Leone: Assessment', available at: [ASJP-Access to Justice for Women and Girls Assessment FINALupdated \(humanitarianresponse.info/\)](https://www.asjp.org/ASJP-Access-to-Justice-for-Women-and-Girls-Assessment-FINALupdated-humanitarianresponse.info/); Information from Expert Group Meeting on Women's Participation and Leadership in Customary and Informal Justice System, 12 June 2023.
- 83 Tanja Chopra and Deborah Isser (2011) 'Women's Access to Justice, Legal Pluralism and Fragile States', Peter Albrecht, Helene M. Kyed, Deborah Isser and Erica Harper (eds.), New York: IDLO, p. 27.
- 84 IDLO (2020) 'Practitioner Brief: Navigating Complex Pathways to Justice: Engagement with Customary and Informal Justice Systems', Rome: IDLO, p. 13.
- 85 Judith Beyer [December 2013] 'Revitalisation, Invention and Continued Existence of the Kyrgyz Aksakal Courts: Listening to Pluralistic Accounts of History', *The Journal of Legal Pluralism and Unofficial Law*, vol. 38, No. 53, p. 144.
- 86 Information from key informant interviews, 23 March 2023.
- 87 Article 9 of the Law of the Kyrgyz Republic of 5 July 2002, No. 113 'On aksakals courts' requires that the courts be composed of members who have reached the age of 50.
- 88 Aisuluu Abubakirova, 'Courts of Women-aksakals in the Kyrgyz Republic', Nomadit, available at: <https://nomadit.co.uk/conference/cess2018/paper/43342>, accessed 7 August 2023.
- 89 Judith Beyer [December 2013] 'Revitalisation, Invention and Continued Existence of the Kyrgyz Aksakal Courts: Listening to Pluralistic Accounts of History', *The Journal of Legal Pluralism and Unofficial Law*, vol. 38, No. 53, p. 144.
- 90 Peter Albrecht, et al (eds) [2011] *Perspectives on Involving Non-State and Customary Actors in Justice and Security Reform*, IDLO, p. 101.
- 91 Article 1 of the Law of the Kyrgyz Republic of 5 July 2002, No. 113 'On aksakals courts'.
- 92 Asian Development Bank (2005) 'The Kyrgyz Republic: A Gendered Transition, Soviet Legacies and New Risks: Country Gender Assessment', p. 66.
- 93 IDLO (2019) 'Practitioner Brief: Navigating Complex Pathways to Justice: Engagement with Customary and Informal Justice Systems', Rome: IDLO, p. 5.
- 94 IDLO, 'Kyrgyz Elder on Customary Justice of Aksakal Courts', 16 September 2019, available at: <https://www.idlo.int/news/multimedia/videos/kyrgyz-elder-customary-justice-aksakal-courts>.
- 95 'Access to Justice in Kenya, Experience and Perception, Findings from Afrobarometer Round 8 Survey in Kenya', available at: https://www.afrobarometer.org/wp-content/uploads/2022/02/ken_r8_access_to_justice_presentation_12sep20_fin.pdf

- 96 Nthabi Nhlapo, 'Why Does "Rakgadi" Have so Much Power in the Family? What You Need to Know According to Experts', News24 (Johannesburg), 1 September 2020, available at: <https://www.news24.com/life/archive/why-does-rakgadi-have-so-much-power-in-the-family-what-you-need-to-know-according-to-experts-20200901>.
- 97 American Bar Association (2021) *Women's Customary Land Rights in Eswatini: A Resource Manual*, Washington D.C.: American Bar Association, p. 68.
- 98 *Ibid.*, p. 73.
- 99 As raised elsewhere in this report, this state of affairs, while encouraging the participation of older women, had the effect of limiting or undermining the participation of young women and girls in CIJ decision-making.
- 100 UN Women, 'Women's Participation in Local Mediation: Lessons from Iraq, Libya, Syria and Yemen', ReliefWeb, 29 October 2022, available at: <https://reliefweb.int/report/iraq/womens-participation-local-mediation-lessons-iraq-libya-syria-and-yemen-enar>, p.5.
- 101 *Ibid.*
- 102 Mediterranean Women Mediators Network, <https://womenmediators.net/>, accessed 3 August 2023.
- 103 United Nations Peacemaker, 'Women Mediator Networks', available at: <https://peacemaker.un.org/women-mediator-networks>, accessed 3 August 2023.
- 104 S/RES/1325 (2000), United Nations Security Council Resolution 1325, para 1.
- 105 Accord, 'What Do Networks of Women Mediators Mean for Mediation Support in Africa?' 31 May 2018, available at: <https://www.accord.org.za/conflict-trends/what-do-networks-of-women-mediators-mean-for-mediation-support-in-africa/>.
- 106 Council on Foreign Relations, 'Women's Participation in Peace Processes', available at: <https://www.cfr.org/womens-participation-in-peace-processes/>, accessed 4 August 2023.
- 107 Section 384 of the Local Government Code of the Philippines provides that: "As the basic political unit, the Barangay serves as the primary planning and implementing unit of government policies, plans, programs, projects, and activities in the community, and as a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled". Republic Act No. 7160, as amended, An Act Providing for a Local Government Code of 1991, section 384.
- 108 Presidential Decree No. 1508 of 1978, Preamble.
- 109 Josephine T. Firmase and Alice Prieto-Carolino (2021) 'Women's Participation in Barangay Politics: A View from the Ground', *Philippine Journal of Social Sciences and Humanities University of the Philippines Visayas*, vol. 26, No 1-15, p. 13.
- 110 Rachel S. Aquino (undated), 'Five Municipal Case Studies on the Philippine Barangay (Village) Mediation System', Mediators Network for Sustainable Peace, p. 14.
- 111 Republic Act No. 9710, Providing for the Magna Carta of Women, section 9 (d); see also: Implementing Rules and Regulations of Republic Act No. 9710, Rule IV, section 12 (D); Republic Act No. 9262. Anti-Violence Against Women and their Children Act of 2004, section 30; see also: Implementing Rules and Regulations of Republic Act No. 9262, Rule VIII, section 47(f).
- 112 Philippine Commission on Women, 'Barangay VAW Desk', available at: <https://pcw.gov.ph/barangay-vaw-desk/>, accessed 7 August 2023. See also: Republic Act No. 7610, Magna Carta of Women Implementing Rules and Regulations, available at: <https://ble.dole.gov.ph/wp-content/uploads/2022/06/Republic-Act-No.-9710.pdf>, section 12 (D)(1), which provides: Functions of the Barangay VAW Desk include: (a) Assist VAW victims in securing Barangay Protection Order (BPO) and accessing necessary services; (b) Respond to gender-based violence cases brought to the barangay; (c) Record the number of gender-based violence cases handled by the barangay and submit a quarterly report on all VAW cases to the DILG City/Municipal Field Office and the City/Municipal Social Welfare Development Office (C/MSWDO); (d) Keep VAW case records confidential and secured, and ensure that only authorized personnel can access it; (e) Develop the barangay's gender-responsive plan in addressing gender-based violence, including support services, capacity building, and referral system; (f) Coordinate with and refer cases to government agencies, CSOs, institutions, and other service providers as necessary; (g) Address other forms of abuse committed against women, especially senior citizens, women with disabilities, and other

marginalized groups; and (h) Lead advocacies on the elimination of VAW in the community and perform other related functions as may be assigned.

- 113 Republic Act No. 7610, Magna Carta of Women Implementing Rules and Regulations, available at: <https://ble.dole.gov.ph/wp-content/uploads/2022/06/Republic-Act-No.-9710.pdf>, section 12 (D).
- 114 Republic Act No. 9262, section 8; see also: Implementing Rules and Regulations of Republic Act No. 9262, Rule IV, section 11.
- 115 WE Act 1325 and the Global Network of Women Peacebuilders (2017) 'Localizing the National Action Plan on Women, Peace and Security: The Philippine Experience', Office of the Presidential Adviser on the Peace Process, Philippines, pp. 20, 37 and 43.
- 116 Rachel S. Aquino (undated) 'Five Municipal Case Studies on the Philippine Barangay (Village) Mediation System', Mediators Network for Sustainable Peace, p. 64.
- 117 In her book, *Mothers of the Revolution*, Irene Staunton chronicles the lives of 30 women whose lives were upended by Zimbabwe's War of Liberation and had to take up leadership roles as their husbands and sons left to fight in the war, some of them never to return.
- 118 Ragnhild L. Muriaas, Vibeke Wang, Lindsay J. Benstead, Boni Dulani and Lise Rakner (2017) 'It Takes a Female Chief: Gender and Effective Policy Advocacy in Malawi', ResearchGate, available at: https://www.researchgate.net/publication/321950765_It_Takes_a_Female_Chief_Gender_and_Effective_Policy_Advocacy_in_Malawi/link/5a3abd6caca2729d506384a3/download. p. 6.
- 119 Constitution of Swaziland, section 230 (1).
- 120 Information from key informant interviews, 4 April 2023.
- 121 Information provided by GIZ. See also GIZ. 2018. Empowering Women Through Access to Justice: GIZ's Promotion of the Rule of Law Project, Afghanistan.
- 122 IDLO (2011) 'Accessing Justice: Somalia's Alternative Dispute Resolution Centers', Rome: IDLO, p. 15.
- 123 Tshepang B. Baloyi (2016) 'The Role of Traditional Leadership in Local Government', Master's Thesis, University of Witwatersrand, p. 3.
- 124 For example, Sierra Leone Local Courts Act, Act no. 68 of 2011, section 17, available at: <http://extwprlegs1.fao.org/docs/pdf/sie154932.pdf>, Zimbabwe Customary Law and Local Courts Act [Chapter 7:05], section 20 (2), available at: <https://media.zimlil.org/files/legislation/akn-zw-act-1990-2-eng-2016-12-31.pdf>
- 125 South African Law Reform Commission (1999) 'The Harmonisation of the Common Law and Indigenous Law: Traditional Courts and the Judicial Function of Traditional Leaders', Pretoria: South African Law Reform Commission, available at: https://www.justice.gov.za/salrc/dpapers/dp82_prj90_tradl_1999.pdf, p. 2.
- 126 Busiwana W. Martins (2014) 'Access to Justice: The Role of Community-based Paralegals in Community Restorative Justice in Rural KwaZulu-Natal', Doctoral Thesis, University of KwaZulu-Natal, pp. 4-119.
- 127 IDLO (2021) 'Navigating Complex Pathways to Justice: Community Paralegals and Customary and Informal Justice', Rome: IDLO, p. 18.
- 128 Ibid.
- 129 UNDP and UNODC (2016) 'Global Study on Legal Aid: Global Report', New York: United Nations, p. 128.
- 130 Stephen Golub (2014) 'Mitigating Corruption in Informal Justice Systems NGO Experiences in Bangladesh and Sierra Leone', Chr. Michelsen Institute, available at: <https://www.cmi.no/publications/5043-mitigating-corruption-in-informal-justice-systems>, p. 3.
- 131 UNDP and UNODC (2016) 'Global Study on Legal Aid: Global Report', New York: United Nations, p. 148.

- 132 UN Women (2021) 'Multi-country Analytical Study on Access to Justice for Victims and Survivors of Violence against Women and Girls in East and Southern Africa', p. 95.
- 133 Tito Kunyuk, 'The Female Kadhis Controversy', *The Elephant*, 12 November 2021, available at: <https://www.theelephant.info/features/2021/11/12/the-female-kadhis-controversy/>.
- 134 Zimbabwe, Customary Law and Local Courts Act [Chapter 7:05] of 1992, section 24-25.
- 135 CEDAW/C/GC/33. United Nations Committee on the Elimination of Discrimination against Women, General Recommendation No. 33 on Women's Access to Justice, 3 August 2015, para 64 (c).
- 136 IDLO (2020) 'Issue Brief Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 18.
- 137 CLADEM, 'Participation of Indigenous Women in the Conservation of Cultural Heritage', available at: https://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/EMRIP/CulturalHeritage/CLADEM_en.pdf, p. 2
- 138 United Nations, 'Indigenous People's Traditional Knowledge Must Be Preserved, Valued Globally, Speakers Stress as Permanent Forum Opens Annual Session', 22 April 2019, available at: <https://press.un.org/en/2019/hr5431.doc.htm>.
- 139 Sage Journals, 'Contemporary Indigenous Women's Roles: Traditional Teachings or Internalized Colonialism?', 17 December 2019, available at: <https://journals.sagepub.com/doi/abs/10.1177/1077801219888024?journalCode=vawa>.
- 140 Bamlaku Tadesse, Yeneneh Tesfaye and Fekadu Beyene (2010) 'Factors Affecting Women's Participation in Indigenous Conflict Resolution in Issa and Gurgura Clans of Somali, Eastern Ethiopia', *US-China Law Review* 7, no. 11, p. 38.
- 141 It is important to note that, even if women had these financial resources in Afghanistan, they are still expressly mostly prohibited from attending a jirga due to cultural norms.
- 142 UN Women, UNICEF and UNDP (2013) 'Informal Justice Systems: Charting a Course for Human Rights Based Engagement', New York: United Nations, pp. 22 and 317.
- 143 Tanvee Nandan (2020) 'An Examination of the Effect of Informal Justice Systems upon Women', *Journal of Indian Law and Society* 11, no. 1, p. 101.
- 144 Fernanda Canessa (2022) 'Women's Rights and Customary Justice in Afghanistan: A Review of Jirgas under CEDAW's Access to Justice Components', *Cardozo Journal of Conflict Resolution* 23, no. 715, accessed 1 July 2023, p. 722.
- 145 UN Women (2021) 'Multi-country Analytical Study on Access to Justice for Victims and Survivors of Violence against Women and Girls in East and Southern Africa', p. 64.
- 146 N.R. Diale (2013) 'Community Group Environment for People Participation and Empowerment: The Socio-Cultural Perspective', *South African Journal of Agricultural Extension* 41, no. 1, p. 40.
- 147 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 42.
- 148 UN Women (2022) 'Women's Participation in Local Mediation: Lessons from Iraq, Libya, Syria and Yemen', p. 4.
- 149 Tamer Ezer (2016) 'Forging a Path for Women's Rights in Customary Law', *Hastings Women's Law Journal* 27, no. 1, p. 66.
- 150 Anne Griffiths (1998) 'Legal Pluralism in Botswana: Women's Access to Law', *Journal of Legal Pluralism* 42, p. 128.
- 151 Piwane C. Moumakwa (2010) 'The Botswana Kgotla System: A Mechanism for Traditional Conflict Resolution in Modern Botswana. Case Study of the Kanye Kgotla', Master's Thesis, University of Tromsø, p. 36.
- 152 Case No. CACGB-104-12, Botswana Court of Appeal, 2013, para 71.
- 153 C of A (CIV) 29/2013 [2014] LSCA 22 (17 April 2014).
- 154 Women's rights NGOs in Lesotho have taken this decision to the African Commission on Human and Peoples' Rights for its consideration, and the case remains pending before the Commission.

- 155 GIZ, 'Supporting the Development of an Intercultural Legal System in Accordance with the Rule of Law', available at: <https://www.giz.de/en/worldwide/12259.html>, accessed 3 August 2023.
- 156 Addressing such challenges is key to creating human rights and people-centred entry points for women, indigenous peoples and other marginalized communities as justice providers in both CIJ and formal justice systems and platforms. Bolivian courts have made significant decisions in support of indigenous law, giving assurance that equal status between formal and indigenous laws is acknowledged as a key legal requirement. Peter Strack, 'Legal Pluralism: An Intercultural Model', D+C. D+C, 9 December 2013, available at: <https://www.dandc.eu/en/article/bolivias-pluralist-justice-system-combines-state-and-indigenous-law>; Johanna Lechat (2020) 'Intercultural Dialogue, Ordinary Justice and Indigenous Justice in Bolivia', London: London School of Economics and Political Science, available at: <https://www.lse.ac.uk/media-and-communications/assets/documents/research/msc-dissertations/2019/Lechat.pdf>. n.p.
- 157 Sierra Leone, Land Commission Act, section 49.
- 158 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 29.
- 159 IDLO (2018) 'Women Delivering Justice: Contributions, Barriers, Pathways', Rome: IDLO, p. 30.
- 160 AWID, 'Where is the Money in Feminist Organizing', available at: https://www.awid.org/sites/default/files/2022-01/AWID_Research_WITM_Brief_ENG.pdf, p. 4.
- 161 Coney Roggeband and Andrea Krizsán, 'The Selective Closure of Civic Space', Glob Policy, 12: 23-33, available at: <https://doi.org/10.1111/1758-5899.12973>
- 162 Sana Najafi, Sandy Tat, Roshni Thawani, Sanjna Ullal and Paola Salardi (2021) 'Between State and Nonstate Systems: Access to Justice in Rural Solomon Islands', Reach Alliance, available at: <https://reachalliance.org/wp-content/uploads/2021/08/SolomonIslands-Final-Aug13.pdf>, pp. 7 and 15.
- 163 International Parliamentary Union, 'Monthly Ranking of Women in National Parliaments: Ranking as of 1st June 2023', 1 June 2023, available at: <https://data.ipu.org/women-ranking?month=6&year=2023>.
- 164 Never Again Rwanda, 'Women's Role in Transitional Justice in Rwanda: The Case of Gacaca Courts', 30 December 2020, available at: <https://neveragainrwanda.org/womens-role-in-transitional-justice-in-rwanda-the-case-of-gacaca-courts/>.
- 165 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 28.
- 166 Tanja Chopra and Deborah Isser (2011) 'Women's Access to Justice, Legal Pluralism and Fragile States', Peter Albrecht, Helene M. Kyed, Deborah Isser and Erica Harper (eds.), New York: IDLO, p. 24.
- 167 Information from key informant interviews, 22 March 2022.
- 168 Lisa Denney and Pilar Domingo (2023) 'Taking People-centred Justice to Scale: The Role of Customary and Informal Justice in Advancing People-centred Justice', ODI, accessed 23 June 2023, pp. 9 and 23.
- 169 UN Women, 'In Indonesia: Strengthening Gender-responsive Community Justice', available at: <https://asiapacific.unwomen.org/en/focus-areas/governance/womens-access-to-justice/projects/a2j-Indonesia-Strengthening-gender-responsive-community-justice>, accessed 3 August 2023.
- 170 German Agency for International Cooperation (2022) 'Mobility Mapping of Woman Restorative Justice Facilitator', Access to Justice at Community Rule of Law Programme.
- 171 The programme was supported by Germany in partnership with the United Kingdom . Details of the programme can be found at: <https://www.giz.de/en/worldwide/15042.html>.
- 172 German Agency for International Cooperation, Bangladesh (2022) 'Mobility Mapping of Woman Restorative Justice Facilitators', Access to Justice at Community Rule of Law Programme, pp. 6-7.

- 173 Bangladeshi currency. BDT 24,000 is equivalent to about \$220 as of 5 August 2023.
- 174 CEDAW/C/GC/33. United Nations Committee on the Elimination of Discrimination against Women, General Recommendation No. 33 on Women's Access to Justice, 3 August 2015, para 64 (a).
- 175 IDLO (2020) 'Issue Brief: Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems', Rome: IDLO, p. 33, citing J. Ubink (2018) 'Customary Legal Empowerment in Namibia and Ghana? Lessons about Access, Power and Participation in No-state Justice Systems', *Development and Change*, vol.49, No. 4, pp. 930–939.
- 176 E/CN.6/2023/L.3 'United Nations Commission on the Status of Women, Sixty-seventh Session: Innovation and technological change, and education in the digital age for achieving gender equality and the empowerment of all women and girls', Agreed Conclusions, para 32.
- 177 Kanan Dhru, Manasi Nikam and Maurits Barendrecht, 'Use of Digital Technologies in Judicial Reform and Access to Justice Cooperation', The Hague: Hague Institute for Innovation Law, p. 3.
- 178 Lauren Rooney, 'Reimagining Justice: Accelerating Justice for Women and Justice for All', UN Women, 10 November 2022, available at: <https://asiapacific.unwomen.org/en/stories/feature-story/2022/11/Accelerating-justice-for-women-and-justice-for-all>.
- 179 GIZ, 'Enabling Access to Justice, Civil Society Participation and Transparency (EnACT) Programme', available at: <https://www.giz.de/en/worldwide/20824.html>. In addition, the programme has achieved major policy changes, having supported the development and adoption of a National Legal Aid Policy in 2018 and a review of the Legal Aid Act in 2021. As a result, paralegals are now legally recognized as legal aid service providers, a major milestone in smoothing the work and operations of paralegals. This has seen paralegals working at Legal Help Desks, which are located in 7 subordinate or magistrates courts, 10 correctional facilities, 2 police stations and 20 local communities throughout the Copperbelt, Southern Province and in Lusaka, thereby ensuring that they are embedded in communities' access to justice needs.
- 180 Kanan Dhru, Manasi Nikam and Maurits Barendrecht, 'Use of Digital Technologies in Judicial Reform and Access to Justice Cooperation', The Hague: Hague Institute for Innovation Law, p. 29.
- 181 Lauren Rooney, 'Reimagining Justice: Accelerating Justice for Women and Justice for All', UN Women, 10 November 2022, available at: <https://asiapacific.unwomen.org/en/stories/feature-story/2022/11/Accelerating-justice-for-women-and-justice-for-all>.

PHOTO CREDITS

Cover Image: © UN Women/Second Chance Education Programme

Page 7 Photo: © UN Women/Ryan Brown

Page 8 Photo: © IDLO/Stefania Kafka

Page 10 Photo: © UN Women/Satu Bumi Jaya

Page 15 Photo: © UN Photo/Maimana El Hassan

Page 20 Photo: © Synergeia

Page 24 Photo: © UNDP

Page 27 Photo: © UN Women

Page 28 Photo: © UN Women/Ryan Brown

Page 32 Photo: © Minh Pham Unsplash

Page 32 Photo: © Minh Pham Unsplash

The International Development Law Organization (IDLO) is the only intergovernmental organization exclusively devoted to promoting the rule of law.

IDLO works to enable governments and empower people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity. Its programs, research and policy advocacy cover the spectrum of rule of law from peace and institution building to social development and economic recovery in countries emerging from conflict and striving towards democracy.



Published by: International Development Law Organization (IDLO)
Viale Vaticano, 106 00165 | Rome | Italy
Tel: +39 06 40403200 | Fax: +39 06 40403232 | Web: www.idlo.int | Email: idlo@idlo.int | Twitter: @IDLO

Publication date: October 2023. Copyright © 2023, International Development Law Organization (IDLO)
The views expressed in this Publication are the views of the authors and do not necessarily reflect the views or policies of IDLO or its Member Parties.
All rights reserved. This material is copyrighted but may be reproduced by any method without fee for any educational purposes, provided that the source is acknowledged.
Formal permission is required for all such uses. For copying in other circumstances or for reproduction in other publications, prior written permission must be granted from the copyright owner and a fee may be charged. Requests for commercial reproduction should be directed to the International Development Law Organization.

ISBN 9788896155493