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The rule of law has a gender gap

How women's underrepresentation weakens judicial independence and access to justice

How to sl(a)w down

Swiss business lawyers reveal their holiday rituals

Work is changing Legal cannot stand still

The Adecco Group's GC Stefan Sulzer explains how AI is raising legal risks around recruitment and giving legal teams a growing role in product development, governance and business strategy

BGPartner's bet on biotech and negotiation

Oliver Gnehm on the Swiss firm's biotech focus, cross-border dealmaking and why negotiation remains a human advantage in the AI era



The rule of law has a gender gap

Women's participation in the legal profession is no longer only a diversity issue. UN experts, judges and bar leaders point to a broader challenge: leadership, independence and the way justice defines neutrality, credibility and access to rights

by claudia la via

The gender gap in the legal profession is no longer only a question of numbers. It is a question of decision-making: who reaches the places where legal institutions are governed, where credibility is assessed, where consent is interpreted, where independence is defended and where access to justice becomes real or remains only formal. In this sense, women's participation in law is not a side chapter of diversity policies. It is becoming one of the tests by which the rule of law itself is measured.



"Gender equality within legal professions is not only a matter of fairness and equal opportunity. It is a prerequisite for effective, independent, and trusted justice systems," says **Francesca Restifo**, senior human rights lawyer and representative to the United Nations, Geneva, at the International Bar Association's Human Rights Institute (IBAHRI). Restifo highlighted this point during Women in Law: Overcoming Gender-Based Barriers and Advancing Access to Justice, the side event she conceived and moderated on 25 June during the 62nd session of the UN Human Rights Council in Geneva, bringing together UN experts, judges, lawyers and representatives of the international legal profession.

The premise of the discussion was clear: the independence and impartiality of the judiciary are essential to the rule of law and the protection of human rights. Within that framework, women judges, lawyers and prosecutors play a central role not only in their own professional advancement, but in the ability of justice systems to respond to the needs of women and marginalized groups.



NOT JUST DIVERSITY

For **Margaret Satterthwaite**, UN special rapporteur on the independence of judges and lawyers, the issue must be read first as an institutional one. "Women's equality matters not only because it is a human rights obligation, but also because it strengthens institutions and makes them more resilient," she says.

The point is not symbolic. According to Satterthwaite, research has demonstrated that the presence of women judges contributes to greater public confidence in courts, improves access to justice for women and marginalized communities, and strengthens perceptions of fairness and legitimacy. Women judges, she adds, can "influence deliberations, challenge unspoken assumptions, and contribute to more gender-responsive adjudication".

This is where the debate becomes more demanding for legal institutions. It is not enough to count how many women enter law faculties, firms, courts or prosecution services. The real test is whether they can exercise authority, shape legal reasoning and take part in the governance of institutions that have long been built around male networks, male career models and male definitions of merit.



THE GAP BETWEEN RIGHTS AND REALITY

That distance between formal equality and lived experience is central for **Ivana Krstić**, vice-chair of the UN working group on Discrimination against women and girls. "The most persistent gap between formal legal equality and women's lived experience lies in the distance between rights recognized in law and substantive equality achieved in practice," she says.

Despite legal reforms in many parts of the world, women continue to face structural, institutional and cultural barriers that prevent them from accessing justice on an equal basis and from participating fully within legal systems. For women as justice seekers, this gap appears at every stage of proceedings: discriminatory social norms, procedural obstacles, financial barriers, inadequate legal aid and gender stereotyping by police, prosecutors, judges and other justice actors can all weaken rights that are formally guaranteed.

Gender bias, Krstić notes, is not always explicit.

It often operates through assumptions about how women should behave, how victims should react, what constitutes credibility, what forms of violence are considered serious and which harms are legally recognized. In gender-based violence cases, women are still too often met with disbelief, victim-blaming, retraumatization, delays or pressure to reconcile outside formal justice processes.

"Access to justice is not merely a question of whether legal remedies exist," she says. "It is a question of whether women can actually exercise their rights safely, effectively, and with dignity." The same logic applies within the profession: women may enter the legal field in increasing numbers and still remain excluded from senior judicial, prosecutorial, academic, law firm and leadership positions. The issue is therefore not only representation, but institutional culture.



THE LEADERSHIP BOTTLENECK

The empirical picture is equally clear. **Sara Carnegie**, legal projects director at the International Bar Association, points to the IBA's Raising the Bar: *Women in Law global research project* on gender parity in the legal profession. Across 14 jurisdictions, using data covering 250,000 lawyers, the research found a persistent disparity between the proportion of women in the profession overall and their representation in senior roles.
"Gender parity in law firms is consistently lower than in other sectors, especially in senior positions," Carnegie says. The most commonly available workplace initiatives reported by workplaces and individuals were flexible working arrangements and coaching and mentoring programmes. Both were cited by 5,000 survey respondents from 100 countries as having had the greatest positive impact on their careers.

But initiatives do not work by their mere existence. A notable minority of respondents reported that workplace measures had not positively affected their careers, citing stigma, unclear processes for accessing programmes, limited support for those in senior positions and uneven availability across sectors and workplaces.

Carnegie also stresses that women's experiences within the profession are not homogeneous. They are shaped by the intersection of gender with ethnicity, disability, socio-economic background, sexual orientation and age. These factors can compound barriers to entry, progression and retention. For this reason, the IBA's recommendations focus on structural and cultural change: embedding flexible work practices, building sustainable pathways for women, supporting wellbeing, recognizing caring responsibilities and extending support also to solo practitioners, smaller workplaces and women in chambers.



THE SWISS LENS

In Switzerland, the issue becomes particularly concrete through the experience of **Sandrine Giroud**, partner at Lalive, immediate past president of the Geneva Bar Association and vice-president of the women Bar leaders Association. "Women are no longer underrepresented in the legal profession. They are still underrepresented where decisions are made," she says. "I became only the second woman to lead the Geneva Bar in 130 years, despite women having represented a significant part of the profession for decades. That illustrates the real challenge: not entry into the profession, but access to leadership."The barriers, Giroud adds, are rarely about merit. They are structural: traditional leadership models, unconscious bias, unequal caregiving responsibilities, limited visibility of role models and governance systems that often assume leaders have unlimited time and resources. During her presidency, the Geneva Bar strengthened its governance and distributed responsibilities more effectively. "These were not 'women's measures'; they were better governance measures that also made leadership more accessible," Giroud says.

This distinction matters. Framing change as better governance rather than as a special

concession to women shifts the debate. It suggests that institutions become stronger when leadership is less dependent on informal networks, individual overavailability and outdated assumptions about professional life. For bar associations, Giroud argues, the responsibility is clear: measure representation, reform governance, remove structural barriers, foster inclusive leadership, engage men as allies and create visible pathways for future leaders.



ASKING THE WOMAN QUESTION

The deeper impact of women's participation, however, is not limited to leadership structures. It also concerns legal reasoning itself. Judge **Radmila Dragicevic-Dicic**, vice president of the International Commission of jurists, describes this change from the perspective of the bench. "The clearest example is the issue of consent," she says. "For most of legal history, the standard for judging self-defence, credibility, and consent was built around a default person who was, in practice, never a woman - and the law treated that default as neutral simply because no one had ever been in a position to question it."
Women judges, she argues, changed that. In sexual violence cases, rape was historically defined not by whether a person agreed, but by how hard she fought to refuse. Women judges challenged whether "reasonable resistance" reflected how fear and coercion actually work, or whether it reflected whose fear the law had never imagined.

"That shift, from force-based to consent-based standards, required no new legislation in most of the jurisdictions where it happened," Dragicevic-Dicic says. "It required women on the bench willing to say, plainly, that the old standard was wrong." For her, this is not a marginal contribution. Women judges have influenced the way courts address human trafficking, sexual exploitation, labour discrimination and digital privacy. The broader method is sometimes described as "asking the woman question": asking whose experience a law was written around, whose point of view it takes for granted and whose point of view it leaves out.
"What ultimately changes outcomes for women seeking justice is influence," she says, "the willingness to interrogate what 'reasonable,' 'credible,' and 'neutral' have quietly meant all along, and the discipline to put that interrogation into the written record."



WHERE INDEPENDENCE IS THE LINE

The connection between gender equality, professional independence and human rigon. "Protecting women lawyers means protecting the poshts becomes stark in contexts where lawyers themselves are targeted. **Shabnam Moinipour**, programme director at the Centre for supporters of human rights (CSHR), points to the experience of women lawyers and legal professionals in Iran.
From her perspective, that experience shows that gender equality, professional independence and the defence of human rights are inseparable. "A justice system cannot claim to protect rights while weakening the very people who defend them," she says. "And it cannot claim to uphold equality while policing, excluding, or punishing women who enter the legal profession to serve society."
Women lawyers in Iran, Moinipour explains, stand at the intersection of two forms of pressure. "They are targeted as lawyers when they defend protesters, detainees, women's rights defenders, minorities, and families seeking accountability. They are targeted as women when their work challenges gender discrimination, mandatory hijab enforcement, violence against women, or the social structures that keep women subordinate."

The lesson is not limited to Iran. It shows why the independence of lawyers cannot be treated as an internal professional privilege. "Professional independence matters. It is not a privilege for lawyers. It is a safeguard for the public," Moinipour says. A woman facing violence, a detained protester, a religious minority or a family seeking accountability all depend on lawyers who can act without intimidation,



THE PANEL *WOMEN IN LAW: OVERCOMING GENDER-BASED BARRIERS AND ADVANCING ACCESS TO JUSTICE*

political control or gender-based humiliatisibility of justice itself," she concludes.

A TEST FOR LEGAL INSTITUTIONS

The picture that emerges is not one of simple exclusion, nor one that can be solved only by bringing more women into existing structures. The challenge is more complex: whether legal systems are willing to examine the assumptions on which authority, neutrality, credibility and professional success have been built.
For law firms, courts, bar associations and international institutions, the agenda is both practical and cultural. It means measuring representation, reforming governance, making leadership pathways visible, embedding flexible work without stigma, addressing harassment and bias, protecting women legal professionals under threat, and training judges to recognize how stereotypes shape legal outcomes.

But the underlying question is more fundamental. If women's participation strengthens access to justice, public confidence, institutional legitimacy and gender-responsive decision-making, then excluding women from leadership or silencing them in the exercise of their profession weakens the rule of law itself.

As Restifo puts it, advancing women's full participation at every level of the legal profession "strengthens access to justice, enriches legal decision-making, and enhances public confidence in the rule of law". The point, therefore, is not to add women to systems that remain unchanged. It is to ask whether those systems are ready to reconsider whose experience they have treated as neutral, whose authority they have recognized and whose voice they have too often left outside the record.

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