

JIN
.....
ASEAN



GENDER AND JUDICIAL EXCELLENCE

JUDICIAL INTEGRITY NETWORK ASEAN

UNDP is the leading United Nations organization fighting to end the injustice of poverty, inequality and climate change. Working with our broad network of experts and partners in 170 countries, we help nations to build integrated, lasting solutions for people and planet.

Learn more at undp.org or follow at @UNDP.

The findings, interpretations and views expressed in this publication are those of the author(s) and do not necessarily represent those of the United Nations, including UNDP, or the UN Member States.

Copyright © UNDP 2022

All rights reserved.

For more information, visit our webpage: [Judicial Integrity Network in ASEAN](#)

Acknowledgements

This Toolkit was commissioned in 2021 by UNDP Bangkok Regional Hub within the framework of the Regional Project on “Judicial Excellence to ensure Justice for All: The Judicial Integrity Network in ASEAN”.

The lead author is Sarah McCoubrey (CALIBRATE Solutions), Judicial Integrity Expert.

The development of this knowledge product was coordinated by Liviana Zorzi, UNDP Project Specialist on Transparency & Accountability. The layout was designed by Pundaree Boonkerd.

The Toolkit benefitted from insightful comments from: Nicholas Booth, UNDP Governance Team Leader and the members of the Judicial Integrity Network ASEAN’s Advisory Group:

- Justice Shiranee Tilakawardane
- Lawrence Glanfield AM
- Dr Nihal Jayawickrama
- The Hon. Michael Kirby AC CMG
- Jennifer Marie
- The Hon. Murray Kellam AO QC

DONOR PARTNER

This research was made possible by the contribution of the US Government, Bureau of International Narcotics and Law Enforcement Affairs (INL).



Table of Contents

Gender and Judicial Excellence	5
Gender in ASEAN Region	7
Public Confidence in the Legal System	11
Issue Brief 1: Gender and Access to Justice	13
Issue Brief 2: Gender Stereotypes and Discrimination in Your Courtroom	15
Issue Brief 3: Gender as an Inclusive Concept	19
Issue Brief 4: Addressing Gender Discrimination in Legal Decisions	21
Issue Brief 5: Gender Representation in the Judiciary	23
Issue Brief 6: Sextortion	26
Issue Brief 7: Sexual Harassment and Sexual Misconduct	29
Appendix	32

Gender and Judicial Excellence

Gender related issues can arise in any judge's court, in any level of court, by any of the actors in the court and at any stage of a judge's career, for both men and women. Gender issues are often dismissed as women's issues or only thought to be relevant in cases related to the family or when women are litigants. In fact, gendered assumptions affect women and men, as well as their families. Transgender, intersex and non-binary people experience gender discrimination. Court staff, police officers, expert witnesses and lawyers all might bring a gendered stereotype into their conduct or the way they present evidence.

People's different identities and experiences layer or interact in ways that compound the inequalities they face. Gendered stereotypes are a part of the discrimination that vulnerable people, including LGBTI+ people, people with disabilities, refugees and displaced people experience. Being aware of this intersection of gender with race, ethnicity, sexual orientation, age or disability is part of the factual context of legal cases. The impact of gender discrimination is varied, depending on each person's situation. Understanding of gender and the impact of gendered assumption is also evolving. As members of society shift toward a more equitable understanding of gender, judges are often at the forefront of ensuring that everyone's fundamental rights are protected.

The Bangalore Principles of Judicial Conduct set out six values that make up the basis of judicial excellence. These values, when taken together, are the foundation for establishing and maintaining public confidence in judicial decision making and protecting judges' critical role in promoting the rule of law and access to justice, both in their decisions and in the management of their courtrooms.

The values set out in the Bangalore Principles - **independence, impartiality, integrity, propriety, equality and competence and diligence** - all have gender implications. As judges embody these values, both individually and as a court, attention to gender discrimination and gendered threats is essential.¹

Independence, impartiality, and integrity all require a judge to act without bias or without the influence of stereotypes or discriminatory beliefs. A judge's decision must be free of any pre-judgement and must appear to be free of any influence based on irrelevant grounds including prejudices related to sex, gender, sexual orientation, or gender identity. A judge must be seen to reject biased concepts raised by witnesses or lawyers and make decisions transparently, based on only the evidence, not their own or others' beliefs and assumptions.

Propriety requires judges to conduct themselves both in court and outside of it, in a manner that is above reproach and upholds public confidence in fair, transparent decision-making. Sexual harassment, sextortion and discriminatory behaviours fall far below this expectation. Participation in or promotion of discriminatory discourse gives rise to concerns about bias and pre-judgement of witnesses or legal issues.

Equality requires judges to protect all litigants and witnesses from discrimination, whether in accessing the justice system, advancing their own rights, appearing in court, understanding the law, or receiving redress. Judges must not only avoid stereotypes in their own conduct and decision-making, but also call out discriminatory assumptions and conduct by court staff, lawyers and witnesses, managing the courtroom to make it a place where people truly experience equal treatment.

¹ [The Bangalore Principles of Judicial Conduct \(2002\)](#).

Competence and diligence require a judge to educate themselves not just about the law, but also about the impact of the law on women and vulnerable people who rely on the courts to protect their rights. Regular education about the realities for women and LGBTI+ people helps judges to identify equity issues in the courtroom. Ongoing learning about the gendered aspects of each area of law or process ensures judges are aware of and prepared to address these injustices. Understanding the impact of gender involves both examining the evidence and listening to people who have lived experiences of discrimination.

To fully meet these expectations of judicial conduct, judges must continue to educate themselves, ensure that there are adequate procedural protections in place and examine their own conduct about gender-related issues. Nancy Hendry, writing on behalf of the UNODC's Global Judicial Integrity Network, stated "While some gender-related conduct might be seen as more offensive or egregious than other conduct, none of it is compatible with the principles of judicial ethics."² While institutional intervention is needed in some cases, the actions of individual judges shifting the culture is also critical.

TAKING ACTION

The Judicial Integrity Network ASEAN (JIN ASEAN), a network of judges supporting each other across the region has developed Issue Briefs to support judges and judiciaries taking action on the recommendations discussed at the UNODC's **Implementing the Doha Declaration** event³. These Issue Briefs are based on sector research, and on surveying and small group discussions with judges in the ASEAN region.

Reflecting the importance of these issues and the concerns raised by these judges, the Issue Briefs aim to broaden the discussions about gender issues and spur institutional and individual action.

The JIN ASEAN Issue Briefs are designed to:

- support institutional change on gender issues
- build the capacity of the judges to identify and respond to gender-related issues
- provide strategies for addressing gender stereotypes in the courtroom
- amplify the voices of women in leadership positions
- support judges working to integrate gender into training, codes of conduct and reporting protocols

Statistical and trend data about gender and judicial integrity, across ASEAN, and in the JIN ASEAN members countries specifically, gives context to the judicial discussion of these issues. Each Issue Brief examines one aspect of gender and judicial integrity and identifies the impacts and areas for action.

Judges, taking action on gender inequality, are cultivating a strong, transparent culture of gender awareness amongst their colleagues, and are advancing public confidence in the courts as a place of fair treatment. Pursuing judicial excellence through this combination of individual and peer learning, and institutional reflection is part of the ongoing efforts of judicial leaders to meaningfully address the needs of everyone appearing in their courts.

² Hendry, UNODC Page 5. https://www.unodc.org/documents/ji/knowledge_products/Gender_Paper_FINAL_DOHA.pdf

³ Held Feb 24-26, 2020 "High-Level Meeting of the Global Judicial Integrity Network, Doha, Qatar

Gender in ASEAN Region

Knowing the current state of gender issues in the region is a foundation for recognizing these inequalities when they arise in the courtroom. Globally women and girls face obstacles to full participation in public life, barriers to employment, education and rights protection and stereotypes that threaten their choices and their safety. The impact of gender stereotypes on transgender and non-binary people is rarely measured and reported, though individual examples of discrimination and hate crimes reveal discriminatory and harmful realities.

In the ASEAN region, tracking of gender rights and injustices reveals the risks and barriers women face. In 2018, 9% of women and girls between the ages of 15 – 49 reported physical or sexual violence by a current or former partner in the last 12 months.⁴ Fifteen percent of girls in Southeast Asia are married before the age of 18, with 2% married before they are 15 years old.⁵

The education, voting and workplace participation of women varies from country to country, but throughout the region, women face significantly more barriers than men.

When looking at gender inequalities in the East Asia and Pacific regions, the World Economic Forum commented that if the pace of improvement remains the same as it was between 2016 – 2019, it will take another 163 years to close the gender gap.⁶ This region has the longest anticipated rate of change at the current level of activity.

The OECD examines gender issues globally, creating country reports and identifying trends in social issues and gender equality.⁷

Table 1: Social Institutions and Gender

Location	Discrimination in the family	Restricted physical integrity	Restricted access to resources and assets	Restricted civil liberties
Indonesia	63.1	21.9	36.5	40.4
Lao PDR	31.3	23.9	20.2	29.0
Malaysia	80.8
Philippines	67.2	25.7	67.2	45.1
Thailand	33.4	22.7	25.2	56.8
Viet Nam	23.3	30.8	32.3	13.8

The numbers above represent the incidents of gender discrimination, with a higher number showing a greater incidence. Source: OECD (2021), "Social Institutions and Gender" (indicator)

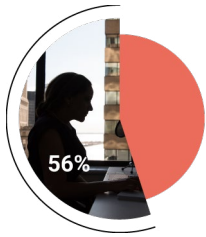
4 UN WOMEN (2019), [REGIONAL FACTSHEET Eastern and South-Eastern Asia and Oceania](#).

5 UN WOMEN (2019), [REGIONAL FACTSHEET Eastern and South-Eastern Asia and Oceania](#).

6 <https://www.weforum.org/agenda/2019/12/gender-gap-report-gender-parity-how-to-speed-up-progress/> As quoted in <https://www.lowyinstitute.org/the-interpreter/long-wait-indonesia-female-chief-justice-top-court>

7 OECD (2021), "Social Institutions and Gender" (indicator)

Indonesia

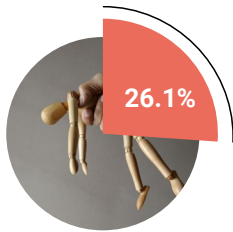


56% of women are in the workforce compared to 70.2% of the total population aged 15-64

As of 2019. Source: International Labour Organization (via [World Bank](#)), 2021

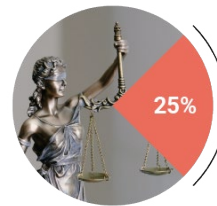


1 in 9 judges in the constitutional courts are women (2021)



26.1% of women between 15-64 experience violence by their intimate partners

As of 2021. Source: [Government of Indonesia](#) (translated), 2021



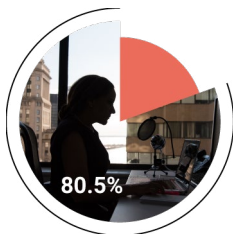
25% of judges in religious courts are women (655 out of 2655);

18% of chief justices in first instance religious courts are women (73 out of 412);

25% of judges in religious courts are women (655 out of 2655)

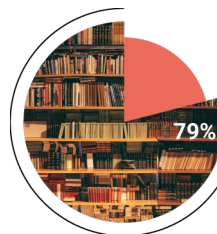
As of 2021. Source: [Australia Indonesia Partnership for Justice 2](#), 2021

Lao PDR



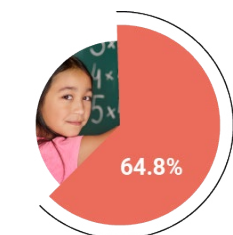
80.5% of women are in the workforce compared to 81.4% of the total population aged 15-64

As of 2019. Source: International Labour Organization (via [World Bank](#)), 2021



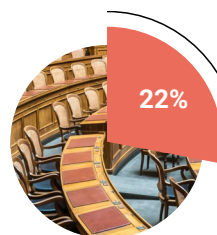
The literacy rate for women is **79%**, compared to 85% for the total adult population

As of 2015. Source: UNESCO (via [World Bank](#)), 2021



64.8% of girls complete lower secondary school, compared with 63.7% of boys.

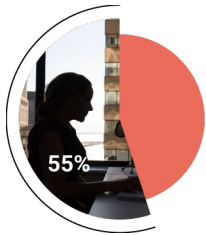
As of 2020. Source: [UNESCO UIS](#), 2021



Women hold **22%** of seats in parliament

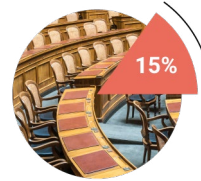
As of 2021. Source: Inter-Parliamentary Union (via [World Bank](#)), 2021

Malaysia



55% of women are in the workforce compared to 68.6% of the total population aged 15-64

As of 2019. Source: International Labour Organization (via [World Bank](#)), 2021



15% of seats in national parliament are held by women

As of 2021. Source: Inter-Parliamentary Union (via [World Bank](#)), 2021



The gender parity index of girls completing lower secondary school is **0.96** (below 1.00 means girls have a lower completion rate than boys)

As of 2020. Source: [UNESCO](#), 2021



22.4% of senate positions, **10.8%** of house representatives, **8.6%** of Cabinet Ministers and **17.6%** of Deputy Ministers are women

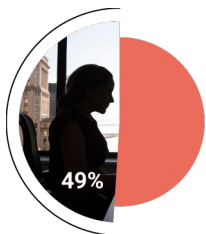
As of 2021. Source: [Department of Statistics, Malaysia](#), 2021



12% of people experienced sextortion or know someone who has

As of 2020. Source: [Transparency International](#), 2020

The Philippines



49% of women are in the workforce compared to 62.3% of the total population aged 15-64

As of 2019. Source: International Labour Organization (via [World Bank](#)), 2021



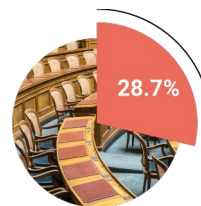
20.1% of women report experiencing intimate partners violence

As of 2008. Source: [UN Women](#), 2021



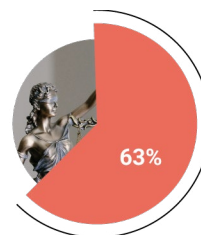
9% of people experienced sextortion or know someone who has

As of 2020. Source: [Transparency International](#), 2020



Women hold **28.7%** of seats in parliament

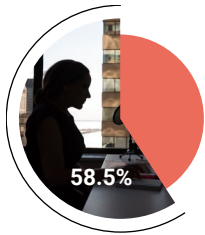
As of 2021. Source: [Philippine Statistics Authority](#), 2021



63% of judges are women

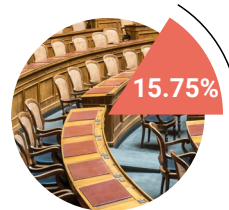
As of 2018. Source: [Supreme Court of the Philippines](#), 2021

Thailand



Only **58.5%** of women, compared to 74.6% of men, are in the labour force.

As of 2020. Source: [ILOSTAT](#), 2020



15.75% of seats in national parliament are held by women

As of 2021. Source: Inter-Parliamentary Union (via [World Bank](#)), 2021



15% of people experienced sextortion or know someone who has

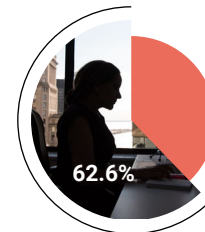
As of 2020. Source: [Transparency International](#), 2020



Over **30,000** cases of violence against women were reported to the One Stop Crisis Center (OSCC) run by the Ministry of Public Health, however only **5,000** cases were recorded by the police, and only **1,500** resulted in an arrest.

Source: Skinnider, E., Montgomery, r., & Garrett, S. The Trial of Rape. Bangkok, Thailand: UN Women, UNDP, UNODC. Referenced at <https://asiapacific.unwomen.org/en/countries/thailand/ending-violence-against-women>, 2017

Viet Nam



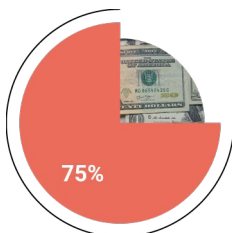
62.6% of women, compared to 74.8% of men, are in the workforce

As of 2022. Source: [General Statistics Office of Viet Nam](#) (translated), 2022



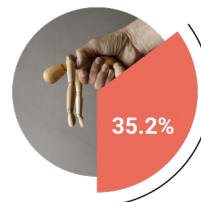
3% of people experienced sextortion or know someone who has

As of 2020. Source: [Transparency International](#), 2020



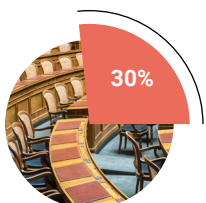
Women are paid **75%** of the wage that men earn for the same job

As of 2021. Source: ILO Wages and Equitable Growth in Viet Nam, referenced at <https://asiapacific.unwomen.org/en/countries/vietnam>, 2021



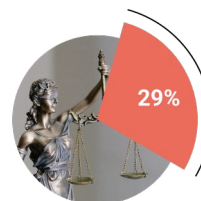
35.2% of women experience physical violence and **10.8%** of women experience sexual violence

As of 2011. Source: [UN Women](#), 2021



30% of seats in parliament are held by women

As of 2021. Source: Inter-Parliamentary Union (via [World Bank](#)), 2022



In the judiciary, **29%** of the SPC judges are women and **33%** of Provincial and District Court judges are women

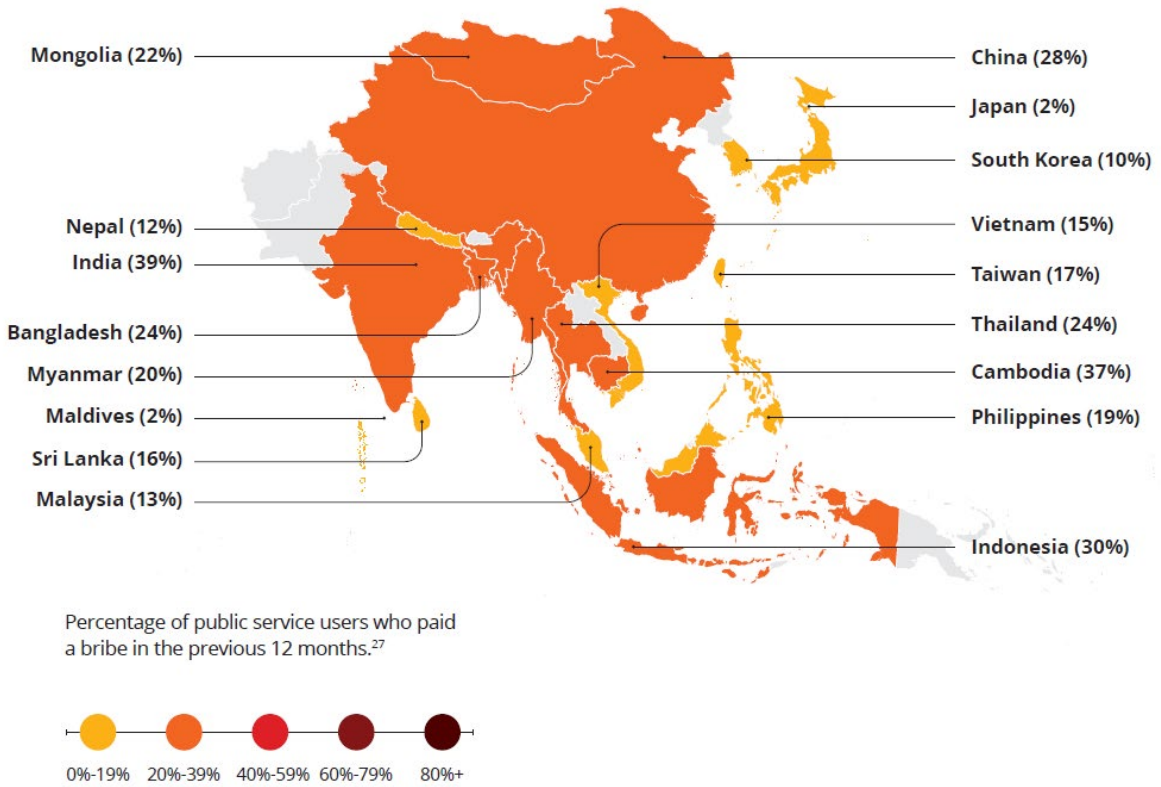
As of 2013. Source: [UNODC](#), 2013

Public Confidence in the Legal System

Judicial excellence is intertwined with public confidence in the legal system. Without public confidence in the system, people do not trust judges to adjudicate their legal disputes. Corruption and bias, and the perception of bias, erode public trust in the judiciary.

Transparency International recently published its Global Corruption Barometer: Asia 2020.⁸ It surveyed people about their perceptions of different institutions and their overall trust in public service delivery.

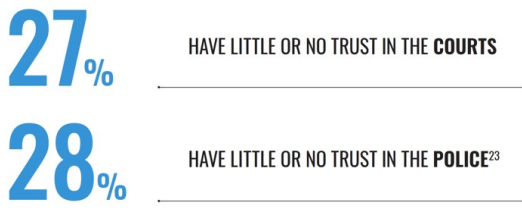
Figure 1: Bribery by country



Source: Transparency International. Global Corruption Barometer: Asia 2020. page 21.

8 Available at https://files.transparencycdn.org/images/GCB_Asia_2020_Report_Web_final.pdf

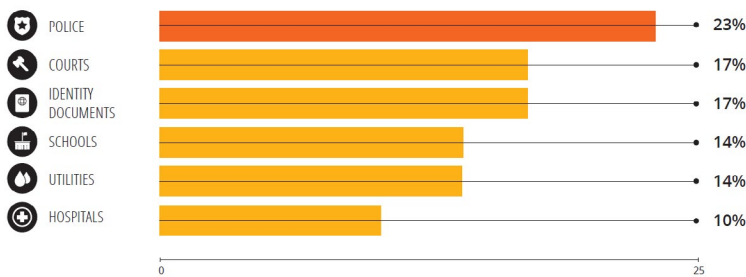
Figure 2: Trust in the courts and the police



Source: Transparency International. Global Corruption Barometer: Asia 2020. page 17.

Figure 3: Bribery rates by service

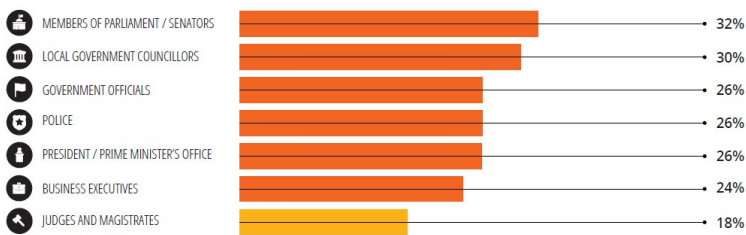
Percentage of people who used public services and paid a bribe in the previous 12 months.



Source: Transparency International. Global Corruption Barometer: Asia 2020. page 22.

Figure 4: Corruption by institution

Percentage of people who think that most or all people in these groups or institutions are involved in corruption.¹⁶



Source: Transparency International. Global Corruption Barometer: Asia 2020. page 14.

Figure 5: Use of personal connections by service

Percentage of people who accessed public services and used a personal connection in the previous 12 months.³²



Source: Transparency International. Global Corruption Barometer: Asia 2020. page 24.

Corruption affects people differently based on their gender. The Global Corruption Barometer found that there is a gendered dimension to bribery and corruption. Women are more vulnerable to paying bribes to get services and identity documents like passports or drivers' licenses. On the other hand, men are more likely to pay bribes for health services and utilities. When looking just at police bribes, men are 2.5 times more likely to pay a bribe to the police.⁹

These statistics demonstrate how gender stereotypes affect people differently. Are women asked for or expected to pay a bribe for documents that are frequently held by men? Are men expected to pay a bribe for services in the stereotypically male domain like policing? If so, how are women treated when reporting crimes to the police or seeking health or identity services for their family?

The Global Corruption Barometer findings may reflect gendered assumptions about men and women's competence and responsibility for different areas of public and family life. The report points to the need to better understand how gender and corruption intersect to discourage women from reporting crimes, especially crimes committed by men. It also raises questions about how corruption keeps women dependent on male family members. These assumptions are additional barriers for single parents and those whose lives do not align with common gender stereotypes.

⁹ Transparency.org Global Corruption Barometer: Asia 2020 page 21, <https://www.transparency.org/en/gcb/asia/asia-2020>

Gender and Access to Justice

DEFINITION:

Access to justice is a basic principle of the rule of law. In the absence of access to justice, people are unable to have their voice heard, exercise their rights, challenge discrimination, or hold decision-makers accountable. The Declaration of the High-level Meeting on the Rule of Law emphasizes the right of equal access to justice for all, including members of vulnerable groups, and reaffirmed the commitment of Member States to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all.

Source: [United Nations](#)

COMMENTARY: IMPLICATIONS FOR JUDICIAL EXCELLENCE

Women's access to justice is affected by gender discrimination much like women's access to services, safety, economic stability, and education. Gendered assumptions promote outdated and limiting views of women's abilities and needs. Sexism in decision-making maintains control over women's lives and retains power and privilege in society. These forces at play in society also affect women's access to justice. These barriers are exacerbated for transgender people who face additional levels of discrimination and intolerance. Transgender people may not report crimes or start a court case because they fear for their safety and privacy.

While legal rights may appear to be gender neutral, the reality of access to justice requires examining the realities of women's lives. To fully access justice, women need legal and economic autonomy from their families, control over their employment, health and childcare supports and the literacy and education levels to understand and act on their rights. Gender stereotypes in society perpetuate views about women's role in the family and in society. Women may feel

pressure to excuse or defend their abusive husbands. Outdated ideas about violence and rape within a marriage may deter women from reporting these serious crimes. Women confront these stereotypes every time they start a court case, appear as a witness or ask for protection from the police or the courts. Full access to justice will only come when women have full equality in society. Until that day, the courts and the judiciary are a key pillar protecting women's rights.

Ensuring access to justice, as a judge, often means raising questions about how the case got to court, questioning the agreements made between lawyers, offering referrals to legal and social supports, and allowing witnesses to speak directly to explain their needs and the pressures they have felt. A judge that assumes that everything has been done fairly up to the courtroom doors is neglecting their duty to ensure equal access to the court. Access to justice often requires adjusting court processes, resources or timelines to ameliorate societal inequalities. Judges, in control of the courtroom, can ask these questions and insist on the modifications to processes and timelines to ensure that everyone has equal access to justice.

WHAT DOES IT LOOK LIKE?

Women who do not have equal access to family finances, education or childcare may not be able to start a court case, attend court or pay for a lawyer.

Women living in abusive or controlling relationships may be afraid to call the police.

Women with children may be afraid that they will lose custody of their children if they stand up to abusive partners.

Women who have been treated unfairly by officials or police may not trust the justice system.

Women may face obstacles to registering businesses or dealing independently with banks.

Women's financial security or employment rights may not be treated as seriously as a man's.

In some contexts, or some kinds of legal cases, the risks to women are much higher. Cases of violence against women who file for divorce or report sexual assault serve as deterrents to other women living in violent situations. Women who lose custody of their children because they stand up for their rights become a warning to other women. Judges' conduct can inadvertently replicate or condone these consequences.

Conversely, judges can end these cycles of misogyny and harm. The judiciary cannot only avoid sending these discriminatory and harmful messages but also explicitly state their commitment to equality and their attention to the threatening behaviour of family, employers, or leaders seeking to scare women into silence.

Important steps have been taken in Indonesia to increase women's access to the religious courts that deal with most family law issues. Over the past decade, along with non-governmental organization PEKKA, the Government has introduced free legal advisory services and mobile courts and waived court fees.

Between 2008 and 2018, there was an 18-fold increase in court cases being heard by judges traveling to the mobile courts. Out of the approximately 500,000 people who filed cases with the family courts in 2016, 57 per cent had their fees waived, had access to a circuit court or were given legal advice.

Source: [UN WOMEN 2019 REGIONAL FACTSHEET Eastern and South-Eastern Asia and Oceania](#)


ACTIONS FOR JUDICIARIES

- ✓ Hold regular training for new judges about the impact of gender discrimination on access to justice.
- ✓ Create a standing committee on gender equality to monitor and report on gender issues and to address challenges that arise.

ACTIONS FOR JUDGES

- ✓ Stay up to date on the impact of gender on access to justice.
- ✓ Share reports with colleagues as part of peer learning.
- ✓ Step in when women are denied access to justice in your courtroom.

USEFUL RESOURCES

-  [Gender Equality and Justice Programming: Equitable Access to Justice for Women](#)

Gender Stereotypes and Discrimination in Your Courtroom

DEFINITION:

A **gender stereotype** is a generalized view or preconception about attributes or characteristics, or the roles that are or ought to be possessed by, or performed by, women and men. A gender stereotype is harmful when it limits women’s and men’s capacity to develop their personal abilities, pursue their professional careers and/or make choices about their lives.

Whether overtly hostile (such as “women are irrational”) or seemingly benign (“women are nurturing”), harmful stereotypes perpetuate inequalities.

Source: [Gender Stereotyping, UNHCR](#)

COMMENTARY: IMPLICATIONS FOR JUDICIAL EXCELLENCE

Gender stereotypes are arbitrary assumptions about how women and men should behave or react and what they should do in society. Gender stereotypes are often based on a binary understanding that there are only two ways of being, feminine and masculine, and only two right ways of behaving. Gender stereotypes reflect people’s assumptions and judgements, not on evidence or science. Gender stereotypes perpetuate harmful judgements about people in society and their rights.

Addressing gender discrimination in the court involves two areas of focus:

1. rejecting evidence and argument based on gender stereotypes, and
2. managing the conduct of people in the court to prevent gender discrimination in the courtroom.

Gender Stereotypes in Evidence

Gender stereotypes create real harm when people’s actions and words are judged based on these arbitrary assumptions. If a witness is not believed or not respected because of her gender or someone’s actions are minimized or forgiven because of his gender, societal harm is legitimized. In contrast, courts are places where everyone is entitled to equality, not just

in their access to the courts, but also in how their testimony and the facts of their case will be heard.

Judges and people working in courts are as likely to be influenced by gender stereotypes as anyone else in society. Recognizing this requires judges to be vigilant about examining the basis for their own judgements, identifying and rejecting arguments based on stereotypes and ensuring that the courtroom and the legal process are free from assumptions and stereotypes.

Decisions based on gender stereotypes or on evidence presented in a discriminatory manner erode public confidence. Vulnerable people, including transgender, intersex and non-binary people, see that the courts will not protect their rights or are not safe places to report crimes and misconduct. They doubt the integrity of the legal process because they see that these unfounded stereotypes are relied on, accepted, and replicated in court.

Gender stereotypes might also make it harder for women or transgender people to report violence or take steps to protect their rights. By the time the case is in court, the victim may have already faced family and social pressure and stigma.

Common gender stereotypes in legal cases include assumptions about women's role in the family, their credibility or reliability, and most damaging, rape myths that blame women for the criminal behaviour of their attackers. Rape myths in a court proceeding exacerbate the harm of the crime by shifting the blame to the victim rather than focusing on the criminal conduct of the perpetrator.

Rape myths in court processes arise when judges permit questioning or evidence about a victim's decisions, dress, history or reactions in a case that should be focused on the perpetrators' actions. Allowing discriminatory evidence or statements in the courtroom communicates to women that the courts will not protect their rights or hold offenders accountable. Women lose confidence in the courts and the judiciary.

Gender stereotypes also harm people of diverse gender identities and limit the possibilities for men and boys, as well as for women and girls. Transgender and non-binary people face discrimination and poor treatment in society. Their legal recourse to rights protection hinges on whether courts will protect their dignity and uphold the high standards of equal treatment. Assumptions and judgements based on outdated ideas of gender are not defensible as the basis for legal decisions.

Gender Discrimination in the Courtroom

The way people are treated in the courtroom is also critical to both their access to justice and their confidence in the decisions of the court. If lawyers, court staff, police officers or public visitors are allowed to speak to or treat people in a discriminatory way, unchecked by the judge, the legitimacy of the judge's decision comes into question. The management of the courtroom is a key part of how a judge demonstrates to the parties and the public that their decision-making is unbiased, rooted only on legal principles and the rule of law.

Sexism not only undermines confidence in the decision, but it also affects the working conditions of those in the courtroom. Women and gender diverse people who work as lawyers, judges, clerks, or court staff or who appear as witnesses or litigants also experience this hostile and discriminatory work environment. The Bangalore Principles describes a list of irrelevant grounds, stating that words or conduct that treats people differently based on race, sex, religion, caste, disability, age, marital status, sexual orientation, and other areas of diversity breach the judge's obligations to promote and protect equality. It then sets out five areas where judges are expected to prevent or respond to discrimination while managing their courtroom:

1. Be aware of and understand diversity in society including race, sex, religion, caste, disability, age, marital status, sexual orientation, and other areas of diversity

2. Not show any prejudice towards any individual or group based on an irrelevant ground
Not treat any parties, lawyers, staff or colleagues differently based on an irrelevant ground
3. Not permit court staff to treat people differently based on an irrelevant ground
4. Not permit lawyers to treat people, or make arguments or comments that are based on prejudice on any of the irrelevant grounds¹⁰

Judges have been disciplined and publicly condemned for their conduct or comments in many countries, linking the harm of sexist comments and conduct to the integrity of the legal process. A judge in the United States was disciplined for emails and comments made privately, revealing his sexist and misogynist views. He was removed from office in a decision that read:

“The volume of your comments results in much more than a problem of taste, decorum or personal opinion. It adds up to someone who demonstrates that he is unfit for the bench. ... Whether it is race, gender, sexual orientation or specific subject matter, your comments made it impossible for you to be taken seriously as a judge who would be fair and impartial. You essentially disqualified yourself from the bench.”¹¹

ACTIONS FOR JUDICIARIES

- ✓ Invite civil society, gender and women’s advocacy groups and human rights defenders to conduct court watching on the impact of gender discrimination in courtroom practices and work to address issues identified.

¹⁰ https://www.unodc.org/documents/ji/knowledge_products/Gender_Paper_FINAL_DOHA.pdf, Pg. 38-39

¹¹ Letter of Suspension and Removal from Office (Arkansas Judicial Discipline & Disability Commission 6 August 2015) at 19, https://www.unodc.org/res/ji/import/disciplinary_proceedings/gender/maggio.pdf.

WHAT DOES IT LOOK LIKE?

A woman testifying in court about a business case is asked if she really knows as much as the other witnesses.

A woman lawyer is interrupted and laughed at when she asserts the rights of her client.

A lawyer suggests that the judge should not trust a woman’s testimony because she does not sound nurturing enough and therefore must have been coached.

A woman’s recollection of events is questioned, and she is asked if there is a man who can back up her testimony.

A lawyer or judge asks the father of a sexual assault victim to make decisions for her, without hearing from her.

A woman who was sexually assaulted is asked about her past dating history or her clothing.

A women fired at work is awarded less money because she is married.

A women’s ability to take on a big case is questioned because she has kids.

In presiding over a courtroom, judges are responsible for ensuring that everyone – parties to the proceeding, witnesses, attorneys, other professionals in the courtroom and colleagues on the bench – are treated with respect, not only by the judge, but by others in the courtroom, and are not subjected to inappropriate demands, comments or behaviour.




Source: UNODC, [Gender-Related Issues in the Judiciary](#), Global Judicial Integrity Network, Pg. 13

- ✓ Adopt a guide to gender neutral courtroom language and conduct.
- ✓ Issue practice directions or instructions to lawyers about gender-sensitive courtroom conduct.
- ✓ Provide training to clerks and court staff about gender stereotypes, setting clear expectations of gender neutrality and equality.
- ✓ Establish children-friendly supports in courtrooms including private spaces for lawyers to meet with child witnesses and video connections for testifying in family and criminal cases.
- ✓ Establish separate witness rooms, screens and video connection options for cases involving gender-based violence.
- ✓ Ensure that psychosocial supports are available to witnesses and victims and that all judges are familiar with how to refer people to these services.
- ✓ Call out lawyers, court staff and parties who use dismissive, disrespectful, or discriminatory language in your courtroom.
- ✓ Use your case management powers to ensure a speedy trial, with victims informed throughout the process.
- ✓ Take steps to avoid victims having to repeatedly testify or retell their story, retraumatizing them each time.
- ✓ Make arrangements for vulnerable witnesses to testify in private settings or without having to face their abuser by using screens or live video connections.
- ✓ Require lawyers to demonstrate the steps they have taken to protect vulnerable witnesses and victims from traumatization before calling that witness (psychosocial supports, private witness rooms, screens, use of video recordings when possible).

ACTIONS FOR JUDGES

- ✓ Pay attention to language and dynamics between lawyers and witnesses to ensure that gendered stereotypes are not used to undermine witnesses.
- ✓ Stay up to date about the research into rape myths and gender stereotypes in criminal and family law.
- ✓ Issue practice directions or instructions to lawyers about gender-sensitive courtroom conduct.
- ✓ Clearly state at the beginning of each case that you expect everyone in your courtroom to adhere with high standards of anti-discrimination and equality.

USEFUL RESOURCES

-  [Bangkok General Guidance for Judges on Applying a Gender Perspective in Southeast Asia -](#)
-  [Judicial Decision Making with a Gender Perspective](#)
-  [Scandalizing the judiciary: An analysis of the uneven response of the Supreme Court of India to sexual harassment allegations against judges](#)

Gender as an Inclusive Concept

DEFINITION:

Gender refers to the characteristics of women, men, girls and boys that are socially constructed. This includes norms, behaviours and roles associated with being a woman, man, girl or boy, as well as relationships with each other. As a social construct, gender varies from society to society and can change over time.

Gender is hierarchical and produces inequalities that intersect with other social and economic inequalities. Gender-based discrimination intersects with other factors of discrimination, such as ethnicity, socioeconomic status, disability, age, geographic location, gender identity and sexual orientation, among others. This is referred to as intersectionality.

Source: [World Health Organization](#)

COMMENTARY: IMPLICATIONS FOR JUDICIAL EXCELLENCE

The science of understanding of gender and sex is evolving, resulting in changing language, new categories of gender identification and new challenges to legal institutions. Gender stereotypes are often based on assumptions of two genders that align with someone's biological sex. However, these gender stereotypes do not fit most people's reality, and for some people create real harm. Transgender, intersex, and non-binary people are excluded or discriminated against when they are denied services or protections because of outdated ideas about gender. Courts are often asked to make decisions about rights and entitlements to services for people whose identity and needs do not fit into the historical gender categories.

As a judge hearing cases or deciding on these issues, there are simple steps that make sure that the courtroom is safe and respectful for all litigants and that you demonstrate an unbiased and openminded approach when hearing the evidence.

Using, and insisting that everyone in your courtroom use the name, pronoun and title that a witness or litigant prefers conveys respect and reminds people arguing about abstract concepts of rights that these arguments have real consequences in people's lives. Many courts now allow people to introduce themselves and then require that everyone use that name, title or pronoun, regardless of their legally registered name or gender. This can be a significant mark of respect to someone who is challenging their legal name, marital status, biological or intersex designation or defending the transition of their gender identity.

Cases that involve homophobia or sexual orientation often intersect with gender. Homophobia is often based on gender stereotypes about how men and women should act. Being aware of the way gender discrimination compounds with other kinds of discrimination will make it easier for the judge to identify and reject gendered assumptions.

ACTIONS FOR JUDICIARIES

- ✓ Use inclusive gender terminology on court forms and in court data.
- ✓ Adopt a guide to gender-sensitive courtroom language and conduct.
- ✓ Issue practice directions or instructions to lawyers about gender-sensitive courtroom conduct.
- ✓ Provide training to clerks and court staff about gender stereotypes, setting clear expectations of gender neutrality and equality.

ACTIONS FOR JUDGES

- ✓ Invite lawyers and witnesses to introduce themselves. Use the name, honorific and pronoun that they use.
- ✓ Stay up to date on new research and evidence about the harmful effects of applying gender stereotypes.
- ✓ Model respect for people of diverse genders, including transgender, intersex and non-binary people in your courtroom.
- ✓ Call out lawyers, court staff and parties who use dismissive, disrespectful, or discriminatory language in your courtroom.

WHAT DOES IT LOOK LIKE?

A witness who identifies as a woman introduces herself, but the lawyer insists on using the name on her birth certificate, emphasizing 'Mr.' each time and snickering. The witness is visibly embarrassed, and angry.

Before court starts, a police officer makes loud, snide comments about a lawyer who is a lesbian, suggesting she shouldn't be allowed in the courtroom. Her client and all the witnesses hear the comment.

USEFUL RESOURCES

 [Judicial Decision Making with a Gender Perspective](#)

Addressing Gender Discrimination in Legal Decisions

DEFINITION:

“Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” [United Nations, 1979. ‘Convention on the Elimination of all Forms of Discrimination Against Women,’ Article 1].

Discrimination can stem from both law (de jure) or from practice (de facto). The CEDAW Convention recognizes and addresses both forms of discrimination, whether contained in laws, policies, procedures or practice.

Source: [UNICEF](#)

COMMENTARY: IMPLICATIONS FOR JUDICIAL EXCELLENCE

Avoiding Personal Opinion

Public confidence in the decisions of the court is rooted in the transparency and fair process that is communicated in its decisions. All judgements, written or oral, are an opportunity to reinforce equality. Decisions should never include the personal opinions of the judge nor include references to personal beliefs. Referencing irrelevant personal opinions leads people to doubt that the decision is based on a fair, neutral assessment of the evidence.

When conscious or unconscious biases, stereotypes and prejudices are allowed to shape the way judges interpret the law, the justice system becomes a mechanism for preserving inequality rather than protecting equal rights and human dignity.¹²

Using Neutral Language

The language used in judicial decisions matters to both the parties and to public confidence. The written decision is the basis for media reporting and is often the only way that people learn about the case or a legal principle. Careful attention to what the language communicates to the public is a part of how a judge maintains the integrity of the judicial process.

¹² UNODC, [Gender-Related Issues in the Judiciary, Global Judicial Integrity Network](#), Pg. 13

Using gender neutral language is part of conveying respect to everyone in the court process. It also broadcasts to people reading the decision that the courtroom is a place of respect and attention to equality.

Decisions should not repeat, or replicate sexist or discriminatory language used by lawyers or witnesses. Instead, judges can model the respectful conduct expected in their courts by using titles, names and pronouns that witnesses and parties use for themselves. Being careful to avoid or call out rape myths in the language used in sexual assault decisions sends a message to police and lawyers about conduct expected in future cases. Being accurate about the legal status and rights of the parties broadcasts a judicial message to the public and to the media about the importance of the rights at stake in each case.

Each of these efforts help to build public understanding of legal rights, cultivate trust in the legal system and shift the culture of sexism and discrimination in society.

Bench books and plain language legal drafting guides can be useful tools for judges to identify problematic language and replace commonly used, but discriminatory language with more accurate, respectful alternatives.

ACTIONS FOR JUDICIARIES

- ✓ Hold regular training sessions for judges on new standards in plain language writing techniques.
- ✓ Review the gendered impact of including personal data, names, children's names, addresses and financial information in court decisions.
- ✓ Issue clear guidelines about avoiding personal commentary and opinion in judicial decisions and rejecting or correcting media misrepresentation of litigants and witnesses.
- ✓ Prepare judicial decision templates and bench books that use gender neutral language.

WHAT DOES IT LOOK LIKE?



When writing the decision in a sexual assault case where the victim is a 14-year-old who was assaulted by a 48-year-old, the judge describes the victim as a child. They reject the language that the defence lawyer used when he called her a young woman and suggesting that she instigated the sexual contact. The judge knows that the media will report on the case and that it is important that people accurately hear that the victim is a child.

A decision about a woman involved in a business dispute doesn't need to make any reference to her marital status or whether she has children, avoiding gendered stereotypes that are irrelevant to the decision.

ACTIONS FOR JUDGES

- ✓ Set clear expectations at the beginning of each case that you expect everyone in your courtroom to refer to parties and witnesses accurately regarding age, gender and motivation, avoiding sensational language.
- ✓ Be ready to interrupt lawyers using inaccurate or sexist language to refer to women and girls, recognizing the impact of the trial process on the witness or victim.
- ✓ Use language that conveys respect for women, girls and gender diverse people.

USEFUL RESOURCES

-  [Bangkok General Guidance for Judges on Applying a Gender Perspective in Southeast Asia](#)
-  [Judicial Decision Making with a Gender Perspective](#)

Gender Representation in the Judiciary

DEFINITION:

Whom we see representing us in courts matters. People equate a gender diverse judiciary with more representative governance. Diverse judges can ensure a balanced approach to enforcing the law and implementing equality, which in turn builds public trust and confidence in the state.

Source: [Evelyn Edroma](#), Policy Specialist, Rule of Law, Security and Human Rights Crisis Bureau, UNDP

COMMENTARY: IMPLICATIONS FOR JUDICIAL EXCELLENCE

Appointing a Diverse Judiciary

A judiciary that reflects the demographic make-up of society strengthens the rule of law and public confidence in two ways. First, people see people with similar identity and life experience in positions of authority, giving them greater confidence that the legal system will treat them equally. Second, judges with different life experiences have a different range of knowledge and understanding of the impact of the law. This broader base of knowledge amongst the judiciary strengthens the collective base for decision-making.

Gender sensitivity and a track record of promoting gender equality should be a requirement for new judicial appointees. In addition to someone's legal knowledge, their knowledge of historic and systemic discrimination is also a requirement to fulfilling the obligations of a judge. Knowledge of and

experience addressing inequalities should be criterion for all new judicial appointments and in the hiring of court staff.

Working Conditions of Women Judges

Once appointed, judges still experience gender discrimination throughout their careers. Judicial assignments must include flexibility for family responsibilities, recognition of the different experience women bring, and attention to the opportunities and promotion of women and men judges. Judicial leaders can continually examine whether leadership opportunities, assignments to high profile cases, and opportunities to expand their knowledge are being offered equally to women and men judges.

Hearing women's voices, perspectives on cases and legal interpretations gives all judges, including men, a broader base of expertise to base their decisions on. It supports professional development and harnesses the full potential of the judiciary.

Women judges experience sexism within the judiciary, whether from their peers, from court staff or from lawyers in the courts. Addressing this sexism benefits individual judges, both women and men, as well as the court as a whole.

Women judges often find themselves limited to hearing family or children's cases. Assigning women to family law cases is premised on a stereotype that women are more nurturing. Making judicial assignments based on sexist stereotypes limits opportunities of women judges, as well as those for men. Women's experience of employment or business is critical to a relevant, evolving civil law. Women judges in criminal courts have identified and called out sexist assumptions in police and court practices, making the legal system more fair and transparent. When women judges are only assigned to a narrow range of cases, their expertise is wasted.

Promoting Women Within the Judiciary

Promoting judges of all genders and creating opportunities for leadership and visibility of women as chief justices is another important step to maintaining public confidence in the integrity of the legal system. Judiciaries, like all large institutions, must regularly examine the opportunities and barriers to promotion. Individual judges mentoring new appointees, administrative judges appointing committee members and senior judges making court assignments all play a role. At each juncture that decisions are being made about the career opportunities of judges, the gendered impact of the decision needs to be examined.

WHAT DOES IT LOOK LIKE?

A woman judge who studied international tax law is assigned to family court in a rural area.

When a new committee is formed, the administrative judge asks his friends who would like to join the committee instead of looking at the skills and interests of all of the judges in the region.

A judge invites a new appointee to attend a conference and recommends them for a promotion saying, "he is just like I was 15 years ago."

ACTIONS FOR JUDICIARIES

- ✓ Offer professional development and training opportunities to judges equally.
- ✓ Set up an internal committee of judges to review gendered barriers to judicial career progression and make recommendations for hiring and promotion practices.
- ✓ Review judicial appointment processes to identify and eliminate gender discrimination.
- ✓ Track the committee appointments, conference, professional development and other career-related opportunities by gender.
- ✓ Take action to ameliorate gendered barriers to women in leadership positions.

The General Council of the Judiciary in Spain adopted an Equality Plan to address issues of bias, discrimination, harassment and professional treatment within the courts. It stipulates, among other things:

- Guaranteeing equal opportunity for women and men to access judicial careers
- Ensuring adequate judicial training in equality, combating gender-based violence and prosecuting with a gender perspective
- Providing professional promotion opportunities for women and ensuring the presence of women in positions of greater responsibility within the judiciary
- Promoting the equal participation of women and men in training courses, both as speakers and participants
- Promoting gender-mainstreaming throughout judicial training
- Promoting co-responsibility and reconciliation of family, work and personal life within the judicial career
- Development of a protocol of action against all forms of harassment, including sexual harassment
- Protecting the occupational health of judges before and after the birth of a child, as well as judges who have experienced gender-based violence or harassment at work
- Addressing any gender wage gap in the judiciary

Source: [UNODC](#)

ACTIONS FOR JUDGES

- ✓ Offer to mentor new women judges to help them find opportunities and showcase their leadership.
- ✓ Invite new women judges to courses and conferences that raise their profile and expertise.
- ✓ When asked to speak on an issue, suggest a new woman judge be added to the panel.

USEFUL RESOURCES

-  [Gender, Diversity and Justice: Overview and Recommendations - OSCE Office for Democratic Institutions and Human Rights](#)
-  [Report of the Special Rapporteur on the independence of judges and lawyers, United Nations General Assembly](#)
-  [The Role of Women Judges and a Gender Perspective in Ensuring Judicial Independence and Integrity, Global Judicial Integrity Network](#)
-  [Examining whether leadership opportunities, assignments to high profile cases, opportunities to expand their knowledge are being offered equally builds the skills of women](#)

Sextortion

DEFINITION:

A form of sexual exploitation and corruption that occurs when people in positions of authority ... seek to extort sexual favours in exchange for something within their power to grant or withhold. In effect, sextortion is a form of corruption in which sex, rather than money, is the currency of the bribe.

Source: [IAWJ](#)

COMMENTARY: IMPLICATIONS FOR JUDICIAL EXCELLENCE

Sextortion is a form of corruption in which a person in power offers a benefit in exchange for a sexual favour. It has all the same dynamics of power and abuse of position as financial corruption, with the added gendered aspect of predominantly, though not exclusively, targeting women. The International Association of Women Judges (IAWJ) defined the term sextortion and has worked to raise awareness of this issue within judiciaries and in international discussions of judicial excellence.¹³ IAWJ identified three key components of sextortion:

- A person entrusted with authority who
- Abuses that authority in exchange for a sexual favour and
- Relies on the coercive power of authority rather than physical violence or force to obtain the sexual favour.

A sexual favour is understood to be any kind of sexual activity, inappropriate touching, exposing body parts, or posing for sexual photos.

¹³ [Fighting Sextortion Toolkit](#), IAWJ.

Sextortion is a form of corruption that has a disproportionate impact on women. Women are more commonly targeted in this abuse of power. The fact that sextortion has not been called out or monitored in the past has made the particular risks to women invisible. Acknowledging this abuse of power and educating judges about its prevalence are the first steps to combatting sextortion. Judges, prosecutors and police must use the laws against corruption in cases of sextortion to communicate to society that this form of corruption is serious and will not be tolerated.

Given the sensitive and often embarrassing nature of reporting sextortion, judges and court officers must also be particularly attuned to the vulnerability and risks women face. Ensuring access to well-trained staff and a rights-respecting complaint procedure will make it easier for people to report sextortion. Like with cases of sexual harassment and sexual assault, the court must be aware of the prevalent myths and be sure to prevent any assumptions or stereotypes from influencing their own assessment of a sextortion victim, as well as the conduct of investigators, police, and court staff.

Judges, as the public officer tasked with protecting the rights of the most vulnerable, have a leadership role in changing the perception of sextortion.

In 2020, Transparency International added a question about sextortion to its annual survey of public perceptions about corruption. This is the first year that data is available about the percentage of people who have had a person in a position of power explicitly offer a benefit in exchange for a sexual favour. It found that sextortion is common across the ASEAN region.

Sextortion within the Courts

Sextortion, evident in many sectors and services, is also an issue within the administration of courts. Not only should judges be vigilant about sextortion when it is reported and argued in court, but they must also be alert to it within the operation of the courthouse.

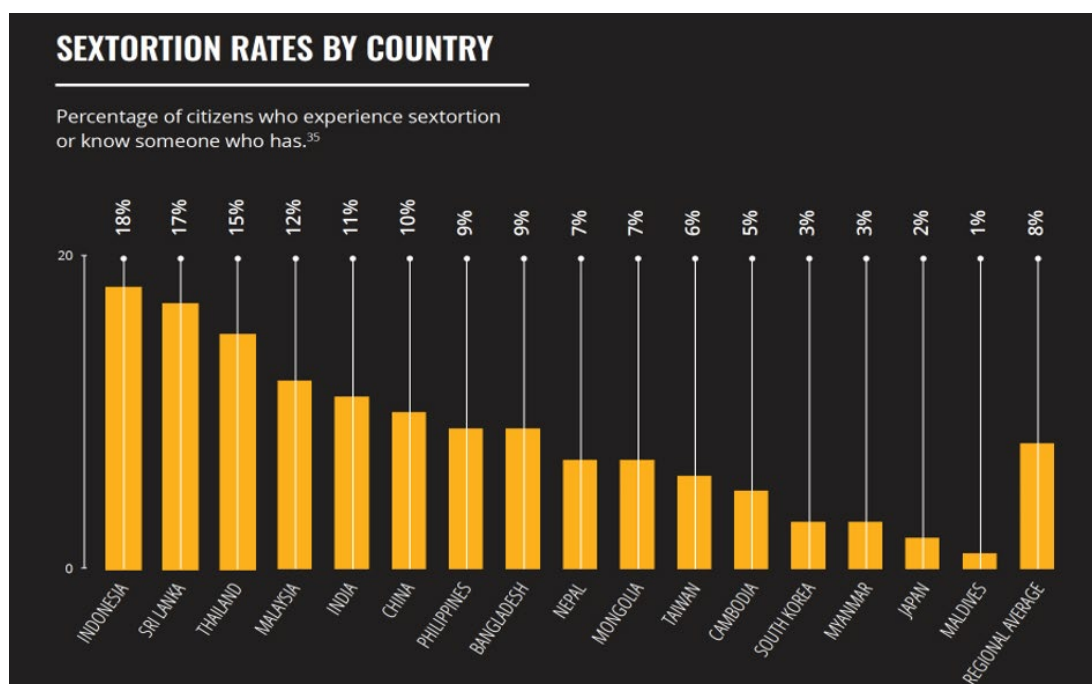
Cases of sextortion globally involve pressure on witnesses, litigants, court staff and lawyers to provide sexual favours in exchange for speedier court processes, job opportunities, lower fees, immigration decisions and lighter sentences.¹⁴

Judges can take the lead on developing reporting, complaints and investigation procedures to ensure that there is a safe, reliable mechanism within the administration of the courts to address sextortion.

Judges are often the only ones in a position to call out the misconduct of their peers. The power imbalance between a judge and a clerk, witness or litigant makes it highly unlikely that corrupt behavior will be reported. A peer, with equal power and professional credibility has a greater opportunity to take action to end this abuse of power

¹⁴ https://www.unodc.org/documents/ji/knowledge_products/Gender_Paper_FINAL_DOHA.pdf Pgs. 15 - 18

Figure 4: Sextortion rates by country



Source: Transparency International. Global Corruption Barometer: Asia 2020. page 26.

WHAT DOES IT LOOK LIKE?

A woman tries to register her children for health services. The official says he doesn't have time but if she meets him for dinner, he will do it later.

A mother asks a lawyer to represent her son who has been arrested, even though they do not have much money. The lawyer touches her and tells her that they will work out a 'payment plan'.

A new clerk at the court asks to attend a training session. The judge she works with often makes sure that they are alone in the office. He tries to kiss her and when she objects, he rejects her training request.

ACTIONS FOR JUDICIARIES

- ✓ Issue clear guidelines that define and condemn sextortion.
- ✓ Provide training to judges about the patterns evident in sextortion cases, equipping judges to spot signs of sextortion in the facts of a case or in the demeanor of witnesses. Provide ideas for respectfully inquiring about sextortion.
- ✓ Establish a complaints mechanism that allows for safe, confidential reporting of sextortion with enforceable consequences.
- ✓ Advocate for law reform to include sextortion as an explicit reference in anti-corruption provisions.
- ✓ Promote and support public education about sextortion as a crime that will be treated seriously by the court.

ACTIONS FOR JUDGES

- ✓ Convict and sentence in sextortion cases using the same laws and sentences as in cases of bribery and financial corruption.
- ✓ Pay attention to the dynamics between judges, lawyers and senior court officials and women working in or attending court, alert to signs of sextortion.
- ✓ Challenge peers who treat junior staff in a sexualized manner.

USEFUL RESOURCES

-  [Fighting Sextortion Toolkit, IAWJ](#)
-  [Sextortion: A Crime of Corruption and Sexual Exploitation, International Bar Association](#)
-  [Breaking the Silence Around Sextortion: The Links Between Power, Sex and Corruption, Transparency International](#)

Sexual Harassment and Sexual Misconduct

DEFINITION:

Sexual harassment is any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive work environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Both males and females can be either the victims or the offenders.

Source: [UN WOMEN](#)

Sexual exploitation refers to any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

Sexual abuse refers to an actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

Source: [UN Secretary General](#)

COMMENTARY: IMPLICATIONS FOR JUDICIAL EXCELLENCE

Sexual Harassment

Courts must remain vigilant to sexual harassment within the judiciary or court staff, as much as in the cases argued in the courtroom. Clear reporting protocols and a trusted complaints process is a key component of building an internal culture free from sexism and discrimination.

Cases from judiciaries in every region of the world and every level of court demonstrate that judges and court staff are at risk of sexual harassment from people who use their position of authority to intimidate them into complying or scare them away from reporting.¹⁵

¹⁵ Simbajon v. Esteban, 312 SCRA 192 (1999) (the Philippines). Tan v. Pacuribot, (A.M. No. RTJ-06-1882, Dec. 14, 2007) (the Philippines). Talens-Dabon v. Arceo, 259 SCRA 354 (1996) (the Philippines)

Whether the sexual harassment is a single incident of inappropriate touching or comment or a prolonged period of unwanted pressure, these incidents sexualize the workplace and cause women to fear for their safety or their job security. It also communicates the message that women are not equally valued at work.

Sexual harassment includes direct comments, propositioning or threats to an individual woman, as well as generalized comments, jokes, images shared with in a work environment. Comments, images and jokes make the workplace hostile for all women who work there. It also affects the men who work in the courts, creating a sexualized environment in which they are uncomfortable, or are having to help insulate colleagues from an abusive colleague. Everyone benefits when the workplace is free of sexualized conduct.

Clear messages about the expected behaviour and the consequences for inappropriate conduct should be given to all staff, including all judges. This must be accompanied by a transparent complaints process that encourages people to report sexual harassment with confidence that the issue will be dealt with, as confidentially as possible. Investigations must be conducted promptly, regardless of how senior the perpetrator is. While confidentiality in the process is important, secrecy in the result is not.

It is important for judges and court staff to see that the judiciary takes these issues seriously and that there are serious consequences for violating rights. As in society at large, staff will be watching the administration to see if it will follow through on its policies, holding everyone, even powerful people, to account.

Out of Court Conduct

Scrutiny of judges' sexual misconduct and discriminatory behaviour outside of the courtroom also undermines people's confidence in the legal system and in that specific judge's ability to render decisions free of bias.

WHAT DOES IT LOOK LIKE?

A senior clerk only hires young women and suggests that they should wear skirts to work.

A judge makes sexist jokes and comments about the only woman judge in the office.

A lawyer repeatedly touches women in the courtroom on their back or arms, commenting on their looks.

A judge's conduct off the bench is also subject to scrutiny, and inappropriate social conduct, emails or personal history can undermine public confidence in the judge's personal and professional integrity.

Source: UNODC, [Gender-Related Issues in the Judiciary, Global Judicial Integrity Network](#), Pg. 12




ACTIONS FOR JUDICIARIES

- ✓ Set clear guidelines about the court's condemnation of sexual harassment and misconduct. Hold mandatory training for all staff, including judges, about appropriate workplace behaviour.
- ✓ Establish a complaints mechanism that allows for safe, confidential reporting of sexual harassment with enforceable protections against retaliation.
- ✓ Investigate and act on cases of sexual harassment in the courts, regardless of the status of the offender
- ✓ Annually review patterns of sexual harassment or misconduct incidents and revise training and communications to continually shift the culture to eliminate sexual harassment.

ACTIONS FOR JUDGES

- ✓ Challenge peers who use sexualized language about junior staff, witnesses, or litigants.
- ✓ Support staff or judges who want to use the complaints process to report sexual harassment or misconduct
- ✓ Intervene when peers are dismissive of or retaliatory about a sexual harassment complaint.
- ✓ Take action, as a bystander, when you observe incidents of sexual harassment or misconduct, prioritizing the safety of the person being harassed.

USEFUL RESOURCES

-  [Harassment rife in chambers and courts, barristers' group says – The Guardian](#)
-  [Us Too? Bullying and Sexual Harassment in the Legal Profession - International Bar Association \(IBA\)](#)
-  [The Judiciary Is Not Immune from Bullying and Sexual Harassment - Global Judiciary Integrity Network](#)

Appendix

The Global Judicial Integrity Network discussed a series of recommendations in the Doha Declaration that individual judges, courts, nation states and international bodies can take to respond to gender issues in the judiciary. It made three categories of recommendations:

Clear and comprehensive guidance about gender-related integrity issues

- Incorporate gender-specific provisions in ethical codes
- Strengthen the Bangalore Principles of Judicial Conduct to provide clearer guidance about gender-related judicial integrity issues
- Adopt codes of judicial conduct that are consistent with the Bangalore Principles of Judicial Conduct
- Consider adopting and implementing gender-sensitive policies and other guidance
- Anchor judicial integrity in the international gender equality and anti-corruption framework

Judicial Accountability for Gender-Related Misconduct

- Adopt clear standards of judicial conduct and make that information readily available through a variety of channels
- Take steps to lower or remove barriers to reporting misconduct within the courts
- Establish an independent disciplinary body to hear cases of judicial misconduct

- Establish clear disciplinary procedures
- Allow those who witness or learn of misconduct to initiate investigations
- Protect the confidentiality of the investigation, but provide transparency with respect to the disposition of the case
- Ensure that the complaint process is prompt, thorough and impartial
- Provide a sufficiently broad range of corrective action to deal proportionately with the seriousness of the conduct in each case
- Provide adequate resources to prevent, monitor, and address gender-related misconduct
- Mainstream gender sensitivity into all aspects of the justice system
- Take gender issues into consideration in appointing judges and in monitoring and evaluating their performance
- Gather information and conduct empirically informed research to identify gender-related issues and develop effective strategies for correcting inappropriate conduct
- Undertake a regular examination and evaluation of how well the complaint process works

Effective Judicial Education and Training

- Mainstream the consideration of gender issues into every stage of legal education
- Education and training about gender-related integrity issues should target all those within the justice system, as well as the larger community

- Senior judges and judges in supervisory roles should not only lead by example but also participate in training
- Judiciaries should treat training on gender-related integrity issues as mandatory wherever possible
- Gender training should be engaging and valuable for both men and women
- Training should be comprehensive and address the full range of gender-related integrity issues
- Compliance training should be a key component of any training on gender-related integrity issues
- Training should address the attitudes, behaviour and institutional culture that allow gender-related misconduct to occur
- Bystander intervention training should be included in efforts to address gender-related integrity issues
- Education and training programmes should be evaluated on a regular basis, using a variety of evaluation methods, to ensure their continued relevance and effectiveness
- Share good practices within judicial networks.



United Nations Development Programme
Bangkok Regional Hub
3rd Floor United Nations Service Building
Rajdamnern Nok Avenue, Phranakorn
Bangkok 10200 Thailand