



## SUPPORTING THE LEADERSHIP ROLE OF WOMEN JUDGES IN THE SEMED REGION: TOWARDS A WOMEN JUDGES PLATFORM

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## LIST OF ACRONYMS

CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CSPJ	Conseil Supérieur du Pouvoir Judiciaire du Maroc (Supreme Judicial Council of Morocco)
EBRD	European Bank for Reconstruction and Development
EOD	Electronic Observatory and Database
GBV	Gender-Based Violence
IAWJ	International Association of Women Judges
IDLO	International Development Law Organization
IT	Information Technology
SEMED	Southern and Eastern Mediterranean Region
TOT	Training of Trainers
UNODC	United Nations Office on Drugs and Crime

## I. INTRODUCTION

### Women as Judges: A Human Right and a Matter of Fairness

Effective participation of women in all aspects of justice delivery is an integral part of their participation in public life, and a valuable component of governance. It is a human right and a matter of fairness, affirmed at the highest global level, with Goal 5 of the UN 2030 Sustainable Development Agenda focusing squarely on the objective to: “Achieve gender equality and empower all women and girls.”<sup>1</sup>

In addition to its intrinsic value for women as professionals, there is also growing evidence that increased presence of women justice professionals can contribute to improved access to justice for women.<sup>2</sup> In several instances it has been observed that women justice professionals contribute to the development of laws and policies that respond to women’s specific legal/justice needs across a range of issues: economic empowerment, political participation, equal rights in family and marriage, and combating gender-based violence (GBV).<sup>3</sup>

Besides being a human right, the importance of increased participation of women in the judiciary is also fundamental for the democratic legitimacy of the judiciary. There is a growing body of evidence demonstrating that judicial diversity is linked to enhanced public confidence in the courts, and that underrepresented groups have less confidence in a judiciary that does not look like the population it serves.<sup>4</sup>

Although women judges continue to face barriers, they also continue to progress and increase their representation in higher levels of the judiciary and at times in non-traditional roles such as military and terrorism courts, and not only in juvenile or family courts. Furthermore, as their numbers and influence solidify, women leaders in the judicial profession emerge as leading actors in their respective national arenas, and in turn, as champions for other women justice professionals and aspiring young women. Such figures also advocate for legal reform and justice—identifying situations of gender inequality, discrimination and other forms of injustice in women’s (and other under-represented groups’) lives. This is particularly timely and a significant development, as gender justice remains elusive in many aspects of women’s lives.

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<sup>1</sup> Agenda 2030 Sustainable Development Goals, Goal 5, available at: <https://www.un.org/sustainabledevelopment/gender-equality/>.

<sup>2</sup> For example, The World Bank, “Women, Business and the Law 2016: Getting to Equal,” pg. 19, available at: <http://documents.worldbank.org/curated/en/455971467992805787/pdf/99454-PUB-Box393200B-PUBLIC-disclosed-9-9-15-PUBDATE-9-9-15-DOI-10-1596-978-1-4648-0677-3-EPI-210677.pdf>.

<sup>3</sup> IDLO, “Women Delivering Justice: Contributions, Barriers, Pathways”, IDLO, 2018.

<sup>4</sup> For example, results of annual public surveys commissioned by the National Center for State Courts (NCSC), 2017 (public sees courts as out of touch with communities they serve), 2016 (majority of those surveyed believes race or ethnicity of judge affects decision-making), and 2015 (African Americans express significantly less faith in the courts than the population as a whole), available at: NCSC Public Confidence and Resource Guide, <https://www.ncsc.org/Topics/Court-Community/Public-Trust-and-Confidence/Resource-Guide.aspx>; Marla N. Greenstein, “The Challenge of Maintaining Confidence in a Judiciary Lacking in Diversity,” in American Bar Association, *The Judges’ Journal* (2016); Rosemary Hunter, “More than Just a Different Face? Judicial Diversity and Decision-making,” *Current Legal Problems*, Volume 68, Issue 1, 1 January 2015, Pages 119–141, <https://doi.org/10.1093/clp/cuv001>.

## II. WOMEN'S PARTICIPATION IN PUBLIC LIFE IN THE SEMED REGION: THE CONTEXT FOR WOMEN JUDGES

Women in the southern and eastern Mediterranean (SEMED) region face a number of obstacles to participation in public life. The rate of women's political representation in the Arab world lags significantly behind the global average,<sup>5</sup> and rates of economic participation are likewise among the lowest in the world.<sup>6</sup> When women are represented in decision-making roles, they tend to be confined to managing "gendered" portfolios, those reflecting women's traditional roles in society, such as education or health.<sup>7</sup> In 2018, women constituted, on average, 17 percent of the membership in the parliaments in the region, compared to 40 percent in Nordic countries and 27 percent in both Europe and the Americas.<sup>8</sup> Discriminatory legal frameworks—especially personal status laws, neutral laws enforced in gendered ways, and/or underlying biases and stereotypes, continue to hold women back from unleashing their full potential.

This is also the case in other leadership and decision-making positions. In the justice sector, on average, women judges account for a small percentage throughout the region, and many countries in Arab countries still do not have a woman on Constitutional Courts or similar high instance bodies. Across the region, in 2017, women were represented in only five highest courts of the region.<sup>9</sup> Egypt's first female judge, Ms. Tahany El-Gebali, who served on the Supreme Constitutional Court, was appointed only in 2003; and the first woman to serve as a Chief Judge in Family Courts was appointed in 2010. In Morocco, women judges account for only 16% of members of their Supreme Court.<sup>10</sup> Only in 2017 was the first female judge, Ms. Ihssan Barakat, appointed to the Jordanian Supreme Court. Tunisia and Lebanon are regional leaders, with women justice professionals in Tunisia, as of 2010, already accounting for 42.8% of the judges (an increase from 29% in 2008), and 52% of prosecutors (an increase from 25% in 2007).<sup>11</sup> In Lebanon, women are on track to constitute the majority of judges by the end of 2019.<sup>12</sup> However, in Tunisia there is a limited capacity for women justice professionals to be effective adjudicators of justice, due to a juxtaposition of barriers at the individual, organisational and systemic levels, and women remaining underrepresented in the highest courts. In spite of majority in numbers in Lebanon, women are underrepresented in a number of areas, including in criminal law and military courts, as well as in senior positions of the judiciary; and they have not been able to serve on religious courts.<sup>13</sup> In the West Bank, on the other hand, women judges have been able to break through to the religious courts (the only other place in the Arab world where this has been possible is Sudan), with at least two Palestinian women serving as judges on

<sup>5</sup> With a rate as low as 19%; see "Economic and Social Commission for Western Asia, "Women's Political Representation in the Arab Region," 2017, available at: <https://www.unescwa.org/sites/www.unescwa.org/files/publications/files/women-political-representation-arab-region-english.pdf>.

<sup>6</sup> The World Bank, "Opening Doors: Gender Equality and Development in the Middle East and North Africa," 2013, pg. xi, available at: <http://archives.dimed.gouv.fr/sites/dimed.gouv.fr/files/751810pub0epi002060130opening0doors.pdf>.

<sup>7</sup> "Economic and Social Commission for Western Asia, "Women's Political Representation in the Arab Region," 2017, available at: <https://www.unescwa.org/sites/www.unescwa.org/files/publications/files/women-political-representation-arab-region-english.pdf>.

<sup>8</sup> "Women's Representation in the Middle East and North Africa," 2018, available at: <https://www.oxfordbibliographies.com/view/document/obo-9780199756223/obo-9780199756223-0252.xml>.

<sup>9</sup> "Economic and Social Commission for Western Asia, "Women's Political Representation in the Arab Region," 2017, available at: <https://www.unescwa.org/sites/www.unescwa.org/files/publications/files/women-political-representation-arab-region-english.pdf>.

<sup>10</sup> UNICEF, "Morocco Gender Equality Profile," 2011, available at: <https://www.unicef.org/gender/files/Morocco-Gender-Equality-Profile-2011.pdf>.

<sup>11</sup> Data from Centre d'études juridiques et judiciaires, Ministry of Justice, Government of Tunisia, as cited in OECD/CAWTAR (2014), Women in Public Life: Gender, Law and Policy in the Middle East and North Africa, 2014, available at: [http://www.oecd-ilibrary.org/governance/women-in-public-life\\_9789264224636-en](http://www.oecd-ilibrary.org/governance/women-in-public-life_9789264224636-en).

<sup>12</sup> "Women in the Judiciary in Lebanon," United Nations Economic and Social Commission for Western Asia, 2019, available at: <https://www.unescwa.org/publications/women-judiciary-lebanon>.

<sup>13</sup> *Ibid.*

religious courts since 2009.<sup>14</sup> At the same time, this number has not grown and similar struggles are identified, such as the lack of women judges in judicial decision-making or senior positions.

Despite these obstacles, and although progress is slower in some countries than others, women justice professionals in the Arab region are also finding ways to overcome these barriers. In Morocco, women leaders—and women legal professionals in particular—were instrumental in driving forward reform of the Moroccan Personal Status Law (the “Moudawana”), bringing it in greater conformity with international human rights standards.<sup>15</sup> Women have held judicial posts in Tunisia since 1967 and have served as presidents of courts of appeal and the competition council. In 2014, Judge Kalthoum Kannou was among a number of Tunisian women presenting their candidatures for the Presidency, becoming the first female presidential contender in modern-day Tunisia. In Egypt, for the first time in the country’s history, Judge Ghada El Shahawi was appointed in 2015 to the position of Assistant Minister of Justice (presiding over the “Rights of the Woman and Child” section of the Ministry of Justice). And in Jordan, 2014 saw women judges representing 18% of the judicial corps (176 out of 973 judges), compared to 15% in 2013—a number steadily increasing since 1996, when the first female judge was appointed.<sup>16</sup> Morocco also saw a rise, with women accounting for 24% of all judges in 2017.<sup>17</sup>

### III. ADVANCING WOMEN JUDGES’ PARTICIPATION AND LEADERSHIP IN THE SEMED REGION: A REGIONAL APPROACH

With increasing demand for judiciaries in the region to play a more independent role in championing human rights, including women’s human rights, there is a greater urgency for women legal and justice professionals to have in-depth knowledge, leadership skills and networking capacities enabling them to play a stronger role on gender justice. This importance echoes with the changing and challenging context of transition to greater women’s participation in the SEMED region, and the opportunities provided by political transitions in countries like Tunisia or those where greater openness to reform exists, such as Morocco.

To support emerging women leaders in the judiciary—especially women judges—in finding their collective voice and developing common advocacy platforms for reducing gender barriers in judicial professions, as well as in various strategic gender justice areas of concern, such as women’ economic participation in entrepreneurial activities, combating GBV, and equal family and marriage rights, regional approaches have been found to be effective. Regional (and international) women’s platforms, networks, associations, communities of practice, and similar initiatives provide opportunities to exchange information, share and learn from diverse, yet often similar experiences, and collectively champion women’s rights and gender equality causes.

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<sup>14</sup> “2 Palestinian Women Now Islamic Court Judges,” NBC News, 24 February 2009, available at: [http://www.nbcnews.com/id/29369838/ns/world\\_news-mideast\\_n\\_africa/t/palestinian-women-now-islamic-court-judges/#.XPEI34hLiUk](http://www.nbcnews.com/id/29369838/ns/world_news-mideast_n_africa/t/palestinian-women-now-islamic-court-judges/#.XPEI34hLiUk).

<sup>15</sup> For example, the principle of equality in marriage; the rights to a divorce, to child custody, and self-guardianship; and the raising of the age of marriage for girls to 18 years old, which are enshrined in various international human rights conventions.

<sup>16</sup> Rana Hussein, “Ratio of Female Judges Rose to 18% in 2014 – Report,” *The Jordan Times*, 26 August 2015, available at: <http://www.jordantimes.com/news/local/ratio-female-judges-rose-18-2014-%E2%80%94-report>.

<sup>17</sup> “Economic and Social Commission for Western Asia, “Women’s Political Representation in the Arab Region,” 2017, available at: <https://www.unescwa.org/sites/www.unescwa.org/files/publications/files/women-political-representation-arab-region-english.pdf>.

#### IV. REGIONAL AND INTERNATIONAL EXPERIENCES IN ADVANCING WOMEN JUDGES' LEADERSHIP

A variety of regional and international interventions in advancing women judges' leadership around the world exist. They fall into roughly three categories, have various objectives and modalities of implementation, and serve different, yet often complementary purposes: (1) formal multi-jurisdictional judicial cooperation; (2) informal multi-jurisdictional judicial engagement; and (3) collective efforts advancing common initiatives around shared practices and/or addressing common challenges. Not all of these initiatives were designed with the explicit intention to advance women judges' leadership, the first example of the International Network of Judges on Implementing the Hague Convention, for instance, grew organically, as judges interested in the Convention sought ways to make it more effective. As a practical matter, however, women judges have found a platform in this Network, where they constitute a majority.<sup>18</sup> Overall, both formal and informal types of cooperation have their distinct advantages and one is not necessarily preferable to the other. It may be that women are less likely to be appointed to formal cooperation networks, especially in those parts of the world where they are underrepresented.<sup>19</sup>

**Formal Multi-Jurisdictional Judicial Cooperation:** An example of this type of cooperation is the International Network of Judges on Implementing the Hague Convention on the Civil Aspects of International Child Abduction (hereinafter "Network" on the "Hague Convention"). The objective of this initiative is to improve and enhance implementation of the Hague Convention in national jurisdictions, and its activities are both "inward" and "outward" facing. Judges who belong to the network both educate colleagues in their own countries about the existence and applicability of the Hague Convention (i.e. the "inward" face of the initiative), and work internationally to facilitate direct communications between judges in two jurisdictions handling the same dispute (i.e. the "outward" application of the initiative).

The Network has developed and refined what it terms "*Emerging Guidance Regarding the Development of the International Hague Network of Judges*" and a set of "*General Principles for Judicial Communications within the context of the Hague Convention including commonly accepted safeguards for direct judicial communications in specific cases.*" This Guidance itemizes a non-exclusive list of categories of topics that may be appropriate for decision via direct judicial communications:

- a. scheduling the case in the foreign jurisdiction:
  - i. to make interim orders, for example, support or measures of protection;
  - ii. to ensure the availability of expedited hearings;
- b. establishing whether protective measures are available for the child or other parent in the State to which the child would be returned and, in an appropriate case, ensuring the available protective measures are in place in that State before a return is ordered;
- c. ascertaining whether the foreign court can accept and enforce undertakings offered by the parties in the initiating jurisdiction;
- d. ascertaining whether the foreign court can issue a mirror order (i.e. the same order in both jurisdictions);
- e. confirming whether orders were made by the foreign court;
- f. verifying whether findings about domestic violence were made by the foreign court; and

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<sup>18</sup> Please refer to the list of names of Network Members as of March 2018, <https://www.hcch.net/en/instruments/conventions/specialised-sections/child-abduction>.

<sup>19</sup> Although this may not always be the case, as the International Network of Judges on Implementing the Hague Convention illustrates.

g. verifying whether a transfer of jurisdiction is appropriate.<sup>20</sup>

These direct communications do not concern the underlying merits of a specific dispute under the Hague Convention, but instead address such issues as what resources are available to protect children from alleged abuse if they are sent back to their country of habitual residence. Network members thus both raise awareness among their national judicial colleagues on the Hague Convention and its applicability and serve as focal points and resource persons for judicial colleagues across borders.

**Informal Multi-Jurisdictional Judicial Engagement:** An example of this type of initiative is the work of the International Association of Women Judges, (IAWJ). The objective of this initiative is to bring together women judges across common interests, with the aim of promoting and empowering them to help uproot gender bias, end discriminatory laws, advance gender-responsive courts, and promote human rights for all. Activities include, *inter alia*:

- Efforts to create and support networks of leaders committed to the rule of law and equal justice;
- Facilitating and advancing judicial and community-level responses to GBV, trafficking, early and forced marriages, corruption, discrimination;
- Supporting equitable enforcement of the law and legal reform;
- Bringing judges together for educational programmes on shared interests, such as women in detention, or judicial responses to natural disasters;
- Providing expert legal opinions on law reform, educating communities; and
- Promoting and supporting women judges' networks at the national level.

The IAWJ has more than three dozen chapters of national associations of women judges. Other models of informal coordination and engagement include regional and national organisations of women legal professionals, such as the Arab Women's Network, or FIDA (the acronym in Spanish for the "International Federation of Women Lawyers," which also includes members of the judiciary) or the International Bar Association. There are also national and international associations for judges with particular interests and specializations, such as the International Association of Youth and Family Judges and Magistrates, the International Association of Tax Judges, the Asian Judges Network on Environment, and the European Association of Labour Court Judges.

There are, of course, also national-level associations of judges and lawyers belonging to groups that have historically faced barriers to professional advancement, such as an Indigenous Lawyers' Association in Queensland, Australia,<sup>21</sup> an Indigenous Bar Association in Canada,<sup>22</sup> and a Maori Law Society in New Zealand.<sup>23</sup> There are Muslim Lawyers' Associations or Bar Associations in the United States, United Kingdom, Canada, South Africa and Sri Lanka, as well as KARAMAH, a US-based organisation of Muslim Women Lawyers for Human Rights. There are also LGBT lawyers' associations in the US and Ireland.

Women judges have opted to form national associations in many countries, ranging from Afghanistan to Zimbabwe.<sup>24</sup> A regional women judges' association has been formed in the

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<sup>20</sup> Hague Conference on Private International Law 2013, "Direct Judicial Communications, Emerging Guidance regarding the development of the International Hague Network of Judges and General Principles for Judicial Communications, including commonly accepted safeguards for Direct Judicial Communications in specific cases, within the context of the International Hague Network of Judges, at p. 14 (on-line, last visited September 13, 2018).

<sup>21</sup> Please refer to: <http://www.indigenoulawyersqueensland.com.au/professional-law-associations/>.

<sup>22</sup> Please refer to: <https://www.indigenousbar.ca/>.

<sup>23</sup> Please refer to: [https://www.nzherald.co.nz/rotorua-dailypost/business/news/article.cfm?c\\_id=1503434&objectid=11042119](https://www.nzherald.co.nz/rotorua-dailypost/business/news/article.cfm?c_id=1503434&objectid=11042119).

<sup>24</sup> Please refer to: <http://www.iawj.org/membership/iawj-member-associations/>.



Caribbean, as well as in other regions of the world, and these meet in the years when IAWJ does not have its worldwide, biennial meetings.

These international, regional and national-level women judges' associations and inchoate networks range from formal organisations with by-laws and established governance structures (e.g. the member of the IAWJ are required to submit by-laws and be registered under any applicable national law of NGOs where they are founded), to more loosely affiliated, ad hoc groups that come together organically (women law school alumni groups; women judges who share communal judicial housing in countries which rotate judges through specific geographical placements; single conferences for women legal professionals, etc.).

**Collective Efforts Advancing Common Initiatives Around Shared Practices and/or Addressing Common Challenges:** Examples of this type of initiative are the Cumbre Judicial Ibero-Americana (hereinafter "Cumbre") and emerging SEMED cooperation on moving from criminal justice to rehabilitation in juvenile justice. The objectives of such platforms relate to cooperation and coordination with respect to shared statutory or procedural developments that transcend borders (e.g. anti-terrorism legislation, restorative justice, innovative new anti-GBV laws) with advancing the creation of Gender Commissions or offices in Supreme Courts (e.g. Cumbre has promoted the creation of such offices in 23 states of the Organisation of American States to date, with many women judges serving as leaders of this process).

The Cumbre has grown out of a series of meetings of the Ibero-American Summit of Presidents of Supreme Courts and Supreme Courts of Justice, and the Ibero-American Meeting of Councils of the Judiciary. These meetings started in 1990 (a brief history is on the Cumbre website).<sup>25</sup> Since 2016, the Cumbre has maintained a Permanent Secretariat in Uruguay to provide it with technical support.<sup>26</sup> It has also created a Permanent Commission on Gender and Access to Justice (Comisión Permanente de Género y Acceso a la Justicia), whose seven members are elected for three-year terms.<sup>27</sup> The Gender Commission has created a work plan for 2018-20 under which it will, *inter alia*:

- Strengthen gender mainstreaming;
- Create and publish an Ibero-American registry of femicides/feminicides; and
- Update materials on gender mainstreaming and train on their use.<sup>28</sup>

If the Commission is successful in carrying out this work plan, it also has the potential for defining femicide/feminicide in a manner that enables countries of the region not only to harmonize criminal justice methodologies, but to gather cross-country data that is comparable and thus useful to public health and criminal justice personnel on a scale that could make it a model for the rest of the world.

Similarly, the Asian Judges Network for Environment has brought together Chief Justices and other members of the senior judiciary together for regional roundtables to discuss "shared experiences on illegal forestry and deforestation, biodiversity and the wildlife trade, and illegal, unsustainable and unregulated fishing."<sup>29</sup> The focus of these roundtables has allowed judges to build their capacity to address transnational organized crimes in the illegal wildlife, forestry and fishery trades.<sup>30</sup>

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<sup>25</sup> Please refer to: <http://www.cumbrejudicial.org/institucional/historia>.

<sup>26</sup> Please refer to: <http://www.cumbrejudicial.org/institucional/quienes-somos/secretaria-permanente>.

<sup>27</sup> Please refer to: <http://anterior.cumbrejudicial.org/web/guest/comisiongenero>.

<sup>28</sup> Work plan of the Permanent Commission on Gender and Access to Justice (2018-20), p. 2.

<sup>29</sup> Please refer to: <https://www.ajne.org/about/asian-judges-network-environment>.

<sup>30</sup> Please refer to: <https://www.ajne.org/about/asian-judges-network-environment>.

Platforms addressing common challenges seek to tackle issues arising from shared history and customs, including legal history and tradition. Judges in SEMED, while they may follow different schools of Islamic interpretation, share a common tradition of looking to Shari'a for interpretations of laws and customs. Judges find it useful to compare their respective countries' modernization of family law, for example, with Tunisia's elimination of polygamy, or Morocco's 2004 Moudawana reforms, to address common challenges. Similarly, regional meetings are uniquely suited for this kind of cross-cultural cross-fertilization. Women judges from the SEMED region are particularly interested in learning about inroads that other women judges have made in countries that have similar histories. For example, as noted, women serve on Shari'a courts in Palestine, but not elsewhere in the SEMED region.

Several countries in the region have recently enacted human trafficking laws, with different enforcement mechanisms and remedial structures. Women judges are interested in learning about strategies that have proven successful in encouraging victims to pursue claims for redress, and mechanisms that allow civil damages in criminal cases. Facilitating the exchange of ideas between and among judges at a regional level helps judges serve as change agents.

## **V. A FIRST STEP TOWARDS A WOMEN JUDGES REGIONAL PLATFORM IN THE SEMED REGION: WOMEN JUDGES FORUM IN CASABLANCA, MOROCCO**

### *Introduction to the Regional Forum*

To support emerging women leaders of the justice profession in the SEMED region, the European Bank for Reconstruction and Development (EBRD) together with the International Development Law Organization (IDLO), convened, in Casablanca, Morocco, a regional forum for women judges, to serve as a first step in building the foundation for the establishment of a broader and sustained regional women judges platform. The regional gathering, entitled, "Regional Forum Supporting the Leadership Role of Women Judges in the Southern and Eastern Mediterranean (SEMED) Region" (hereinafter "the Forum") took place on 14-15 December 2017. The Forum was convened under the patronage of the Conseil Supérieur du Pouvoir Judiciaire du Maroc (CSPJ - Supreme Judicial Council of Morocco) and organized by EBRD and IDLO in cooperation with the Union of Moroccan Women Judges and the International Association of Women Judges (IAWJ).

### *Objectives of the Regional Forum*

The objectives of the Forum were to: (i) exchange knowledge and experience on the key barriers, lessons, pathways and models to women judges' effective participation and leadership in the justice sector; (ii) examine areas where the relevance and influence of women judges made a difference; (iii) identify lessons, models and approaches for building a regional women judges platform; and (iv) discuss and refine key elements of the platform, such as vision, objectives, priorities and action points toward the establishment of a regional forum of women judges.

### *Participation in the Forum*

A total of 46 participants from the region, including from Jordan, Lebanon Morocco, Palestine, and Tunisia, took part in the Forum. An additional three participants from other countries,

namely Poland, Sri Lanka and the United States, also took part to ensure international exchange of best practices among women judges.

### *Issues Highlighted at the Regional Forum*

A total of seven interactive and discussion-oriented sessions were held, to ensure the full participation of all women judges present. The last two sessions in particular were organised as break-out sessions, which allowed the participants to work in small groups to advance ideas for the establishment of a regional women judges platform, with the objective of developing outlines of possible thematic areas that the platform could tackle, as well as the types of structural modalities the platform could be comprised by (e.g. in-person encounters, information technology (IT) tools, and similar). The sessions were moderated by representatives of EBRD, IDLO, IAWJ, as well as women judges from the SEMED region and the international women judge participants. Substantive presentations were made as part of each session to generate discussion.

The following were the key issues highlighted during the sessions of the Forum by the participants, *inter alia*:

#### 1. The lack of support from the judicial executive to women judges:

- The working environment has to be conducive for women to be able to serve the Judiciary, including through high-level and executive positions. As long as the discrepancy remains between the belief that women could theoretically hold senior and executive positions and their actual practical ability to do so (e.g. enabling maternity leave policies), women will continue to be held back in the profession. In Lebanon, for example, while the presence of women judges on the bench is very high (about 50%, with women even sitting on military courts), it is not reflected at the senior level.
- The importance of mentors and decision-makers, including male ones, who truly believe in the place for women on the bench, rather than those who only place women on the bench to satisfy requirements or quotas. Women can only truly advance in the Judiciary if they are not seen as “gap fillers,” but rather as equal contributors to the advancement of the justice system.

#### 2. The lack of support from the policy and legal frameworks to women judges:

- The legal framework must encourage equality between men and women in order for women to be better integrated in the diverse judicial sectors.
- Laws which govern entry into judicial professions can restrict or facilitate the appointment of women judges. For instance, in Tunisia, the high rate of women judges on the bench (48%) is a result of a favourable legislation that permits the entry into the judicial profession on the basis of a merit-based recruitment process, rather than by appointment-only, which creates a level-playing field for men and women.

#### 3. The absence/limited presence of women judges in courts impacts their role/duty in society:

- The absence of women from the courts manifests the absence of women as equal representatives of society in the public arena. The presence of women judges on the bench needs to be perceived as the proper carrying out of fair and representative justice.

- The presence of women on the bench sends a strong message to society about the role of women in public life, to the litigants and any person answerable to the law, as well as to the public at large.
  - Women judges and justice professionals provide strong inspiration to girls and women who are then encouraged to go into the legal and judicial profession.
4. **The absence/limited presence of women judges in courts discourages women to take legal action:**
- The presence of women on the bench is an incentive for women to seek justice. For example, there are cases of women criminal defendants who gain the courage to speak up only in the presence of a female judge, or to a female lawyer. Women victims of domestic violence may not be as likely to disclose the details of violence to a male judge (or lawyer). The presence of women commercial mediators encourages women to go to mediation.
5. **The lack of (or limited) access for women judges to work on “non-traditionally female” areas of the law:**
- It is important to engage more women judges in areas of the law that are perceived as “non-traditionally female,” such as commercial law, rather than solely such areas of the law as children’s rights, family law, and gender-based violence.

#### *Actions / Recommendations from the Regional Forum*

A key indication from the Forum discussions was that a regional platform for women judges, specifically tailored to the SEMED context would constitute a major achievement. This would allow women judges to share their experiences and success stories with each other, generating momentum for future generations. The opportuneness of a regional platform for women judges was raised during the discussions as the SEMED countries share legal and social traditions, history, customs and points of references which can help:

- Facilitate exchanges of information;
- Provide support to women judges in the region in addressing common areas of concern – for instance on specialised or cross-border cases, cases involving international elements, or even legal cases grounded in Islamic legal traditions;
- Help address common national challenges to gender equality and women’s empowerment; and
- Facilitate the development of regional statistics, hubs and databases on women judges’ participation in national justice systems, on legal reforms, on developments of common interest, and on best practices and models of women’s advancement in national judiciaries.

The following actions/recommendations for the objectives and modalities for a SEMED regional women judges platform were put forward by Forum participants during the final break-out sessions of the Forum and have been linked to key issues raised during other sessions of the Forum:

#### **1. Identification of barriers preventing women’s full engagement in the judicial sector:**

A number of participating women judges brought up the urgent need for targeted research to identify barriers to the appointment of female judges and to develop tailored recommendations to enable their full participation in justice delivery.

While it is clear that a small number of women are appointed to judicial positions in most of the SEMED region (or to executive positions even when the numbers of female judges are high), little dedicated research has been carried out so far in these countries to understand why and to determine appropriate remedies to specifically identified challenges. While in some contexts, it appears that women outperform men in judicial entrance exams, this does not translate into women's eventual presence in the Judiciary (such as the case of Palestine). In other contexts, women are present in high numbers in the judiciary, but their numbers decrease significantly in senior and decision-making positions (such as the case of Lebanon).

Contextually driven research aimed at unpacking the specifics of little representation of women on the bench and/or in senior or executive positions in judiciaries would help identify the specific roots of these challenges and help develop corresponding tailored recommendations. Additionally, such research could identify the necessary inputs into creating enabling environments for increasing women's presence on the bench, for example through merit-based recruitment, empowerment of champions of women on the bench, creation of mentorship systems, etc. as well as improve women judges' contributions to executive and decision-making roles.

Moreover, there is a need to assess not just quantitatively the number of women on the bench, but also the qualitative aspects of their presence – whether they are able to contribute to fairer justice outcomes.

## 2. Establishment of an Electronic Observatory and Database for women judges in the SEMED region:

One option for the platform to be established, would be through the creation of an Electronic Observatory and Database (EOD) - a regional electronic observatory housing a collection of data on and for women judges in the SEMED region. The EOD could be housed in a digital space and contain information on:

- The status of women judges in the region, obtained through a comparison of quantitative and qualitative data of their presence in leading positions, achievements and challenges in all areas and levels of the justice sector;
- Trainings designed and attended for women judges and other needs;
- Areas of specialisation of women judges and identification of women judges that can become trainers or focal persons to share common good practices and expertise;
- Thematic jurisprudence on specific legal areas (e.g. international conventions, juvenile justice, GBV, etc.);<sup>31</sup> and
- Other relevant matters, such as lists of supportive stakeholders and partners; forthcoming training sessions for judges (or women judges), among others.

This EOD could be linked to already existing reserves of data from current initiatives, including data collection presently being carried out on women judges by the World Bank's Women Business and the Law project, the United Nations Office on Drugs and Crime (UNODC) and others.

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<sup>31</sup> Other potential areas of the law, which could be included (especially because they often fall under the purview of male judges): commercial law, tax law, intellectual property, competition law, and similar.

### 3. Initiatives in relation to empowerment, leadership, and capacity-building:

#### a. Engaging women judges in efforts to advance women's empowerment:

There were a number of other actions/recommendations made by participating women judges in the Forum related to the crucial role that a SEMED regional women judges platform could play in women's empowerment, including through:

- Legal empowerment of women, women legal professionals, and aspiring women legal professionals;
- Economic empowerment of women, as women who are economically empowered find themselves in a better position to claim their rights;
- Psychological empowerment;
- Raising awareness and condemning laws and regulations that still discriminate against women; and
- Strengthening referral systems such as those that link marginalized women with affordable or pro bono legal services.

Additional recommendations were made related to how the SEMED regional women judges platform could play a role as a mechanism to advance women judges' leadership and in building their legal knowledge and professional capacity.

#### b. Strengthening women judges' leadership:

Recommendations for the SEMED regional women judges platform under this thematic area concerned the building of women judges' leadership in various areas of their work, whether on justice delivery, career advancement into senior, executive, and decision-making roles, and the promotion of gender equality.

Four potential initiatives for the platform were identified: (i) the delivery of a leadership training programme<sup>32</sup> for both senior and junior judges; (ii) trainings for women judges on specialised areas of the law that could support their leadership capacity building (to be based on an assessment of the specific needs of women judges in the region); (iii) a compilation, in print and online, of success stories of women leaders in the justice sector and their achievements; and finally (iv) the invitation of women judges/leaders from inside and outside the SEMED region, to bring their expertise to the region. All these initiatives would build on the work carried out by existing regional networks and initiatives, such as the Arab Women Legal Network and IAWJ, among others.

#### c. Enhancing capacity of women judges in the areas of commercial law and cybercrime:

Among the recommendations for the SEMED regional women judges platform put forward by the participants were tailored judicial trainings on specific areas of the law. The main idea would be for the women judges to be trained on legal matters that go beyond those traditionally regarded as "female-related" areas of the law, for example, those related to gender issues or family law. This is crucial, as women judges in the region, especially those taking part in the

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<sup>32</sup> It was also discussed that the leadership training programme should include skills and tools on how to: (i) be an effective public speaker; (ii) work in a patriarchal environment; (iii) work as a leader and succeed in competitive contexts; (iv) advance one's own priorities; (v) advance women's right within one's sphere of influence; (v) connect and work with other Arab women leaders and partners; (vi) be a skilled negotiator and other conflict resolution skills; (vii) use media to promote ideas; and (viii) handle high-profile cases.

Forum who represent the younger generation, expressed their strong interest in gaining greater knowledge of an access to working with non-stereotyped areas of the law.

It was felt by a number of participants that in terms of career advancement, being skilled or specialised in new and emerging areas of the law such as commercial law or cybercrime could be a significant boost to women judges' professional advancement. Moreover, given that the foreseen SEMED platform has a regional character, it could also provide an opportunity for women judges to gain additional expertise and better understanding of national, cross-border and international current and emerging economic and commercial aspects of the law.

Potential activities suggested included, *inter alia*: (i) trainings and seminars, including training of trainers (TOTs) for women judges on commercial law and cybercrime (with an eventual component dedicated to the relevant international conventions);<sup>33</sup> (ii) convening off-site visits and exposure visits within and outside the SEMED region; (iii) technology training, including IT skills; (iv) local-level activities on commercial and cyber law; and (v) networking opportunities with experts and peers in the field of commercial law and cybercrimes. Among the potential topics of interest in commercial law and cybercrimes, the following areas were identified: investment, banking and finance, taxation, electronic evidence, cybersecurity, money laundering, trade disputes, digital property, and e-commerce.

While women judges' involvement in these legal areas is indeed crucial (and can be of particular benefit, as described above), this approach wouldn't be effective if women judges are not treated equally to their male colleagues.

The commercial law topics were of particular interest to Moroccan judges, since six specialised commercial courts have recently been decentralised in favour of two specialised courts in Rabat and Casablanca, and several commercial tribunals were established throughout Morocco. Therefore, given the lack of experience on commercial law among judges who until now were not familiar to this legal field, there is a strong desire and need for a capacity-building training on this specific area.<sup>34</sup>

[d. Capacity-building for women judges on civil and criminal matters related to gender, especially GBV:](#)

A number of participating women judges were keen on the SEMED platform serving as a vehicle for capacity-building on civil and criminal matters related to gender and family law, especially GBV. These are remaining challenges in the region. A comparative approach, drawing on best practices from across the region (as well as internationally) along with the integration of cross-border and/or international elements could be helpful in overcoming current challenges and advancing good models of practices and policy, legal and regulatory reforms. This would also allow women judges to be more effective representatives and champions for women, and this can be accomplished through additional trainings as recommended earlier, without prejudice to

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<sup>33</sup> Among the conventions mentioned were: the Convention on Cybercrimes (Budapest Convention and related initiatives Glacy+ and CyberSouth), international arbitration conventions and model laws (UNCITRAL), the Hague Convention on Private International Law.

<sup>34</sup> Furthermore, the importance of foreign investment for the economic development of Morocco was raised, along with the necessity to develop a fair and effective administration system when it comes to commercial justice. There is therefore a strong need to strengthen judicial capacity in Morocco to handle commercial law cases. Similarly, the length of court proceedings in Moroccan courts is a hurdle to the attraction of foreign investment, and the strengthening of mediation and arbitration (especially of international arbitration) knowledge and skills emphasized during the Forum. Along these lines, the necessity to implement faster and alternative dispute resolution mechanisms to attract potential foreign investors was discussed. While specific to Morocco, these areas could be of potential interest in other countries of the region, as the need for an increase in foreign investment is just as important in Tunisia, for example.

broader training for the whole judicial sector. Among the themes identified were human trafficking, domestic violence, child marriage, child custody, child abduction, migration, and equal rights in the family and in marriage.

Potential activities under this focus area could include: (i) training activities and continuous education on the current best practices in civil and criminal law, for judges and other legal/justice actors, conducted by judges and legal professionals from other countries in and outside the SEMED region; (ii) capacity building on international conventions dedicated to women and children rights, inclusive of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Hague Conventions on Private International Law; (iii) development of training guides, analysing and defining the gaps between legislation and practices and compiling the judges' contributions in addressing these gaps; and (iv) networking and exchange opportunities within the region among the participant judges and legal actors on a civil/criminal issue of choice.

## VI. CONCLUSIONS AND CLOSING REMARKS

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The SEMED regional women judges platform should build on and leverage existing regional platforms and arrangements, while also maintaining its own identity. Immediate next steps would entail: sharing the discussions and recommendations of the Forum with other women judges at the national level; maintaining channels of communication, including through communities of practice; and reconvening to follow up on the Forum's conclusions.

IDLO's Director-General Irene Khan addressed the Forum and closing remarks were provided by: (i) Ms. Rea Abada Chiongson, IDLO's Senior Legal Adviser on Gender, who summed up the Forum's conclusions, in particular highlighting the participants' consensus for a platform for women judges in the region, the focus areas for the platform; and the immediate next steps that should be undertaken; (ii) Ms. Marie-Anne Birken, General Counsel of EBRD, who expressed EBRD's support for the platform; (iii) Mr. Ahmed Shehata, IDLO's Regional Program Coordinator for the MENA Region, who thanked the CSPJ, EBRD, the Union of Moroccan Women Judges and IAWJ for their support in the implementation of the Forum as well as all participants for their enthusiasm, guidance and support for the regional platform; and (iv) Hon. Mina Sougrati, Judge and President of the Union of Moroccan Judges and Regional Director for MENA and Europe, IAWJ, who thanked the organisers and participants, and reiterated that she and the Union are ready to continue working for the establishment of a women judges platform for the SEMED region.

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