

Sustainable Development, Rule of Law, and the Impact of Women Judges

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Introduction

In recent years, development experts, public institutions, and the private sector alike have begun to recognize that investing in women may be the most effective means of achieving poverty reduction, sustainable development, and economic growth or—put simply—investing in women is “smart economics.”¹ At the same time, the rule of law continues to be a fundamental pillar upon which peaceful and prosperous nations are built. The participation of women in the judiciary can play an important role in the achievement of both. Indeed, women judges can play a critical function in strengthening the rule of law both through their contributions to an impartial judiciary as well as through their role in the implementation and enforcement of laws, particularly those that provide access to justice for women and girls. Without access to justice, investments in women and girls will likely fail to yield maximum impact or have lasting results. As a result, women judges are likely to emerge as important agents of poverty reduction, sustainable development, and global economic growth.

I. The Multiplier Effect and the BoP

Development experts have long heralded gender equality and women’s empowerment as an efficient lever for poverty reduction and sustainable

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1. GENDER EQUALITY AS SMART ECONOMICS: A WORLD BANK GROUP GENDER ACTION PLAN (FISCAL YEARS 2007–2010) (2006), <http://siteresources.worldbank.org/INTGENDER/Resources/GAPNov2.pdf> [hereinafter Gender Equality].

development.² In recent years, however, a new body of research originating from the World Bank and the private sector has provided widespread validation and support to what has been termed “the multiplier effect.”³ The multiplier effect is the notion that investing in women and girls not only has a positive impact on the women and girls themselves, but also on their families and the societies in which they live. For example, the multiplier effect shows that an increase in educational opportunities for women and girls results in a decrease in child mortality rates, an increase in children’s education, and an increase in the per capita income and GDP growth of nations.⁴ Furthermore, women’s economic empowerment results in improving the lives of the family unit, as women are more likely than men to spend their incomes on their family—including the health and education of their children.⁵

The multiplier effect has a particular impact on women at the “bottom of the pyramid” (or BoP), or on those earning less than \$8 per day, of which women roughly comprise two of the four billion.⁶ In recent years, the private sector has sharply turned its attention to the BoP thanks to the pioneering work of the late C.K. Prahalad and Stuart Hart. Beginning with their 2002 article entitled “The Fortune at the Bottom of the Pyramid,” the authors demonstrated that significant opportunities exist if the poorest four billion are viewed not as victims, but as value-conscious consumers that can be partners in creating the next engine of global economic growth.⁷ Since then, private, public, and non-profit actors have collaborated to stimulate and access the fortune at the bottom of the pyramid. Given the multiplier effect, private sector actors have begun to turn their

2. See generally THE BUSINESS OF EMPOWERING WOMEN, MCKINSEY & COMPANY (2010), available at http://www.mckinsey.com/App_Media/Reports/SSO/EmpWomen_USA4_Letter.pdf.

3. *Id.*

4. T. Paul Schultz, “Mortality Decline in the Low-Income World: Causes and Consequences,” 83 AM. ECON. REV. 2, 337-42; Deon Filmer, “The Structure of Social Disparities in Education: Gender and Wealth,” *The World Bank Policy Research Working Paper* 2268, Washington, DC, 2000; Dina Abu-Ghaida & Stephan Klasen, “The Costs of Missing the Millennium Development Goals on Gender Equity,” 32 WORLD DEVELOPMENT 7 (2004), available at http://www.ungei.org/resources/files/univmunich_0301_klasen.pdf; Remarks by World Bank Managing Director, Dr. Ngozi Okonjo-Iweala at the World Population Day lunch at the World Bank, June 29, 2009; Stephan Klasen & Francesca Lamanna, “The Impact of Gender Inequality in Education and Employment on Economic Growth in Developing Countries: Updates and Extensions,” *EUDN/WP* 2008-10, 2008.

5. Isobel Coleman, “The Payoff from Women’s Rights,” *FOREIGN AFFAIRS*, May-June 2004, available at <http://www.foreignaffairs.com/articles/59896/isobel-coleman/the-payoff-from-womens-rights>; Andrew Morriso & Schwetlena Sarbawal, “The Economic Participation of Adolescent Girls and Young Women: Why Does it Matter?,” *The World Bank PREM Note*, No. 128, Washington, DC, 2008; *Because I am a Girl: The State of the World’s Girls 2009*, Plan Australia, 2009.

6. See generally Prahalad, C.K. & Stuart L. Hart, “The Fortune at the Bottom of the Pyramid,” *STRATEGY + BUSINESS*, available at <http://www.strategy-business.com/article/11518?pg=all>.

7. See *id.*

attention to women at the BoP or what might be referred to as “WoBoP.”⁸ Critical to any lasting success in this arena, however, will be the rule of law and its implementation and enforcement, particularly as it relates to women and girls.

II. The Rule of Law and the Role of Women Judges

As women at the bottom of the pyramid emerge as critical agents of sustainable development and economic growth, women judges can play a unique and necessary role at the top of the pyramid to ensure the rule of law and access to justice for women and girls. In recent years, significant resources have been deployed to support rule of law initiatives throughout the globe as the rule of law is critical to sustainable development and a fundamental pillar upon which peaceful and prosperous nations are built.⁹ Such efforts often include programs that seek to support the establishment of an impartial judiciary that enjoys the trust and confidence of the community. Furthermore, in recent years, development experts have begun to focus on the critical importance of programs that support the implementation and enforcement of law. While significant progress has been made in adopting laws throughout the developing world in a variety of areas, laws without implementation and enforcement not only render such legal reform ineffective, but also may serve to undermine rule of law by eroding public trust in the institutions that govern.

Women judges have and can play an important role in each of these areas. First, women’s participation in the judiciary is important to establishing a judiciary that is reflective of the society of whose laws it interprets. People are more likely to put their trust and confidence in courts that

8. In recent years, companies have begun to apply a gender lens to the bottom of the pyramid. To date, however, such focus has been primarily on women’s contributions as laborers and, more recently, as entrepreneurs. Companies, however, that seek to engage women at all levels of the corporate value chain, for example, as sales people, managers, innovators, and even owners may be more likely to access more robust opportunity at the bottom of the pyramid.

9. Indeed, philosophers and jurists throughout time and across cultures have heralded justice and the rule of law as the foundation upon which stable societies are built. As far back as 350 B.C., the Greek philosopher Plato stated: “Where the law is subject to some other authority and has none of its own, the collapse of the state, in my view, is not far off; but if law is the master of the government and the government is its slave, then the situation is full of promise and men enjoy all the blessings that the gods shower on a state.” PLATO, *COMPLETE WORKS* 1402 (John M. Cooper ed., D.S. Hutchinson assoc. ed., Hackett Publishing 1997). The 17th Century French mathematician, philosopher, and physicist Blaise Pascal stated: “Justice and power must therefore be brought together so that whatever is just may be powerful and whatever is powerful may be just.” BLAISE PASCAL, *THOUGHTS OF BLAISE PASCAL* 131 (Allen et al. eds., 1846). The contemporary Eastern philosopher and jurist, Ostad Elahi, esteemed, in part, for his precise observance of rights and duties both in the adjudication of law and daily life as well as his emphasis on the importance of rule of law and women’s equality in mid-20th century Iran, stated: “The central axis of life in this world is respect for the rights of others.” Olivier Chazoule, *Éthique Professionnelle d’Ostad Elahi*, in 5 *CAHIERS DE L’ANTHROPOLOGIE RELIGIEUSE, LE SPIRITUEL: PLURALITÉ ET UNITÉ* 156, 158 (Presses de l’Université de Paris-Sorbonne, 1996).

represent all of the individuals that constitute a society. Furthermore, a judiciary comprised of judges with diverse experience may provide a more balanced and thus impartial perspective on matters before the court.

Women's participation in the judiciary may be of particular importance in the implementation and enforcement of laws that allow for women's full participation in society. While all sectors are beginning to acknowledge that the educational and economic participation of women are important levers of development and growth, progress will be significantly hampered if women are not afforded basic human rights, such as the right to vote and the right to own and inherit property, among others. One critical area that continues to lag, including in the developed world, is the implementation and enforcement of laws relating to the eradication of violence against women and girls.

III. Women Judges and their Role in Eradicating Gender-Based Violence

Violence against women throughout the world continues to be an epidemic. Across the globe, one in three women experiences violence in her lifetime, and it is estimated that, in most cases, such violence is committed by a member of her family.¹⁰ While in the United States, like many developed countries, conditions for women have improved significantly in recent decades, domestic violence continues to be far too pervasive. In the United States, one in four women will be a victim of domestic violence during her lifetime.¹¹

Recently, women judges are emerging on the world stage as leaders in the efforts to effectuate rule of law and the implementation of law, particularly as it relates to eradicating violence against women and providing women and girls with access to justice. In 2008, the U.S. Department of State began hosting women judges from around the world to discuss issues of women's access to justice and combating violence against women.¹² There, judges and judicial actors from over twenty countries convened to discuss issues of law and implementation relating to women and girls and to share success stories and lessons learned.¹³ As a result of this forum, the Avon Global Center for Women and Justice at Cornell Law School was founded with the goal of continuing the dialogue while providing concrete support to women judges across the globe through legal research and clinical projects on issues related to gender-based violence.¹⁴

10. Gender Violence Facts, <http://www.oneinthreewomen.com/index.cfm?action=page&page=14> (last visited Dec. 27, 2010).

11. Domestic Violence Statistics, <http://www.dvrc-or.org/domestic/violence/resources/C61/> (last visited Dec. 27, 2010).

12. U.S. Department of State, Senior Roundtable of Women's Justice, <http://www.state.gov/s/we/c25151.htm>

13. *Id.*

14. Avon Global Center for Women and Justice at Cornell Law School, History of Organization, and Purpose, <http://www.lawschool.cornell.edu/womenandjustice/aboutus/history.cfm> (last visited Jan. 3, 2011).

Often, such efforts include an examination of systemic issues of implementation. Women judges from around the world have taken active roles in such pioneering work. For example, Chief Justice Georgina Wood, the first female Chief Justice in the history of Ghana, is paying particular attention to the way the law impacts women and children. To that end, she is seeking to build a specialized Family Justice Center that will identify and address critical issues affecting women and children in the judicial process, with a focus on how the court adjudicates cases relating to gender-based violence.¹⁵ Judge Judith Kaye, former Chief Justice of New York, examined issues of domestic violence in her role as Chief Justice, and took an innovative and thoughtful approach to the adjudication of these cases. Judge Kaye challenged others to think about the appropriate role of the courts in domestic violence cases, noting that domestic violence cases differed from other crimes.¹⁶ If the courts are to have impact in the adjudication of such cases, she notes, it is important to take an integrated and active problem-solving approach.¹⁷ Justice Elena Inés Highton de Nolasco, Vice President of the Supreme Court of Argentina, created the first Domestic Violence Office of the Supreme Court of Argentina (Oficina de Violencia Doméstica, or “OVD”).¹⁸ The OVD focuses exclusively on issues of domestic violence and utilizes an interdisciplinary team of legal, medical, and other professionals in seeking to provide access to justice to victims of domestic violence.¹⁹

Women judges have also played critical roles in shaping international law relating to gender-based violence through their participation on international tribunals. Judge Florence Mumba of the High Court of Zambia has served on both domestic courts and international tribunals such as the International Criminal Tribunal for the former Yugoslavia, the International Tribunal for Rwanda, and currently, the Extraordinary Chambers for the Courts of Cambodia.²⁰ Her efforts were instrumental in the classification of rape and other gender based crimes as crimes against humanity or war crimes. In the international arena, significant work is taking place to share learning and experience across nations. For example, the Honorable Ann Claire Williams, Unites States Circuit Judge for the U.S. Court of Appeals for the Seventh Circuit, is identifying best practices and, where

15. G.D. Zaney, *African-American Delegation Calls on Chief Justice*, PEACE FM ONLINE, June 8, 2010, <http://news.peacefmonline.com/news/201006/45694.php>.

16. See generally Judith S. Kaye & Susan K. Knipps, “Judicial Responses to Domestic Violence: The Case for a Problem Solving Approach,” 27 W. ST. U. L. REV. 1 (1999–2000).

17. *Id.*, at 13.

18. Avon Global Center for Women and Justice at Cornell Law School, Gender Justice in the Argentine Context: Justice Highton de Nolasco Shares her Views, <http://www.lawschool.cornell.edu/womenandjustice/features/details.cfm?id=169585> (last visited Jan. 27, 2011).

19. *Id.*

20. Avon Global Center for Women and Justice at Cornell Law School, Justice Florence Mumba Reflects on Women’s Rights and Gender Justice, <http://www.lawschool.cornell.edu/womenandjustice/features/details.cfm?id=171244> (last visited Jan. 3, 2011).

applicable, sharing them with domestic and international judges. Judge Williams has spent over a decade working closely with the various judiciaries throughout Africa to assist in their own development of judicial training and advocacy.²¹ In 2007, with assistance from Lawyers Without Borders, she taught Kenya's first Women's Trial Advocacy Program for lawyers representing victims of domestic violence and continues to work in partnership with judiciaries across the world on the rule of law and issues of gender equality.²²

Furthermore, under the leadership of women judges, associations and centers are emerging to support such reform. One such organization, the International Association of Women Judges, serves as a forum through which women judges can convene and share best practices across nations.²³ Founded in 1991, the association now boasts over four thousand women judges representing over ninety countries.²⁴ In the United States, new centers are emerging that seek to focus on the complex and integrated issues relating to domestic violence. One such center is the recently launched Diane Halle Center for Family Justice at the Arizona State University Sandra Day O'Connor College of Law.²⁵ The Center seeks to take a holistic and interdisciplinary approach to domestic violence.²⁶

Furthermore, Virtue Foundation, an international non-governmental organization that focuses on sustainable development through healthcare, education, and empowerment initiatives, partners with women judges on projects throughout the world as their guiding principles include investing in local women leaders as important change agents.²⁷ Additionally, in recognition of the specific role that women judges can play toward improving the rule of law and furthering sustainable development goals, Virtue Foundation has recently launched the Women Judges in the Pipeline Initiative to create and increase opportunities for women to become judges in judiciaries across the globe.²⁸

Conclusion

Women have always played a critical role in the functioning of societies. More recently, however, the public, private, and non-profit sectors

21. Avon Global Center for Women and Justice at Cornell Law School, Hon. Ann Claire Williams, <http://www.lawschool.cornell.edu/womenandjustice/aboutus/whoware/steering/williams.cfm> (last visited Jan. 3, 2011).

22. *See id.*

23. International Association of Women Judges, <http://www.iawj.org/> (last visited Jan. 4, 2011).

24. *Id.*

25. "O'Connor House Announces New Diane Halle Center for Family Justice," PR NEWSWIRE, Mar. 9, 2010, available at <http://www.prnewswire.com/news-releases/oconnor-house-announces-new-diane-halle-center-for-family-justice-87135327.html>.

26. *See id.*

27. About the Foundation, http://www.virtuefoundation.org/cms/front_content.php?idcat=84 (last visited Jan. 25, 2011).

28. Virtue Foundation, *Women Judges in the Pipeline Initiative*, in PRESS KIT (2011), available at http://www.virtuefoundation.org/cms/upload/pdf/media/Virtue_Foundation_PressKit.pdf.

have recognized women's contributions and potential as engines of sustainable development and growth. As a result, investing in half the world's population is viewed not only as the right thing to do, but the smart thing to do. Such investments, however, will not achieve their highest yield if women and girls do not have adequate access to justice and basic human rights, including a life free from violence. As a result, rule of law, including access to an impartial judiciary and the implementation and enforcement of laws, particularly as they relate to gender equity, will be essential in this endeavor. The emergence of women judges on the world stage, their contribution to the creation of impartial judiciaries, and their interest and ability to impact the implementation and enforcement of laws affecting women and girls will serve as a necessary and critical accelerator of such efforts.