

"THE ROLE OF THE JUDICIARY IN PROMOTING GENDER JUSTICE IN AFRICA"

Accra, Ghana 19-21 November 2008

Report of the Partners for Gender Justice Conference
hosted by the Judicial Service of Ghana



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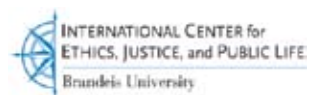
Report of the Partners for Gender Justice Conference
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JUDICIAL SERVICE OF GHANA



International Association
of Women Judges



REPORT OF THE PARTNERS FOR GENDER JUSTICE CONFERENCE: THE ROLE OF THE JUDICIARY IN PROMOTING GENDER JUSTICE IN AFRICA

19 - 21 NOVEMBER 2008, ACCRA, GHANA

Executive Summary

From 19 to 21 November 2008, the Judicial Service of Ghana hosted representatives from 24 African judiciaries at the fifth Partners for Gender Justice Conference. This conference was co-organized by the Judicial Service of Ghana, United Nations Development Programme (UNDP), the International Legal Assistance Consortium (ILAC), the International Association of Women Judges (IAWJ), the International Center for Ethics, Justice and Public Life (Brandeis University), and others. With the theme of *the role of the judiciary in promoting gender justice in Africa*, the conference was able to provide a meaningful forum for discussion of the issues facing women in need of accessing justice or seeking roles within the justice system. The three-day event gathered partners with a wealth of legal and practical experience and expertise in the pursuit of justice – including a number of chief justices, deputy-chief justices and justices of the supreme courts. Also in attendance were representatives of civil society, UN agencies, international organisations and NGOs, as well as judges from Sri Lanka, the U.K. and the U.S.

Widespread perceptions of gender inequality across much of Africa remain among the biggest challenges with regard to gender justice. This is often compounded by more general capacity constraints, as well as legislative and procedural inadequacies and insufficient public legal awareness. In many of the countries represented, rape, sexual harassment, domestic violence and other forms of gender-based violence are also widespread. The obstacles for women in need of access to the justice system are manifold, and crimes of this nature are often committed with impunity. At the same time individual and institutional biases and widespread discrimination present impediments to women seeking protection, or professional roles within the justice sector.

The Accra conference focused on identifying the many challenges, and establishing how best to confront and rise above them. The role of judges in identifying biases and promoting attitudinal change was discussed, and the benefits of training programmes and partnerships considered. Calls from participants for assistance with training and sensitisation programmes of all actors in the justice sector accompanied a desire for closer collaboration with civil society organisations and international actors. The important roles of specialized courts, international courts and alternative dispute resolution mechanisms were also recognised. Discussions considered regional and international laws, and the challenges facing their ‘domestication.’ Judges called for greater assistance to enable the application of international standards in domestic courts. Through the sharing of experiences and best practices, concrete recommendations emerged from discussions, including the formulation of standardised judicial trainings on human rights, gender and international and regional standards. Regional discussions stimulated ‘action plans’ outlining both short- and long-term activities and recommendations for addressing gender justice in the region. Positive feedback from many of the participants indicated a strong desire to go well beyond the conference itself with concrete, programmatic endeavours.

Central to this conference – and to Partners for Gender Justice more broadly – is the concept of partnership and cooperation, and it is anticipated that the partnerships established in Accra should go well beyond the conference itself, turning words into action. The programmatic work on access to justice and the rule of law undertaken by agencies such as UNDP, and the many projects undertaken by the national, regional and international NGO partners who took part in the conference, should continue to build on the work begun in Accra. In this way, each of the partners can contribute in their own way in pursuit of the common goal of making gender justice a reality.

I. BACKGROUND

Human development, if not engendered is endangered.¹

1. Around the globe people, organizations and donors are working independently in their environments to promote men and women's authentic access to justice and full participation in the justice system: "gender justice".² There are masses of practical resources, tools, and experiences that can support the efforts of those working to promote gender justice but they all too often stay where they began, isolated from the many others who could benefit from them. The road to gender equality is long and often rocky but encouragement and inspiration may be found in the success stories and best practices of others. Equally important are the valuable lessons learned if the mistakes of earlier efforts are to be avoided in the future. By coming together to share information, tools, and wisdom - what worked, what did not, and why - with those who face similar challenges, we can stand together on the shoulders of experience and see further down the road toward equality.
2. The Partners for Gender Justice initiative was launched in 2004 at the Conference on Gender Justice in Post Conflict Situations, with the theme *Peace Needs Women and Women Need Justice*, co-organized by the United Nations Development Fund for Women (UNIFEM) and the International Legal Assistance Consortium (ILAC). The initiative was spearheaded by a group of interested member states, non-governmental organizations (NGOs), UNIFEM and ILAC in order to further the gender justice agenda and forge "gender justice partnerships" in the context of post-conflict peace building.
3. Partners for Gender Justice conferences are designed to provide a forum for participants to share experiences illustrating not only the extreme challenges and daunting needs that women face, particularly in post-conflict environments, but also the many innovative and remarkable achievements made, often in the face of scarce resources and limited support. The conferences also provide a platform for national stakeholders to propose specific programmes to promote gender justice in their countries and advocate for international and regional support to implement such programmes. Reports of the earlier meetings are available as UN documents: Conference on Gender Justice in Post Conflict Situations, with the theme *Peace Needs Women and Women Need Justice*, UN document S/2004/862; High Level Meeting, *Building Partnerships for Promoting Gender Justice in Conflict Affected Countries*, organized by the Swedish Ministry for Foreign Affairs, with cooperation from UNIFEM and ILAC, A/60/444, S/2005/669; High Level Meeting on *Gender Justice in Liberia: The Way Forward*, hosted by the Liberian Ministry of Justice and Ministry of Gender Affairs with support from the Partners for Gender Justice, A/61/541, S/2006/548; and A High Level Meeting on *Advancing Gender Justice in Conflict Affected Countries*, organized by the South African Ministry of Justice and Constitutional Development in cooperation with the Partners for Gender Justice, S/2007/607.

¹ Mrs. Georgina Wood, Chief Justice, Ghana

² Gender justice is a wide reaching term, involving all aspects of society. The Partners for Gender Justice have taken a more narrow approach and defined gender justice to mean women's authentic access to justice and full participation in the justice sector.

4. In early 2008 the United Nations Development Programme (UNDP), the International Association of Women Judges (IAWJ), the International Center for Ethics, Justice and Public Life (Brandeis University), and the Judicial Service of Ghana added their considerable expertise and support to the Partners for Gender Justice. This Accra Conference is the fifth in the series of Partners for Gender Justice Conferences. It builds on the earlier Conferences as well as the momentum created by two West African Judicial Colloquia (2006 and 2007), organized by Brandeis University³ and highlights the IAWJ's Jurisprudence of Equality Programmes (JEP) in Kenya, Uganda and Tanzania, where the national chapters of the IAWJ have trained judges and magistrates on international law and women's rights, and where the Chief Justices and the judiciaries in general have been supportive of their work. The Accra Conference stands on the foundation of UNDP's Gender Equality Strategy and 8 Point Agenda, both designed to advance gender justice. Many of the proposals emanating from the Accra Conference will find support in UNDP's Global Programme on Rule of Law in Conflict and Post-Conflict Countries that seeks to empower national partners in addressing impunity against sexual and gender-based violence and enable women to pursue justice, as well as UNIFEM's Trust Fund in Support of Actions to Eliminate Violence against Women.
5. The Conference preparation reflects the synergy and collaboration of the Partners for Gender Justice. ILAC, with funding from the Swedish Foreign Ministry, took the lead in coordinating the conference. The IAWJ made the initial contact with Chief Justice Wood and facilitated participation by several of the IAWJ JEP trained Judges from Central and Eastern Africa who brought a wealth of practical experience to the Conference discussions; Brandeis commissioned filmmaker Mariama Khan to produce, *Sutura: What Judges Need to Know about Rape in Senegal*, a film made for the Accra Conference, and facilitated participation of judges from West Africa with whom they had worked. UNIFEM arranged for tools and expertise from the Asia-Pacific Advisory Forum on Judicial Education on Equality Issues to make their way from judges in India to judges in Africa. UNDP very generously financed the Accra Conference and made arrangements to get all participants to and from Ghana, including UNDP Country representatives, who are in a position to assist with implementation of the "action plans" developed at the Accra Conference; the Judicial Service of Ghana provided both vision and depth to the planning and implementation processes; and UNDP Ghana provided invaluable local and logistical support. The organizers, with input from several African NGOs, including Women in Law and Development Africa (WiLDAF), the Ark Foundation, Africa Legal Aid (AFLA), and International Federation of Women Lawyers (FIDA) Ghana, worked together to develop a rich program and identify participants who would not only contribute to the discussions but could take the lead on implementing initiatives developed at the Accra Conference after they returned home.
6. To facilitate discussions at the Conference, all participants were provided with a copy of the Conference Concept Note and a Resource Book containing various international and regional conventions, protocols, resolutions and other background documents. The Accra Conference discussions however were not focused on specific laws and international instruments but rather on jurisprudence and how the judges can effectively apply such instruments in domestic courts. While the discussions and proposals of the Accra Conference often reached outside the frame of the judiciary, there was an attempt to keep the focus of this report on the role of the judiciary in promoting gender justice. For organizational purposes only, the Rapporteur has made an attempt to arrange the issues into three general categories: identifying the challenges, rising above the challenges, and taking action beyond the conference. The presentation of activities in the regional Action Plans presented at the end of the report are in no particular order.

3 The reports of the Judicial Colloquia can be found at: www.brandeis.edu/ethics/internationaljustice/judicialcolloquia/index.html

7. The Conference overview provided in this report draws liberally on the vibrant and open discussions that took place over the three day period but cannot purport to adequately capture the passion, sincerity and integrity of the participants as they discussed the issues. They voiced their collective desire to strengthen the partnerships created at the conference and bring their Action Plans into reality in their courtrooms and their communities. In the spirit of the collaboration and synergy of the Conference the comments in this report are generally not attributed to individuals. The statements *in italics* at the beginning of various sections were comments made by various participants during the Accra Conference. The Rapporteur for the Accra Conference was Ms. Shelby Quast.⁴

4 Shelby Quast is the Director General of Partners for Gender Justice and ILAC USA; she is an adjunct professor at American University School for International Service and Catholic University, Columbus School of Law.

II. INTRODUCTION

8. Women often find it more difficult than men to access the justice system. This may be the result of discriminatory norms and practices within the justice sector and society as a whole; or it may reflect inadequate training and/or a lack of awareness by actors within the justice sector. It may be a function of the generally low level of literacy among African women and their consequent challenges in accessing information and institutions that are mediated by unfamiliar, albeit official, languages. It may also be because women are less aware of their rights under the law, or that the crimes and threats to which they are exposed are not prioritized by law enforcement actors. This is even more pronounced in post-conflict environments. As Yasmine Sherif, UNDP, pointed out in her opening statement

Women and girls bear an unequal burden of violence and hardship in times of crisis. Rape and other forms of gender-based violence have become institutionalized as tools of warfare, and cultures of violence in the domestic sphere continue long after conflicts have ceased.

Where rule of law, access to justice and human rights have been suspended for long periods of time, impunity is the norm. Rebuilding the justice system under such circumstances is particularly challenging, and gender justice can be particularly elusive.

9. The Partners for Gender Justice Conference: *The Role of the Judiciary in Promoting Gender Justice in Africa* took place in Accra, Ghana 19 – 21 November 2008. The Conference, hosted by Her Ladyship, Mrs. Georgina Wood, Chief Justice of Ghana, brought together judges from 24 African countries, Sri Lanka, India, the United Kingdom and the United States, with traditional leaders, African and international NGOs, academia and the United Nations (UNDP and UNIFEM) to discuss the role of the judiciary in promoting gender justice in Africa. The participants came from different backgrounds and legal systems; some judges had been active in promoting gender justice in their countries for some time while others were exploring the issues for the first time. The countries spanned five regions in Africa: Anglophone West Africa (The Gambia, Ghana, Liberia, Nigeria, Sierra Leone); Francophone West Africa (Benin, Burkina Faso, Cote d’Ivoire, Mali, Senegal); Central Africa (Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of Congo); East Africa (Kenya, Tanzania, Uganda, Sudan and Southern Sudan); and, Southern Africa (Botswana, Mozambique, Namibia, South Africa, Zambia).

10. In her welcome address, the Chief Justice of Ghana, Mrs. Georgina Wood, captured the realities many women face:

In many countries, and more particularly in Africa, where the illiteracy rate is quite high, the justice system has never been kind to women; it fails them. The obstacles, both formal and informal, that women encounter in their attempt to access justice are quite numerous. Most national Constitutions, laws and international Conventions, Instruments, Protocols, etc. seek to promote equality between men and women but the reality is still a mirage. Although there are constitutional and other statutory provisions that on paper afford women a fair measure of protection, policies, procedures and practices often prevent women from the full and equal enjoyment of these rights and privileges and hinder them from accessing justice.

11. The Accra Conference consisted of a series of thought provoking and interactive panel sessions and rich round table discussions. The three days witnessed a cross-fertilization of ideas, forthright sharing of experiences, and lessons learned; the participants shared the realities women face in accessing justice in Africa, shone a light on successful programmes and models, and put forward practical suggestions to promote equality and gender justice in their judiciaries. The international stakeholders had an opportunity to listen and interact with the judges and NGOs over the course of the Accra Conference and respond with how they can best support the Action Plans proposed in the various countries/regions.
12. In her statement, Ms Anne Marie Goetz introduced UNIFEM's **Say No to Violence against Women Campaign**, a global advocacy and awareness-raising effort focused on ending violence against women. Ms. Goetz introduced the newest signatory to the campaign: Chief Justice Wood. By the end of the Conference not only had John Kofour, President of Ghana, added his signature to the Say No to Violence campaign but so had virtually every participant at the Accra Conference. On 25 November 2008 UNIFEM presented 5,066,549 individual signatures from governments, judges, civil society organizations and the private sector to UN Secretary General Ban Ki Moon, supporting his global UNite to End Violence against Women Campaign.
13. Further raising their voices against rape, the Accra Conference participants issued a Joint Statement: Stop the Rapes in Congo-DRC and End Impunity Now! (Annex 1) In the Joint Statement the participants call for concerted efforts and resources to end the rapes and impunity in Congo-DRC through the following measures: the international community's contribution of adequate resources and capacity; substantive and meaningful support to law-enforcement officers, lawyers, prosecutors, and judges to counter the rule by force with the rule of law; no amnesty for sexual violence; and guaranteed participation of women in all efforts to restore justice and security.
14. The participants at the Accra Conference demonstrated their desire to work together to achieve equality and gender justice in their courts and communities; it was clear they did not lack information on the wide-spread causes and severe effects of gender inequalities. The tenor of the discussions was one of action: addressing inequalities, changing attitudes, putting an end to impunity, and ***straining the law to do gender justice.***
15. On Day One as the participants entered the Conference Center, they were greeted by the sights and sounds of drums and traditional dancers, celebrating the rich heritage of Ghana. The conference room and chairs were draped in Kente cloth, another reminder that the focus of this Conference was the role of *African judiciaries* in promoting gender justice *in Africa*. The serene, yet powerful, voices of the choir, singing of the resilience, faith, and strength that sustains heritage yet inspires change, set the stage for her ladyship, Mrs. Georgina Wood, Ghana's first female Chief Justice, to open the Conference.

16. Stirring introductory remarks from Chief Justice Wood and UNDP Resident Representative Daouda Toure, a welcome from the organizers, and a moving address from Yasmine Sherif, opened the door to intense discussions that led to the creation of the Action Plans presented at the end of this report.

III. THE REALITY OF GENDER JUSTICE IN AFRICA

A. Sutura

17. A screening of the film *Sutura: What Judges Need to Know about Rape and Justice in Senegal*⁵ kicked off the discussions. The film featured rape victims, lawyers, and psychologists, speaking openly in their native Wolof language about the effects of rape; it took rape and gender-based violence outside the purely legal context of a court room and placed it squarely in the social realities faced by women and girls trying to overcome the physical and mental scars inflicted by such violations. The film highlights the attitudes, perceptions and myths that often surround gender-based violence - shame, fear, dishonor, responsibility, security, secrecy, family integrity, self-worth - and shines a light on the reticence many rape victims have in reporting their crimes (at home and to authorities) or pursuing their rapists due to the cultural value placed on *sutura*: “discretion”. Conference-goers praised the film; most took a copy, subtitled in either English or French, to screen in their home countries. The film’s honesty and candor regarding the social realities women face laid the foundation for the next three days.

5 The United Nations Population Fund has awarded filmmaker Mariama Khan an “encouragement prize” for her work on *Sutura: What Judges Need to Know about Rape and Justice in Senegal* at the Agency’s Pan-African Festival for films against gender violence.

B. The perception of inequality – The single biggest challenge

In a situation of sexual violence, when a woman overcoming emotional ties does step out to approach the police as a complainant, law enforcers often reaffirm traditional concepts of honor, shame, dignity and guilt.

18. Issues of equality and impunity that continue to disadvantage women and girls even after more general challenges are addressed require special attention. It is a feature of gender justice that even after new laws are passed, conventions are ratified and courts are rebuilt, the perceptions, attitudes and biases ingrained in society can still prevent women from accessing justice or keep them from fully participating in the justice system. These biases often find their way into the courtroom or may keep cases from getting there in the first place.
19. The effect of perceptions and attitudes toward women permeated every discussion; the judges identified it as the single biggest challenge facing equality and gender justice in Africa. The judges emphasized the serious need for a “cultural change” that “engulfs the whole fabric of society” not just the policy makers.

20. In cases of sexual violence, for example, it may be particularly difficult for victims to relay, with the graphic specificity often required by law, the details of an attack; especially in a society where openly discussing such acts is considered taboo. It can also be humiliating and/or dangerous for a victim to publicly recount the incident. Victims are often re-victimized with biases and perceptions that surround her/his behavior, dress, virginity, marital status, submission or honour. They can even be rebuffed by their communities or families, resulting in many cases of gender-based violence that are never even reported to authorities. This forced silence tends to support and exacerbate the impunity that so often surrounds gender-based crimes.

C. Africa Judiciaries: The challenges

General Constraints

21. Many judiciaries in Africa face common challenges: not enough courts, especially in rural areas; a scarcity of qualified judicial actors (judges, prosecutors, lawyers), especially in rural areas; a deficiency of qualified staff; overcrowded dockets; limited budgets; a dearth of resources; inadequate infrastructure and logistical support; and a very large backlog of cases. Continuing judicial education is often inadequate or unstructured, and rarely available to all levels of court actors. There is generally little interaction among the various judicial actors (judiciary, police, prisons, bar association, prosecution, NGOs and civil society, including health care) and there are few examples of funded systems of legal aid.

Laws and Procedures

22. Many participants cited a lack of specific legislation addressing gender-based violations such as discrimination, early marriage, property grabbing, inheritance, domestic violence, sexual violence, female genital mutilation, paternity, child custody, etc. It was also pointed out that even when regional and international human rights agreements, such as the Convention on the Elimination of All Forms of Discrimination against Women, are signed, they are often not “nationalized” into domestic law or fully understood by the majority of judicial actors. Many judges felt that their hands were tied without specific legislation. Others, however, spoke to the importance of using existing legislation (e.g. laws on assault, rape, defilement, and grievous bodily harm) and Constitutional guarantees (e.g. equality and non-discrimination) when more comprehensive and specific legislation is not available.
23. Judges also reported having to deal with archaic rules and procedures that are complex and often unfriendly to victims of gender-based crimes; evidentiary requirements that are difficult, if not impossible, to meet; prohibitively high fees; distrust of the formal legal system; and little interaction with traditional courts. Special concerns, for example, such as where the perpetrator is the victim’s and/or family’s only means of financial support, were also mentioned.

Legal Awareness

24. Access to justice for women can be blocked for many reasons, including: victims’ ignorance of their legal rights or how to access the justice system; lack of financial resources; fear of stigma; language barriers; and corruption and/or discriminatory practices of police and/or judicial personnel. Employment of women in the justice system can be limited for many reasons, as well. Some that were pointed out included: girls not having the opportunity for education; too few women trained in the law; too few qualified candidates for law school and/or the bench; discriminatory hiring practices; sexual harassment in the work place; family obligations; and questionable systems of promotion.

25. Participants referred to a general lack of legal awareness in the community. Most women are not aware of their rights or how to assert them in a court of law; there is general mistrust of the legal system, especially by those that do not understand how it works or speak the language of the courts. Furthermore, many cases of gender-based crimes are handled in traditional courts. However, it was pointed out that certain customary practices promote discrimination, for example compensating a father or husband for the rape of a daughter or wife, but not the victim, or marrying off a young rape victim to her rapist.

IV. RISING ABOVE THE CHALLENGES -- YES WE CAN

Change is certain but it often takes time and always starts in the mind

Balancing Patience with a Sense of Urgency

26. It was acknowledged that many of the challenges identified are outside the reach of the judiciary or will take considerable time. However, participants did not focus on what they could not achieve but instead identified expertise and resources that support the practical things that *can* be done to effect change. The atmosphere was charged with the possibilities of transformation.⁶

The following proposals come from regional group discussions, workshops and presentations.

⁶ The Accra Conference immediately followed the election of Barack Obama as President of the United States, which itself demonstrated the possibilities of change.

A. Addressing the 'single biggest challenge': Changing Attitudes

Every judicial officer must be trained on gender justice. We are all subjected to our own customs, our own upbringing and the society around us; our judgments are influenced not so much by the law and evidence but by our own perceptions of what is right and wrong.

27. Where those perceptions and stereotypes are harmful to women and girls they need to be identified and dealt with. Participants urged that actions be taken to identify discriminatory attitudes at all levels of the judiciary, throughout the justice system and, indeed, throughout society. Once identified, steps must be taken to address such attitudes through education and training. Both men and women need to take an active role in these processes.

28. *The Asia Pacific Model: Experiential learning*

An NGO/judicial partnership in Asia presented an innovative approach to exposing judges to the realities and biases women often face in response to specific gender-based crimes. In 1997, Sakshi, an Indian NGO, began a process of dialogue and gender sensitization with the Indian judiciary. With the support of the Chief Justice, Sakshi carried out an extensive study focused on determining the need for gender equality education for members of the judiciary. The study proved that gender discrimination existed in judicial decision-making in India, and that judges were in real need of gender equality education. The NGO, in cooperation with the judiciary, developed an education program that focused on altering the attitudinal barriers that were the root obstacle for women and children who seek access to justice in situations of violence.

That led to the innovative experiential process which **involves judges in field visits to shelter homes, juvenile justice homes, women's prisons etc.**

This process addresses judges as human functionaries who carry around social baggage of myths and stereotypes about gender just like everyone else, and invites them to adopt an equality principle and social context awareness as a means to change that. The program was quite successful and led to a landmark case on sexual harassment. The program expanded to 16 countries and became the *Asia Pacific Advisory Forum on Judicial Education and Equality*. Within the Judicial Forum, each of the 16 countries has created a mandatory NGO/judiciary partnership to design and deliver equality education based on the social contexts within the country. This ground breaking program dissolved boundaries between two unlikely partners - judges and NGOs - to establish a holistic, inclusive and experiential equality education program for the judiciary and community leaders.⁷

B. Collaboration/Coordination: Leading the effort

29. The participants at the Accra Conference called on the Chief Justices in each country to lead the effort to identify constraints and enable change in their justice systems; they further called on the Chief Justices to promote a collaborative approach that effectively sensitizes all actors to the impacts of gender-based crimes on victims as well as the need to apply appropriate sentences to those convicted. It was stressed that courts can and do implement initiatives and reforms in a collaborative fashion without risking independence. By seeking stakeholder input and commitment, courts provide responsible leadership in developing a responsive and effective court system that anticipates and meets challenges of equality and gender justice. Through collaboration among judicial system actors and reaching out to potential stakeholders beyond the courthouse (social service providers, victims groups, schools), judiciaries can improve inter-agency communication, encourage greater trust between citizens and government, and foster new responses to problems of gender justice. The effort should:

- Apply a multi-sectoral approach, including police, courts, corrections, civil society, health care, mental health and policymakers to ensure that victims are restored and offenders held accountable;
- Develop judicial partnerships with NGOs, promoting an amicable learning environment rather than antagonistic one;
- Include traditional leaders, male and female, in gender sensitization efforts and take every opportunity to converse with and inform them of laws, international commitments, and human rights standards;
- Include civil society and community members in the process; a community task force or standing committee can often target a specific problem; and,
- Inform the community of efforts to sensitize the justice system at various public meetings (church groups, victim advocacy groups; school groups).

⁷ Conference participants took part in an "experiential workshop" and were provided with copies of *Walking Wisdom* an experiential manual on judicial equality education emanating from the experiences of Sakshi and the Asia Pacific Advisory Forum on Judicial Education on Equality

30. The Accra Conference presented several examples of NGOs playing a key facilitator role that could support judicial efforts:

- The African NGO, the Ark Foundation, runs the National Advocacy Partnership (NAP) project bringing together NGOs, international governmental organizations, state representatives and individuals to work on achieving a coordinated policy framework and model for addressing violence against women and children in Ghana.
- Africa Legal Aid (AFLA), a small pan-African NGO devoted to promoting and protecting individual and collective rights throughout Africa and to challenging the impunity of gross human rights violators runs a “Lecture Series.” This Lecture Series is designed to bring together a diverse group of persons including legal practitioners, academics, NGOs and civil society groups as well as the business community to share ideas on contemporary human rights issues, especially from an African perspective and situated within the African context.
- The US based Center for Court Innovations was instrumental in, at the request of the judiciary, working with key stakeholders in the justice sector and facilitating collaboration for the development of problem solving courts in New York.

C. Courts:

31. Developing gender-responsive courts was recognized as a necessity for the promotion of equality and gender justice. Both the creation of special courts to deal with specific gender-based crimes/issues and regular courts with special units or enhanced features were discussed.

Special Courts (courts created to address specific crimes or issues)

- Rape courts/sexual offences courts that deal only with specific crimes.
- Fast track courts: courts where cases that meet certain criteria can be litigated in a much shorter time, allowing more cases to be resolved and pressure on victims to be reduced.
- Problem-solving courts: courts that seek to address the problems behind the crimes (drug courts, domestic violence courts, juvenile courts). Features of effective problem-solving courts include:
 - > Enhanced information: better staff training about complex issues (e.g. domestic violence) combined with better information (about litigants, victims and community context), to help improve decision making of judges, attorneys, etc.;
 - > Community engagement to help justice systems identify, prioritize, and solve local problems; and
 - > Better collaboration within justice system and outside stakeholders.

Gender Units within courts

- Certain judicial actors are specially trained to address particular gender-based crimes. For example, the Special Court for Sierra Leone has a number of prosecutors and investigators experienced in gender-based violence and two full-time gender crimes investigators. The statute creating the Court further calls for efforts to ensure victims receive relevant counseling (physical and psychological rehabilitation in cases of rape and sexual assault) from experts in trauma related to sexual violence.

Victim/witness friendly courts may include:

- Specially trained court officers/administrators to deal with victims of gender-based crimes.
- Special waiting areas for victims, to limit confrontation with accused.
- Judges using discretion, as appropriate, to: protect identity of victim/witness; allow in camera (closed court) hearings; provide screens to hide the victim's identity (limiting stigma in community).
- Provision of services for victims/survivors of gender-based violence including: legal aid, psychological counseling, free medical care and testing for victims of violence, and free paternity testing in cases of child support (courts should encourage NGOs to provide parallel services, especially where government cannot or will not provide them).
- Simplified procedures/evidence requirements, especially in rape cases, where current requirements may be impossible to meet (e.g. a requirement for two witnesses or a certificate from a forensic medical doctor within 72 hours when there are no qualified doctors available).
- "One stop shops" that bring together in one place the various resources (community and government) available to victims of gender-based crimes: police gender unit; investigator; medical facility (testing); prosecutor; trauma counseling; etc. This makes it not only easier for the victim but also supports more effective investigation/prosecution by ensuring that proper forms and certificates are filed; tests taken, evidence preserved, etc.
- "Safe houses" or shelters where victims may stay during the judicial procedure to which they are party.

The Ark Foundation, for example, has a Crisis Response Center and Support to Survivors of Gender Violence program that integrates service support to survivors: counseling, legal aid, temporary shelter, medical and other referrals and rehabilitations.

32. South Africa's Thuthuzela Care Centers are "one stop shops" in hospitals where police can take rape victims to receive medical and psychological services, have medical tests, give a statement etc. Multi-disciplinary teams are specially trained to conduct proper investigations, ask the right questions, fill in the appropriate forms linking medical and legal requirements, etc. Thuthuzela Centres, linked to the Sexual Violence Courts, have dramatically reduced the time spent to investigate, prosecute and convict perpetrators from approximately 3-5 years to less than 6 months.

D. International tribunals, courts and special courts.

33. National judiciaries can look to international tribunals (ICTY, ICTR), courts (ICC) and special courts (Special Court for Sierra Leone) as examples of gender-responsive courts. The courts are playing a lead role in gender justice through including gender-based crimes in their jurisdiction, as well as calling for gender expertise in the investigation and prosecution of such crimes and the protection and provisions of appropriate services to victims and witnesses of gender-based crimes. The ICC has an inclusive selection process for judges on the court that generally requires the fair representation of men and women. Another source of information for judges is the growing body of international jurisprudence that addresses rape, sexual slavery, forced pregnancy, forced marriage and other forms of gender-based violence as serious crimes.

E. Alternative dispute resolution – decongesting the courts

34. Alternative Dispute Resolution (ADR) has long been prevalent in homes and local communities where Africans have a rich history of resolving issues through mediation by community elders. In situations where the formal justice system is overburdened and/or prohibitively expensive, mediation can fill the gaps and, in so doing, not only enhance perception of the judiciary but also provide better service delivery. There are various ADR platforms: formal mediation; court-connected ADR where the court actors refer cases to trained mediators; and informal community mediation. All ADR personnel, formal and informal, should be sensitized on gender issues and, along with all judicial actors, be trained on when to refer victims out and which cases are inappropriate for mediation (e.g. gender-based violence cases). Judges, lawyers, prosecutors, and traditional leaders should be included in all ADR training and gender sensitization.

35. Court Connected ADR

Ghana for example has developed a system of Court Connected ADR; it deals mainly with civil cases (property settlement, divorce, land litigation, family disputes and very minor criminal cases such as minor assault). Between January and September 2008 the Court Connected ADR disposed of 583 cases. Ghana, through information sharing and technical assistance, assisted The Gambia in developing its own system of Court Connected ADR. As one judge remarked: *This is what Africans should be doing: advanced jurisdictions assisting those behind.*

36. Many NGOs are actively using ADR processes to settle disputes out of court and can work with the judiciary to share their practical experience and lessons learned with judicial actors. NGOs can also play a lead role in sensitizing the public on ADR and gender issues.

For example, the International Federation of Women Lawyers, Ghana (FIDA) shared its manual on ADR, which includes the definition and process of ADR, the basic laws and case studies on Marriage, Estate, Property Rights, Paternity, Maintenance of Children, Custody and Access in Ghana. The manual, intended for FIDA Legal Aid Officers and other allied organizations was funded by UNDP.

F. Confronting legal challenges

37. As many participants demonstrated, judges can be strong advocates. Examples of what judicial actors can do, and have done, to promote equality and gender justice include:

- Judiciaries can petition political actors to ratify or nationalize regional and international instruments.
- Judges can petition for the repeal of laws that contradict the constitution and/or human rights laws.
- Judges should not wait for specific legislation to punish gender-based violence. Rape, for example, can be tried under existing assault laws if there is no law on rape.
- Judges can rule against harmful rules and practices.
- Judges can insert the language of regional/international agreements into case law to heighten their legitimacy, whether the agreement has been “nationalized” or not.

- Judges can use the constitutional guarantees of equality, non discrimination and human rights to *strain the law to do gender justice*.⁸
 - Judges can look to examples and judicial reasoning in case law of other jurisdictions and courts (including international courts).
 - Judges can work with NGOs that have expertise in addressing equality issues and applying human rights laws in domestic courts; open doors to qualified amicus curie briefs, where appropriate.
 - Judges can include traditional leaders in training programmes.
38. Traditional institutions, where they exist, make important decisions regarding customary law and practices and can influence civil and criminal law reform, as well. For example, Ghanaian law grants traditional leaders authority to codify customary laws; thereby also giving them the ability to codify or change laws which discriminate against women – e.g. customary and traditional laws that deny a widow the right to inherit when her husband dies.

G. Judicial training

39. All participants agreed that training and capacity building, across the board, are extremely important. All law students should be required to take courses on equality and gender issues affecting the judicial system. Continuing judicial education with specific programmes on equality and gender issues should be mandatory for judges at all levels. Training programmes can be organized to inform judges not only of the content of national, regional and international laws and human rights standards but various strategies for applying them in local courts.
40. The judges found great value in having a forum where they could come together to identify and explore various issues facing the justice system and more specifically, judicial decision-making. Continuing opportunities to gather and exchange information, at the local, regional and international levels, and further develop their understanding of specific issues (e.g. equality, non-discrimination, and international human rights standards) was seen as a priority.
41. *Training Model: The International Association of Women Judges' Jurisprudence of Equality Program (JEP).*
JEP provides training to judges and allied professionals on the application of international and regional human rights conventions to cases arising in domestic courts that involve discrimination or violence against women. JEP training workshops and seminars bring judges together to focus on the concrete meaning of abstract guarantees of equal protection and nondiscrimination. Through case studies, problem-solving exercises and other adult learning techniques, judges have opportunities to share insights with colleagues and deepen their understanding of international law as applied to domestic contexts. JEP training has resulted in a core group of judges who are well versed in human rights laws and experienced in applying regional and international instruments in domestic courts.⁹

⁸ Justice Varma, Chief Justice, Supreme Court of India, retired, in *Walking Wisdom*.

⁹ The International Association of Women Judges posts case summaries of selected decisions by JEP participants on its website, at <http://www.iawj.org/jep/jep.asp>

JEP training teams in East Africa and Southern Africa have reached over 800 judges, both men and women.

These jurists now form the nucleus of regional networks that can support one another and encourage their colleagues to promote equality in their decisions. JEP training has become an official part of the Judicial Training Institute in Tanzania and incorporated into other trainings in Kenya and Uganda. Many JEP-trained judges credit the program with alerting them to the nature and scope of domestic violence and gender discrimination; to hidden biases – their own and others’ – and stereotypes that sustain these biases; and to more effective and sensitive ways to question witnesses. JEP-trained judges have developed numerous projects to improve access to justice, including simplifying legal proceedings, developing public education materials (for example, the Kenyan Women Judges Association has developed checklists of documents widows should bring with them to court when their husbands die), and doing radio programs to tell women about their rights. Several of the JEP trained judges at the Accra Conference shared their experiences, judicial decisions, and advocacy efforts to reach others within the judiciary and judicial system. Ongoing collaboration within the regions among JEP trained judges and the other participants was seen as a priority.

42. AFLA offers a series of capacity building programmes and provides training to judges, and other actors, on international humanitarian law and promotes an African perspective, both within Africa and to the international community, on responding to conflict in Africa.
43. Women in Law and Development Africa (WiLDAF) and FIDA have training programmes available to judges as well as the expertise to submit **amicus curiae (friend of the court) briefs** to the court, where appropriate. An amicus curiae brief is written by an individual or organization that is not a party to the litigation, but who believes that the court’s decision may affect its interest (e.g. an organization or expert that works to promote equality in the workplace could submit a brief on anti-discrimination or sexual harassment issues). Friend of the court briefs can provide valuable information about legal arguments and bring to the attention of the Court relevant matters not already brought to its attention by the parties, including, for example, how specific laws such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) may apply to a specific case as well as other jurisprudence on the issue (WiLDAF has been instrumental in promoting and implementing CEDAW throughout Africa). Generally, a friend of the court brief may be filed only by leave of court granted on motion, at the request of the court or by the consent of all parties. Identifying groups that the judiciary can rely on to provide expert Amicus Curiae briefs was recognized as a useful tool.

H. Jurisprudence Can Make a Difference: applying regional and international law in domestic courts

*Decisions upholding gender justice may not make you popular, but I am thanked now for decisions that were laughed at a decade ago.*¹⁰

44. There was much discussion on how judges can effectively apply human rights laws in their decisions to promote equality and gender justice or “**Strain the law to do gender justice**”. Several judges present were actively applying constitutional rights and human rights laws in their decisions, where appropriate, even when specific legislation was lacking or human rights instruments had not been ratified or “nationalized”.

Various cases were discussed, including:

45. In **Vishaka & Ors v State of Rajasthan & Ors, India Supreme Court, 13 August 1997**, a case of sexual harassment in the workplace, Justice Varma found for the plaintiff based on the fundamental rights of equality, non discrimination and the right to practice one’s profession found in the Constitution of India. He further cited the articles in CEDAW that require States Parties to take all appropriate measures to eliminate discrimination against women in the field of employment, and undertake to adopt all necessary measures at the national level aimed at achieving the full realization of this. Justice Varma reasoned that *any international convention not inconsistent with the fundamental rights guaranteed in the Constitution and in harmony with its spirit must be used to construe the meaning and content of the constitutional guarantee and to promote its object*. Noting there was no legislation on the topic, the Court outlined guidelines which were to be observed in order to enforce the rights of gender equality and to prevent discrimination against women in the workplace. The Court further stated that the guidelines are to be treated as a declaration of law in accordance with Article 141 of the Constitution until the enactment of appropriate legislation.
46. In **Uganda v. Matovu, Criminal Session Case No. 146 of 2001, High Court of Uganda at Kampala, Oct. 21, 2002**, Judge E. S. Lugayizi found a rule, which was based on practice and the notion that women are liars, especially in matters involving sexual allegations, discriminated against women. He held the rule to be unconstitutional and therefore null and void. He explained that the rule discriminated against women. He noted that Article 21 of the Constitution “proclaims equality of all persons under the law, equal protection of the law, and prohibition against discrimination on the ground of sex.” The rule was therefore inconsistent with Uganda’s Constitution and international law obligations, particularly Article 1 of CEDAW.
47. In **Ndossi v. Ndossi, Civil Appeal No. 13 of 2001, High Court of Tanzania at Dar Es Salaam, Feb. 13, 2002**, Judge E. Munuo held that the widow was entitled to administer the estate on behalf of her children under the Constitution of Tanzania, which provides that “every person is entitled to own property and has a right to the protection of that property held in accordance of the law.” She further held that the Article 9(a) and (f) of the Constitution recognizes human rights by requiring “that human dignity is preserved and upheld in accordance with the spirit of the Universal Declaration of Human Rights” explaining that this clause generally domesticated human rights instruments ratified by Tanzania, including the anti-discrimination principles of CEDAW, Article 2(b) & (f), and the best interest of the child principle found in Article 3 of the Convention on the Rights of the Child.

¹⁰ Justice Shiranee Tilakawardane, Supreme Court of Sri Lanka, during her presentation at the Accra Conference.

48. ***In re Wachokire, Succession Cause No. 192 of 2000, Chief Magistrate's Court at Thika, Kenya, August 19, 2002***, Magistrate H. A. Omondi found that under Kikuyu customary law, an unmarried woman lacked equal inheritance rights because of the expectation that she would get married. Magistrate Omondi held this customary provision discriminated against women in violation of Section 82(1) of the Kenyan Constitution, which prohibits discrimination on the basis of sex. It also violated Article 18(3) of the Banjul Charter and Article 15(1)-(3) of CEDAW, which provides for legal equality between men and women.

I. Empowering Women as Judicial Actors

49. *Gender Parity can never be fully realized if the women are not, as a matter of law, empowered. Women's empowerment has become the cornerstone of gender promotion.*

Appointing women to key posts in Government, including the judiciary and national assembly, are practical steps toward establishing an appropriate platform for the promotion of gender justice. Judicial actors, especially those in positions of authority, should take a lead role in encouraging women to join the judiciary; promoting equality within the judiciary; examining hiring and promotion policies; establishing rules on sexual harassment; and advocating for a gender-responsive budget. It is equally important that women in the judiciary, as well as men, receive the support, resources and tools necessary to do their jobs effectively. Associations of women judges can be extremely effective; there should be associations in each country. The International Association of Women Judges can help in the formation of national and regional associations. These associations can support judicial activism, advocacy, and lobbying for equality and gender justice.

50. Traditional leaders (men and women) must be included in equality and gender justice training and education programmes. Queen Mothers in Ghana, for example, are natural leaders for girls and women and have tremendous influence in the community. Supporting collaboration among women traditional leaders can result in stronger, more influential groups. For example, the Queen Mothers of seven regions in Ghana came together and formed the Queen Mothers' Associations. This Regional Associations enabled the Queen Mothers to more effectively demand inclusion in the decision making processes in the Ghanaian House of Chiefs.

J. Strengthening Judicial Awareness: Demystifying the law

The legal maxim that presumes everybody knows the law is a fiction and has no place in Africa where the majority of the population is illiterate.

51. Judges can work with NGOs and civil society in outreach efforts to demystify the law for citizens, traditional leaders, and actors in the justice sector. Working with the various stakeholders can help engender public trust in the judiciary and promote better understanding among judges of the realities in the community. Examples include:
- Judges can, in partnership with NGOs and/or institutions, support the production and dissemination of simplified guides to laws, in official as well as local languages. In Sierra Leone, the Ministry of Social Welfare, Gender and Children's Affairs and the Coalition on Women's Rights issued guides to the "gender bills" - the Registration of Customary Marriage and Divorce Act, the Domestic Violence Act and the Devolution of Estates Act.
 - Judges can participate in legal literacy efforts. In Ghana, for example, FIDA runs a Legal Literacy Project to educate Ghanaian society in general and women in particular about their rights and obligations and to encourage them to assert their rights. The aim of the project is to present the law in a simple manner in basic terms (Wills, Intestate Succession, Marriage, and Domestic Violence). Under a legal service project, FIDA also provides legal services to indigent women, children and men.
 - Judges can engage in the many NGO training/advocacy efforts that currently exist. For example, the Ark Foundation's Women's Law and Human Rights Institute has programmes to build capacity through training and advocacy on the themes of Women's Human Rights, Women's Leadership and Development.
 - Judges can speak on equality and gender justice issues at meetings at all levels of society: community groups, church groups, school groups, etc.
 - Judges can interact with traditional leaders in the community on sensitizing the community on equality and gender justice issues.
 - Judges can submit articles to legal journals and newsletters advocating for equality and gender justice in the judicial sector and help shape the way academics and advocates view equality and gender issues in Africa. Many law schools and academic institutions have legal journals. The AFLA Quarterly, for example, is considered by many academics and human rights advocates in Africa and abroad to be an important source of information for human rights and legal developments relating to Africa.
 - Judges can invite qualified NGOs to submit amicus curiae briefs, where appropriate.
 - Judges can organize national and regional forums to exchange ideas, best practices, failures and jurisprudence on equality and gender justice.

K. Improving Support: The United Nations and NGOs

52. The UNDP, UNIFEM and NGO representatives met together in a parallel meeting to discuss ways in which they can improve their institutional support for gender justice. Practical suggestions included:
- UN representatives and NGOs can better inform each other about their respective projects/programmes to assist national actors (and do it more often); to both share experiences and best practices and to avoid duplicating work at the national, regional and international levels.
 - There is a need for better and more effective involvement of national stakeholders at all stages of program planning, implementation and evaluation
 - There is a need for better programme evaluation (to identify what programmes are/are not effective).
 - Program focus should extend beyond large cities/capitals and reach out to rural areas.
 - UN and NGOs should support a more holistic approach to include all levels of the judicial sector: legislation, police, prosecution, judiciary, prisons (better/more information sharing among stakeholders in this area could help ensure that all actors are included).
 - UN and NGOs can work more with traditional court actors and representatives while still promoting human rights standards.
 - UN and NGOs need more opportunities to come together in discussion forums such as this conference.

V. PARTNERSHIP

We too have to work together to establish partnerships across the board with civil society, NGOs, government actors, the United Nations, and the survivors of [sexual violence]. Only through partnership can we truly make a lasting impact.

53. Participants urged that the Partners for Gender Justice continue – locally, regionally and internationally. Facilitating and encouraging collaboration and cooperation at the national, regional and international levels, among the various actors is crucial to judicial efforts to promote gender justice. Open sharing of and access to information on best practices, failures and lessons learned is essential. And a forum in which to exchange experiences and expertise among judicial actors, especially at the local and regional levels, is fundamental to building capacity and strengthening local ownership of the process. Virtually all the Accra Conference participants left the meeting as new or existing partners in the Partners for Gender Justice.
54. The Partners for Gender Justice is developing a website, introduced at the Accra Conference, as a mechanism for sharing information: laws, jurisprudence, tools, resources, NGOs, programmes, donors etc. among the partners. The success and usefulness of the site is, of course, dependent of the active participation and information sharing by all partners.
55. Each individual and organisation involved with the partners for gender justice initiative has a role to play in advancing gender justice. The judiciaries present at the conference frequently expressed their desire to collaborate, and to benefit from collective expertise and support. The programmatic work on access to justice and the rule of law undertaken by agencies such as UNDP, the innovative campaigns and programmes of UNIFEM on gender equality and ending violence against women, and the many projects undertaken and tools developed by the international, regional and national NGO partners who took part in the conference, should continue to build on the work begun in Accra. In this way, each of the partners can contribute in their own way in pursuit of the common goal of making gender justice a reality.

VI. BEYOND THE CONFERENCE: TURNING WORDS INTO ACTION

At the close of the Conference a Kenyan judge recounted that when he first received the invitation to this meeting on “gender justice” he returned it with a note stating that he was a “MR” not a “MRS” and that the invitation must have been sent to him by mistake. After he was assured the invitation was intended for him, he came to Accra and actively participated throughout the Conference. For him, the conference was eye opening: equality and gender justice are not just women’s issues but they are society’s issues; men and women must be partners in the struggle for equality and justice. He recounted further how he was embarrassed by some of his earlier decisions based on ‘culture’ and bias, not law. He returned home vowing to work toward ensuring women and men had equal access to justice in his courtroom; he plans to use everything in his power to share this with his colleagues.

56. Over three days of intense discussions, information sharing, and identifying challenges and best practices, combined with a bit of soul searching and after-hours dancing, the participants emerged as partners, ready, with action plans in hand, to tackle the issues of gender justice in their courts, their judiciaries and their communities. We have now all returned home to overburdened schedules, over-flowing court dockets, packed country programmes, and in many cases, challenging circumstances; it is easy to put aside the commitments made in November. It is up to all of us to take those commitments beyond the Conference and bring the following Actions Plans into reality.

VII. ACTION PLANS – YES WE WILL

57. The participants broke out into regional groups and created the following actions plans to promote gender justice in their judiciaries. The participants were asked to identify practical measures, both short term and long range; they were not asked to follow a particular format.

A. Anglophone West Africa (Gambia, Ghana, Liberia, Nigeria, Sierra Leone)

Short term actions

Judicial Training

- Include social context education in the training curriculum for all judges
- Train judges in application of international law in the courts

Alternative Dispute Resolution/Coordination

- All judges should be trained in ADR generally. ADR should be practiced at all levels of the court structure
- Judges should liaise with NGOs that engage in ADR in the community to that they can transfer that practical knowledge into the courtroom
- Joint workshops should be held on ADR for judges, legislature, prosecutors, lawyers and NGOs

Outreach/Empowerment

- Sensitize community: traditional leaders, opinion leaders, general public about rights of women and implications for taking legal or other action
- Organize workshops, seminars, conferences on gender equality and gender justice
- Exchange ideas and strategies among women lawyer/judges groups
- All education should include human rights and equality.

Long range vision
Judicial Advocacy/Judicial Training

- Encourage gender equality in the appointment of judges and magistrates
- Encourage/support more women to become judges
- Promote gender justice in judgments
- Nationalize/domesticate international instruments and apply them in court
- Create victim-friendly trial environments to encourage women to bring cases before the court

Alternative Dispute Resolution

- Share ADR experience among countries where ADR is less developed

Coordination

- Establish partnership and networking relationship among the stakeholders to harmonize laws on gender justice within the sub-region
- Lobby for gender mainstreaming desk at the legislature to review bills and ensure incorporation of a gender dimension

Outreach – empower women

- Invest in education
- Ban female genital mutilation; government to liaise with local communities to find alternative ‘rites of passage’
- Promote women’s financial empowerment
- Reduce costs of big conferences and channel money into practical activist work
- Identify negative cultural practices; promote human rights with sensitization/education programmes

B. East Africa (Kenya, Rwanda, Tanzania, Uganda, Sudan and Southern Sudan)

Short term actions (each action has already been implemented in at least one country in East Africa)

Judicial Training on Gender Justice

- Provide Gender Justice Training at Judicial Training Institutes, where applicable
 - For new magistrates
 - Continuing judicial education (especially on new statutes, such as Kenya's Sexual Offenses Act)
- Provide Gender Justice Training through International Association of Women Judges' Jurisprudence of Equality Program (JEP)
- Involve women judges in training

Judges' Roles as Educators/Advocates

- Reach out to traditional leaders and bring them on board
- Encourage gender-sensitive judges to teach at universities, and to speak to student groups, at all levels
- Utilize the court as a vehicle to promote education on issues of equality and gender justice
- Produce pamphlets in local languages on simplified court procedures
- Participate in radio programmes (thematic discussions, call in shows, know your rights programmes)
- Translate human rights instruments into local and official languages

Domesticate Human Rights Laws

- Through specific penal legislation (e.g.: female genital mutilation)
- In the absence of specific legislation, use existing penal law on assault/grievous harm/child abuse

Collaboration with Other Sectors/Government - Outreach

- Monthly meetings of "Court Users' Committee" bringing together judges, magistrates, prosecutors, police, prison officials, and other justice personnel to discuss case management – identify problems and brainstorm solutions
- Find out when government is training chiefs, and ask to slot in programming on gender (e.g. on sexual offenses act or on property grabbing law)

Collaboration with NGOs/Civil Society - Outreach

- Work with Bar Associations; advocate that lawyers take pro bono cases
- Identify relevant NGOs: attend/speak at meetings
- Partner with grass roots organizations operating at the village level (such as Society for Women and AIDS in Africa) to disseminate information about wills, court procedures, etc.

Long range vision

- The Partners for Gender Justice should continue, at the national, regional and international levels
- Domestic human rights laws
- Train all judges
- Meet again for consultation and sharing
- Identify and share best practices
- Judges apply universal human rights standards
- Litigants can walk into courts knowing that gender justice will be delivered, not subverted
- Any appointment committee, candidate review board, judicial service commission, etc. should have women members
- All interview processes for judicial candidates will include questions on gender equality. A candidate who demonstrates a lack of commitment to enforcing the law on gender equality would be disqualified as lacking requisite qualifications

C. Southern Africa (Botswana, Mozambique, Namibia, South Africa, Zambia)

Short term actions (Domestic Action - up to 8 months)

Judicial Advocacy/Training

- Meet and present this report to Chief Justice
- Promote structured judicial education, incorporating women's human rights, in each country

Coordination/Outreach

- Organize multi-stakeholder workshop for structures involved in the justice system (e.g. judges, prosecutors, police, traditional courts, NGOs, human rights institutions, etc.)
- Use 16 Days of Activism as an entry point for sensitizing the judiciary about gender justice
- Involve Ministries of Women's Affairs and Justice

SADC Regional Action (By February 2010)

- Organize a SADC Colloquium on Gender Justice/Human Rights, publish report as book
- Work through Chief Justices
- Invite respected international judges and experts on gender justice and human rights
- Establish a team to prepare gender justice material such as training guides and bench books

Long range vision

Gender responsive judiciary

- Achieve a judiciary that is sensitive to gender justice and equality and is aware of its role in this regard by 2015
- Achieve a judiciary that recognizes women's rights as human rights and adopts gender inclusive procedures
- Specialized courts/divisions for gender-based violence
- Fast-tracking of cases on gender-based violence
- Transform courts into victim friendly courts

Judicial Training

- Gender to be mainstreamed in all judicial education
- Training of legal clerks. Intermediaries and interpreters on gender and human rights
- Continuous judicial education structure
- Standardized judicial training that included human rights and gender

Outreach

- Establish a web-page that highlights human rights cases in Africa

D. West Africa and Central Africa (Francophone) (Benin, Burkina Faso, Cote d'Ivoire, Mali, Senegal, Burundi, Cameroon, Central African Republic, Democratic Republic of Congo)

Short term actions

- Train/strengthen capacity at all levels of the judicial system, in all pertinent subjects
- Sensitize law practitioners on the concepts of gender equality and gender justice; sensitize schools, at all grade levels, law faculties and the general population on issues of gender equality and gender justice
- Use language of international conventions in laws, legal decisions and education
- Advocate and lobby for laws that support gender equality and gender justice
- Utilize discretion in cases of sexual violence (e.g. in camera/closed door proceedings)
- Create a gender responsive judicial system

ADR

- Seek alternative forms of dispute resolution where there is no legislation

Outreach/Coordination

- Raise awareness of laws on sexual aggression
- Provide assistance to victims of sexual violence, harassment and discrimination (judicial, medical and psychological); link with NGOs who provide such services

Coordination

- Exchange information and experiences among countries/regions, including sharing case law and decision making processes on questions of gender equality and gender justice

Long range vision

Advocacy

- Adopt specific legislation to address gender issues
- Ratify international conventions and abolish laws that do not conform
- Lobby for legislative reform for procedure
- Provide protection for victims
- Advocate for gender responsive budgets
Advocate for state payment of medical certificates in cases of rape and paternity test

ANNEX 1.

**JOINT STATEMENT FROM THE PARTNERS
FOR GENDER JUSTICE CONFERENCE,****ACCRA, GHANA, NOVEMBER 19 – 21, 2008**

Stop the Rapes in Congo-DRC and End Impunity Now!

We, the participants of the Partners for Gender Justice Conference, express our deep concern about the widespread and systematic rapes of women and children in Eastern Congo – DRC. We call for concerted efforts and resources to end the rapes and impunity now.

We are members of judiciaries – from every level – representing 24 countries across Africa. We are gathered in Accra, Ghana, with a determination to strengthen access to justice for women through our Partnership for Gender Justice.

Our region has seen some of the worst examples in history of targeted sexual violence deployed on a widespread scale. An estimated 15,000 rapes are committed every year in Eastern Congo – DRC. These unspeakable atrocities are systematic and widespread, amounting to crimes against humanity. We voice the moral and legal imperative of the world to take effective action now to restore security and ensure justice. There will be no peace in DRC unless there is security and justice for women.

We call on the international community to contribute with adequate resources and capacity to international, regional and local institutions determined to make a difference in Eastern Congo-DRC. Political, humanitarian and development actors must be equipped to empower international and local justice and security providers to stop the sexual violence without delay.

We recommend that law-enforcement agencies, lawyers, prosecutors and judges be afforded substantive and meaningful support to counter the rule by force with the rule of law, to curb and bring an end to the atrocities and grave breaches of international law.

We call for the realization of both national and international laws. The UN Security Council unanimously recognized in Resolution 1820 that unchecked sexual violence exacerbates conflict, impedes peace efforts and perpetuates insecurity in the wake of war. Moreover, Security Council Resolution 1325 emphasizes the responsibility of all States to put an end to impunity and prosecute those responsible for sexual and other violence against women and girls.

There must be no amnesty for sexual violence against women and children. We cannot allow impunity to stand, but must take swift action to sanction rape and establish accountability based on the premises of the law.

Participation of women must be guaranteed in all efforts to restore justice and security.

Women survivors, service providers and leaders, alike, must play a critical role in finding effective and tangible solutions.

As we are gathered here today, our call is one: turn Security Council Resolutions 1325 and 1820 into concrete measures of substantive and comprehensive political and financial support now.

We cannot afford to fail in our aspirations, commitments and legal imperatives. We cannot afford to fail the women and children of Eastern Congo-DRC for whom these resolutions were created!

21 November 2008

ANNEX 2.

CONFERENCE AGENDA
PARTNERS FOR GENDER JUSTICE CONFERENCE
ON THE ROLE OF THE JUDICIARY IN PROMOTING
GENDER JUSTICE IN AFRICAN COUNTRIES

TUESDAY 18 NOVEMBER 2008
PARTICIPANTS' REGISTRATION

16.00 - 19.00 Conference Secretariat (La Palm Royal Beach Hotel)

WEDNESDAY 19 NOVEMBER 2008
DAY ONE: GENDER JUSTICE AND NATIONAL JUDICIARIES

08.45 - 09.00 Cocoa Break

09.00 - 09.15 Welcome: Chief Justice Georgina Wood, Supreme Court, Ghana

09.15 - 10.00 Introductory/welcome panel

Chair: **Professor Takyiwaa Manu**, Director,
Institute of African Studies, University of Ghana

Speakers: **Daouda Toure**, United Nations Development Programme (UNDP)
Resident Representative, Ghana
Yasmine Sherif, Senior Rule of Law, Justice & Security Adviser,
on behalf of **Kathleen Cravero**, Assistant Administrator and Director,
Bureau for Crisis Prevention and Recovery, UNDP

Brief welcome: **Justice Stephen Alan Brobbey**, Supreme Court, Ghana
Rodger Chongwe, Africa Director, International Legal Assistance
Consortium (ILAC), Ngoni headman of Njalikwa Village (Zambia)
Joan Winship, Executive Director, International Association of
Women Judges (IAWJ)
Ann-Marie Goetz, United Nations Fund for Women (UNIFEM)
Leigh Swigart, International Center for Justice,
Ethics and Public Life (Brandeis University)

10.00 - 10.45 Screening of SUTURA: What Judges Need to Know about Rape
and Justice in Sénégal

Background: **Professor Fatou Kine Camara** (Senegal)

Filmmaker: **Mariama Khan** (Gambia)

10.45 - 11.15 Cocoa Break

11.15 - 12.45 Panel One: Gender Equality in Accessing and Serving on the Courts

Moderator:	Yasmine Sherif , UNDP
Panelist:	Judge Beatrice Ntuba (Cameroon)
Panelist:	Judge Claire Ayemonna-Houngan (Benin)
	Questions and Answers

12.45 - 14.15	Lunch
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14.15 - 14.30	Partners for Gender Justice in Conflict Affected Countries Website
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14.30 - 15.50	Panel Two: Special Courts and Traditional Justice: Promoting Equality and Gender Justice?
Moderator:	Kristine Herman , Court Innovations (US)
Panelist one:	Justice Steven Alan Brobbey , Supreme Court (Ghana)
Panelist two:	Judge Tandra Dawson , Special/problem solving courts (US)
Panelist three:	Nana Abena Afriyie , Queen Mother (Ghana)
	Questions and Answers

15.50 - 17.30	Regional Judiciary Round Tables: Identifying Women's Reality in Accessing Justice and On the court
Introduction:	Shelby Quast , ILAC
Regional discussion groups:	Anglophone West Africa: (<i>Gambia, Ghana, Liberia, Nigeria, Sierra Leone</i>)
Discussion leader:	Justice Margaret Insaideo (Ghana)
Rapporteur:	Shibani Malhotra (UNDP)
Regional discussion groups:	Francophone West Africa (<i>Benin, Burkina Faso, Cote d'Ivoire, Mali, Senegal</i>)
Discussion leader:	Judge Claire Ayemonna-Houngan (Benin)
Rapporteur:	Professor Kine Camara (Senegal)
Regional discussion groups:	East Africa (<i>Kenya, Rwanda, Tanzania, Uganda, Sudan and Southern Sudan</i>)
Discussion leader:	Justice Laetitia Mukasa Kikonyoga (Uganda)
Rapporteur:	Helge Flard (UNDP)
Regional discussion groups:	Central Africa (<i>Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of Congo</i>)
Discussion leader:	Judge Beatrice Ntuba (Cameroon)
Rapporteur:	Anicette Nzapaoko (Central African Republic)
Regional discussion groups:	Southern Africa (<i>Botswana, Mozambique, Namibia, South Africa, Zambia</i>)
Discussion leader:	Judge Naomi Shivute (Namibia)
Rapporteur:	Stacy Weld-Blundell (UNDP)

15.50 - 17.30 **Concurrent regional NGO/UNDP/UNIFEM Round Tables:**
Working Together to Address Women's Reality in Accessing Justice
(AFLA, WILDAF, FIDA, ARK, ILAC, IAWJ, COURT INNOVATIONS,
UNDP, UNIFEM)

Moderator: **Hodan Addou** (UNDP)
Rapporteur: **Agneta Johansson** (ILAC)

17.30 - 18.30 Plenary: Round table recommendations

19.30 **Ghana Night**, Dinner hosted by Ghana Judicial Service and Unilever,
Speaker's Forecourt, State House

THURSDAY 20 NOVEMBER 2008

DAY TWO: ADVOCACY IN THE JUDICIARY: ADDRESSING GENDER ISSUES

08.30 - 09.15 Welcome and Start of the Day: UN Action Stop Rape Now

09.15 - 10.20 Panel One: Interactive Collaborations with the Judiciary for Judicial
Education and Equality Issues: the Experience in the Asia-Pacific

Moderator: **Anne Marie Goetz** (UNIFEM)
Panelist: **Justice Shiranee Tilakawardane** (Sri Lanka)
Panelist: **Naina Kapur** (India), Resource Director for the Asia-Pacific Advisory
Forum on Judicial Education on Equality Issues
Questions and Answers

10.20 - 12.30 Workshop on Discrimination

Introduction: **Naina Kapur**
Small group workshops

12.30 - 14.00 Lunch

14.00 - 15.00 Panel Two: Regional and International Standards for Gender Justice

Moderator: **Justice Joyce Aluoch** (Kenya)
Panelist: **Justice Sophia Akuffo** (African Court of Human and People's Rights).
African regional standards on equality and gender justice
Panelist: **Judge Renate Winter** (President, Special Court, Sierra Leone)
International standards on equality and gender justice
Questions and Answers

15.15 - 18.00 Workshop on Applying Regional/International Standards in Domestic Courts:
The Experience of the International Association of Women Judges

Introduction: **Joan Winship**, IAWJ (US)

Facilitator: **Anne Goldstein**, IAWJ Jurisprudence of Equality Program (JEP)

Panelist: **Justice Eusebia Munuo** (Tanzania)

Panelist: **Judge David Batema** (Uganda)

Question and Answers

19.30 Dinner: Ghanaian Village, La Palm Royal Beach Hotel

FRIDAY 21 NOVEMBER 2008

DAY THREE: PARTNERSHIPS AND TOOLS AVAILABLE TO THE JUDICIARY TO PROMOTE GENDER EQUALITY AND JUSTICE

08.30 - 09.30 Panel One: Gender Justice: Country updates

Introduction: **Sebastien Gouraud**, UNDP

Panelist: **Abdou Kareem Savage**, Chief Justice, Gambia

Panelist: **George Adeshola Oguntade**, Chief Justice, Nigeria

Panelist: **Thomas Pungwe Massua**, le premier président de la Cour,
Democratic Republic of the Congo

09.30 - 10.45 Supporting Equality and Gender Justice in the Judiciary:
Highlighting NGOs

Moderator: **Mercy Ohene**, Judicial Service (Ghana)

Panelist: **John Baidoo Burke**, Women in Law and Development (WiLDAF)

Panelist: **Ernestine Higgins**, International Federation of Women Lawyers (FIDA Ghana)

Panelist: **Evelyn Ankuma**, Africa Legal Aid (AFLA)

Panelist: **Rodger Chongwe**, ILAC Africa (Zambia)

10.45 - 13.00	Regional and Country Action Plans to Address Issues of Equality and Gender Justice
Introduction:	Dr. Leigh Swigart, International Center for Justice, Ethics and Public life (Brandeis University)
Regional Roundtable Discussions:	Action Plans and Partnerships to Address Issues of Gender Justice
Discussion leader:	Justice Etienne Kene (Mali)
Rapporteur:	Dr. Leigh Swigart, (Brandeis University)
Discussion leader:	Justice George Adeshola Oguntade (Nigeria)
Rapporteur:	Dr. Kwadwo Appiagyei-Atua (University of Ghana)
Discussion leader:	Justice Eusebia Munuo (Tanzania)
Rapporteur:	Anne Goldstein (IAWJ)
Discussion leader:	Justice Avril Anin-Yeboah (Gambia)
Rapporteur:	Thuli Mandonsele (South Africa)

13.00 - 14.15	Lunch
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14.15 - 16.00	Plenary: Gender Justice Beyond the Conference - Group presentations of Action plans and priorities
16.00 - 16.15	Adoption of Joint Statement from the Partners for Gender Justice Conference: Stop the Rapes in Congo-DRC and End Impunity Now
17.00 - 17.15	Kathleen Cravero , Assistant Administrator and Director, Bureau for Crisis Prevention and Recovery, UNDP (video statement from UNDP Headquarters, New York)
17.15 - 17.45	Partners for Gender Justice: the Way Forward
17.45 - 18.00	Close of Colloquium: Chief Justice Georgina Wood

19.30	Dinner Reception hosted by the Ghana Judicial Service and HFC Bank La Palm Royal Beach Hotel
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ANNEX 3.**FULL LIST OF ALL PARTICIPANTS
AND ORGANIZING PARTNERS**

COUNTRY	NAME
BENIN	Claire Ayemonna Houngan , Magistrat
BOTSWANA	Tapiwa Boingotlo Marumo , Judge, Industrial Court of Botswana
BURKINA FASO	Kambou Kassoum , Supreme Court Advisor
BURUNDI	Marie Ancilla Ntakaburimvo , Président de la Cour Supreme du Burundi
	Donauine Niyongere , Président du Tribunal de Grand Instance de Bubanza
	Christine Kankindi , Bureau Intégré des Nations Unies au Burundi, Division Droit de l'Homme et Justice, Unité Justice
CAMEROON	Beatrice Ntuba , Judge, Court of First Instance Muyuka
CENTRAL AFRICAN REPUBLIC	Anicette Clara Nzapaoko , Magistrat, 2ème substitut du procureur de la République, Commissaire du gouvernement Adjoint près du Tribunal Militaire
	Yves Koyoko Mbomba , Procureur de la République près du Tribunal des Grandes Instances de Berbérati
	Alain Ouaby-Bekai , Magistrat
CHAD	Nderbe née Matibeye Ndam Mouncar , Magistrat
	Ali Abdoulaye Ibrahim , Juge d'instruction , 3ème Cabinet, Tribunal de 1ère Instance Ndjaména
COTE D'IVOIRE	Gbaza Bobby , Conseiller à la Cour Suprême de la République de Côte d'Ivoire
DEMOCRATIC REPUBLIC OF CONGO	Thomas Pungwe Massua , le premier président de la Cour
	Guy Kalasi , UNDP Country Office
GAMBIA	Mariama Khan , filmmaker
	Abdoul Kareem Savage , Chief Justice, Supreme Court
	Kumba Sillah , AG Principal Magistrate, UNDP
	Agnes Mia Dordzie , Justice (Ghanaian serving in Gambia)
	Avril Anin-Yeboah , Justice, (High Court Judge of Ghana on assignment to Gambia)

GENEVA	Sebastien Gouraud , UNDP BCPR
	Yasmine Sherif , UNDP-BCPR
	Helge Flard , Programme Analyst – Justice and Security, UNDP-BCPR
	Stacy Weld-Blundell , UNDP-BCPR
GHANA	Georgia Wood , Chief Justice
	Sophia Akuffo , African Court of Human and Peoples Rights
	Margaret Insaadoo , High Court Judge
	Ms. Mercy Ohene , Justice Service
	Shela Minkay-Premo, for Ms Joyce Arlee , CEO, Ghana Chamber of Mines
	Dr. Kwadwo Appiagyeyi-Attua , University of Ghana
	Bernice Sam , Women in Law and Development
	Evelyn A. Ankumah , Executive Director, Africa Legal Aid (AFLA)
	Naa Atwei Wilson , The ARK Foundation, Ghana
INDIA	Naina Kapur , Equality Consultant; Resource Director for the Asia-Pacific Advisory Forum on Judicial Education on Equality Issues
KENYA	Joyce Aluoch , Justice
	Kennedy Kandet , Senior Resident Magistrate, Nairobi Contact person: Leah Karbolo
	Martha Koome , Judge, High Court, UNDP Kenya
LIBERIA	Jamesetta Howard Wolokolie , Associate Justice
	Boima Kontoe , Residence Circuit Judge/Bong County
	Mohammed E Fahnbulleh , UNDP Country Office
MALI	Etienne Kene , Justice, Supreme Court: Conseiller à la Cour Suprême du Mali
MOZAMBIQUE	Osvalda Joana , Inspectora Judicial, Conselho Superior da Magistratura Judicial
	Maria de Fatima Fonseca , Juiz de Direito - Primeira Instância, Seção Civil, Tribunal Judicial da Cidade de Maputo
NAMIBIA	Naomi Shivute , Deputy Chief Magistrate Contact person: Chief Justice PS Shivute
	Lavinia Shikongo , Assistant Resident Representative, UNDP Namibia Contact person: Mr Impumbu Shiimi

NIGERIA	Justice George Adeshola Oguntade
SCOTLAND	Lord Abernethy , Senator of the College of Justice in Scotland (Supreme Court Judge 1992 – 2007)
SENEGAL	Henrietta Tall Diop , Magistrat, President de la 3 chambre anle et commerciale du Tribunal Regional de Dakar Kine Camara , Associate Law Professor, Universite Cheikh Diap de Dakar Coumba Mar Gadio , Gender Advisor, UNDP Regional Office, Dakar
SIERRA LEONE	Adeliza Showers , Justice, High Court Shahineh Bash-Taqi , Justice, Supreme Court Mohamed A.J. Stevens , Magistrate (Court of first instance) Renate Winter , President, Special Court for Sierra Leone
SOUTH AFRICA	Ms Madonsela , Commissioner, South Africa Law Reform Commission
SOUTHERN SUDAN	Suzan Nangiro , First Class County Court Magistrate for Wau, Western Bahr El Ghazal state, Southern Sudan Awuor Miyak Deng , Magistrate Perpetua Ajonye , Judge, National Rule of Law Officer, UNDP
SRI LANKA	Shiranee Tilakawardane , Judge of the Supreme Court
SUDAN	Amera Yousif Ali Bilal , Justice of the Supreme Court
SWEDEN	Agneta Johansson , ILAC, Deputy Director
TANZANIA	Eusebia Munuo , Justice of Appeal
UGANDA	Laetitia LEM Kikonyogo , Hon. Deputy Chief Justice Contact person: Olive Kazaawe Mikwaya David Batema , Deputy Chief Registrar, High Court Kampala Contact person: Henrietta Wolayo Olive Kazaawe Mikwaya , Personal assistant to the Deputy Chief Justice (Senior Magistrate Grade 1)
UNITED NATIONS NEW YORK	Anne Marie Goetz , Chief Advisor for Governance Peace and Security, UNIFEM Hodan Addou , UNDP Shibani Malhotra , UNDP-BCPR

USA	Dr. Leigh Swigart , Brandeis University
	Shelby Quast , Director, ILAC (USA); Coordinator, Partners for Gender Justice
	Joan Winship , Executive Director, International Association Women Judges
	Tandra Dawson , Judge, Integrated Domestic Violence Court
	Kristine Herman , Associate Director, Domestic Violence and Family Court Programs, Center for Court Innovation
	Anne Goldstein , International Association of Women Judges Human Rights: Education Director
ZAMBIA	Rodger Chongwe , ILAC, Africa Director

