



## STATEMENT OF THE INTERNATIONAL DEVELOPMENT LAW ORGANIZATION

45<sup>TH</sup> SESSION OF THE HUMAN RIGHTS COUNCIL  
ANNUAL DISCUSSION ON THE INTEGRATION OF A GENDER PERSPECTIVE THROUGHOUT  
THE WORK OF THE HUMAN RIGHTS COUNCIL AND THAT OF ITS MECHANISMS

*GENDER AND DIVERSITY: STRENGTHENING THE INTERSECTIONAL PERSPECTIVE IN THE  
WORK OF THE HUMAN RIGHTS COUNCIL*

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The International Development Law Organization (IDLO) appreciates the opportunity to participate in this annual discussion to advance the integration of gender and specifically to strengthen the **intersectional** perspective in the work of the Council.

Among the multiple and **intersecting** forms of human rights violations that women and girls experience – and experience disproportionately – are the lack of equality before the law and the denial of access to justice. This holds true in the tribunals, chambers and offices of formal legal institutions. But it is also the case in the village courts, religious tribunals, and other forums of the customary and informal legal systems in which vast numbers of people around the world, in particular women, seek justice in resolving their legal disputes.

Equality for women and girls is a right in and of itself. As we commemorate the 75<sup>th</sup> anniversary of the United Nations, it is worth recalling that already 75 years ago this right was enshrined in the Preamble of the United Nations Charter.<sup>1</sup> International policy and legal instruments<sup>2</sup> affirm that access to justice is not only essential to equality for women and girls but is central to the enjoyment of other rights and critical to achieving peaceful and inclusive societies, as envisaged in Goals 5 and 16 of the 2030 Agenda for Sustainable Development.

Despite important progress in some areas, realizing access to justice for women and girls is fraught with challenges. This is due in no small part to the **intersectionality** of discriminatory factors which the Council is addressing at its annual panel today.

As we know from many discussions at this Council, women and girls in all regions of the world continue to be denied equal protection under the law. Many suffer severe discrimination and

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1 The Preamble states that one of the purposes of the establishment of the United Nations was “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, [and] in the equal rights of men and women ...”.

2 For example, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Beijing Declaration and Platform for Action, various UN Security Council Resolutions on Women, Peace and Security, and their related processes.

violence and confront social, cultural, economic and political barriers to access rights. They struggle to access justice, especially in fragile, conflict and crisis situations. Financial constraints, geographical factors, plural legal systems, customary practices and socio-cultural norms all create added layers of complexity and **intersectionality**.

Legal and policy frameworks continue to underpin discrimination against women and girls. On average, women have just three-fourths of the legal rights afforded to men.<sup>3</sup> Legal and policy frameworks too often fail to provide adequate provisions to prevent and address sexual and gender-based violence (SGBV) and to end impunity for violations.

Formal justice sector institutions frequently lack the capacity and orientation to deliver fair justice outcomes for women and girls. They may be unresponsive or geographically inaccessible, thus deterring women from seeking to claim their rights.<sup>4</sup> Under-reporting and case attrition is particularly problematic in cases of gender-based violence.<sup>5</sup> Judicial institutions that matter most to women – such as family courts, specialized SGBV mechanisms, and small claims tribunals – may be under-resourced or even non-existent.<sup>6</sup> The special challenges faced by women and girls in access to justice are further exacerbated in conflict and crisis situations, including public health emergencies such as the current COVID19 pandemic.

Customary and informal justice systems can offer important advantages to women and girls, including accessibility, affordability, flexibility, speed, and cultural relevancy. Indeed, vast numbers of women use customary justice mechanisms to help them resolve a range of legal issues including family and property disputes, as well as criminal law matters. At the same time, it is well documented that some customary laws and customary and informal legal systems continue to have serious negative repercussions on women's rights, including discrimination and violence against women and girls. Customary and informal justice systems often favor male-dominated structures, patriarchal values and discriminatory and harmful outcomes for women and girls that are at odds with international human rights standards and the rule of law.<sup>7</sup> The Committee on the Elimination of Discrimination against Women has raised concerns over certain customary practices as being inconsistent with women's rights, including forced marriages, discriminatory practices in relation to inheritance; practices of forced reconciliation in the community for cases of domestic or sexual violence; and restrictions on women owning land<sup>8</sup>. For this reason, IDLO believes that it is essential to engage with customary legal systems to help sensitize them to the particular needs of women and girls and to promote fair outcomes consistent with international standards.

Finally, women and girls are often excluded from entering, fully participating in and benefitting from broader economic, social and political development, including professional opportunities in the area of governance and justice. IDLO's report, [Women Delivering Justice](#), highlights that the representation of women in the judiciary and other justice institutions in both the public and private sectors in every region is low.<sup>9</sup> If women are to be equal economic actors, equal legal actors, and equal participants in governance and policy-making, far greater investment is required to sensitize both formal and informal legal institutions. Barriers must be addressed for women to enter and succeed in the justice sector and to work across the full spectrum of legal professions.

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<sup>3</sup> World Bank, *Women, Business and the Law*, 2020.

<sup>4</sup> UN Women, *Progress of the World's Women, In Pursuit of Justice*, 2011-2012.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> IDLO, *Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems*, 2020, p.6 and pp. 9-10.

<sup>8</sup> See CEDAW/C/PHL/CO/7-8, para. 49 (c); CEDAW/C/FJI/CO/5, para. 27 (d); and CEDAW/C/COG/CO/7, para. 47 (a), respectively

<sup>9</sup> IDLO, *Women Delivering Justice: Contributions, Barriers, Pathways*, 2018.

Despite the many challenges, important progress can be and is being achieved.

As the only global intergovernmental organization exclusively devoted to promoting the rule of law, IDLO works to champion the rights of women at international and regional levels and to advance access to justice for women and girls through programmes in countries. We work hand in hand with government and civil society counterparts to help strengthen formal legal institutions (for example, constitutional and law reform support to parliamentarians, building capacity in the judiciary and law enforcement, and strengthening criminal justice system), as well as providing research, analysis and advocacy, and engaging with customary legal systems.

For example, IDLO works in close partnership with UN Women to identify and reverse gender discriminatory laws. It is critical to ensure that national and local laws and formal legal frameworks provide a foundation for women and girls to claim their rights, even as we know that legislative solutions alone may be necessary but insufficient in the face of entrenched power inequalities. Indeed, social norms and customary and informal systems may be stronger than formal laws, another example of the importance to work in an **intersectional** perspective to deliver justice as the Council is spotlighting by convening this discussion.

The **intersectional** nature of discrimination against women and girls is at the heart of IDLO's research, policy advocacy, and work in countries. With UNAIDS, IDLO has worked on the ground to empower adolescent girls through the innovative Dreams project to hold their public institutions accountable for ensuring access to health and social services.

In a major 2019 report published by IDLO together with UN Women and The World Bank,<sup>10</sup> the High-level Group on Justice for Women explicitly addressed the problem of **intersectionality** in its findings on "overlapping disadvantage". As the report noted:

*"The poorest and most vulnerable people, especially poor women, experience more frequent and more complex, interrelated legal problems – "intersectionality" can lead to cumulative disadvantage. Overlapping disadvantage affects women disproportionately in communities where they are more likely to be disadvantaged and living in poverty. The cumulative effect means that every additional legal problem experienced by an individual increases their probability of experiencing more problems, especially people living in poverty. In Australia, where just 9 percent of survey respondents accounted for 65 percent of legal problems, people with multiple disadvantages reported six times as many problems as those with none".<sup>11</sup>*

The report also recommended some proven and promising actions to respond to the dynamic of **intersectionality**, for example:

*"Leave no woman or girl behind: ensure legal services and legal empowerment for poor and marginalized women. Actors seeking to advance justice should support policies and programs designed to overcome the challenges facing poor and excluded women – including free legal services provided in innovative and accessible ways, which together with investments in legal literacy and linked to poverty reduction programs, have shown promising results. Appropriate budgets are needed to support interventions which address the needs and rights of women in diverse contexts. There are also important links to collective action, as outlined below".<sup>12</sup>*

The need for an intersectional perspective is perhaps most powerfully demonstrated by the crisis of COVID19. IDLO's co-authored report, [Justice for Women Amidst COVID-19](#), documents major

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<sup>10</sup> *Justice for Women: High-level Group Report*, IDLO, UN Women, World Bank, <https://www.idlo.int/publications/justice-women-high-level-group-report>

<sup>11</sup> Id., Executive Summary at p.7, <https://www.idlo.int/sites/default/files/pdfs/publications/Justice-for-Women-Executive-Summary-English-0.pdf>.

<sup>12</sup> Id., at 18.

challenges for women's access to justice in light of the COVID-19 pandemic and details how various groups of women are heavily impacted by the pandemic – poor women, women with limited access to technology, informal women workers, internally displaced women, women in prisons and other places of detention, among others. The report offers a ten-point recommendation to accelerate action and address threats to progress on gender equality<sup>13</sup>.

When women and girls fall into a major chasm of **intersecting** forms of discrimination or deprivation, they are at risk of being left even further behind. While women and girls everywhere are at risk, those in lower income countries face particular challenges. Women who are poor, migrants, with limited education, living in rural or remote locations, or from a minority group or indigenous population are far more likely than others to find themselves in customary or informal legal settings in resolving family or property law issues, criminal cases, or otherwise seeking justice.

Earlier this month, IDLO launched its new report “[Women and Customary and Informal Justice Systems](https://www.idlo.int/publications/issue-brief-women-and-customary-and-informal-justice-systems)” (<https://www.idlo.int/publications/issue-brief-women-and-customary-and-informal-justice-systems>) - the third in a series, and the result of a global consultation on customary and informal justice (CIJ) systems - recognizing the importance to adopt and implement normative frameworks that benefit women and protect their rights, to pursue gender-sensitive reforms of CIJ systems, and to strengthen research on women's experiences with such systems.

We would like to ask the panelists: **How can we scale up good practices on intersectional approaches to ensure improved access to justice for women?**

*The International Development Law Organization (IDLO) enables governments and empowers people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity.*

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<sup>13</sup> Joint report, [Justice for Women Amidst COVID-19](#), released on 21 May 2020 by UN Women, IDLO, UNDP, UNODC, World Bank, Pathfinders for Peaceful, Just and Inclusive Societies and supported by the Elders.