

**INSPIRATIONAL MESSAGE**

**FOR THE SESSION ENTITLED**

**“INITIATIVES OF WOMEN JUDGES TOWARDS GENDER PARITY  
AT ALL LEVELS OF THE JUDICIARY”**

**DELIVERED BY**

**THE HONOURABLE JUSTICE  
DATO’ ZABARIAH BINTI MOHD YUSOF  
FEDERAL COURT JUDGE OF MALAYSIA**

**ON THE OCCASION OF**

**THE 2024 ASIA-PACIFIC REGIONAL CONFERENCE  
OF THE INTERNATIONAL ASSOCIATION OF WOMEN JUDGES**

**“WOMEN LEAD: TRANSFORMING ASIA PACIFIC  
AND CHANGING THE WORLD”**

**DELIVERED AT**

**FILI HOTEL, NUSTAR RESORT COMPLEX,  
CEBU CITY, PHILIPPINES**

**ON**

**8 MAY 2024**

## **SALUTATIONS**

- (1) Honourable Justice Amy C. Lazaro-Javier,  
Associate Justice of the Supreme Court of the Philippines, Vice  
President of the International Association of Women Judges (or  
“IAWJ”) and President of the Philippine Women Judges Association  
(or “PWJA”);
- (2) Honourable Justice Maria Filomena D. Singh,  
Associate Justice of the Supreme Court of the Philippines, Director  
for Asia-Pacific Region of the IAWJ and Executive Vice President of  
the PWJA;
- (3) Honourable Justices of the Supreme Court of the Philippines;
- (4) Honourable panellists;
- (5) Honourable Chief Judges and Judges from Courts across the world;

Distinguished delegates, ladies and gentlemen,

A very good afternoon to all of you.

## INTRODUCTION

- [1] It is a great honour and privilege for me to be present here today to deliver this inspirational message on behalf of the Chief Justice of Malaysia at the 2024 Asia-Pacific Regional Conference of the IAWJ in the beautiful city of Cebu. The Chief Justice of Malaysia, the Right Honourable Tun Tengku Maimun binti Tuan Mat, is unable to be present here today due to prior commitments. She extends her warmest regards and offers her sincere apologies for her absence.
- [2] First and foremost, I would like to extend my heartfelt congratulations to the PWJA for their exceptional work in organising this esteemed conference. The dedication they have shown in empowering women judges in our region perfectly embodies the inspiring theme of this year's event, **"Women Lead: Transforming Asia Pacific and Changing the World."**
- [3] As a woman judge myself, I am truly honored to be here today and deliver a speech that speaks to the hearts and minds of each and every one of us. The themes we will be discussing during this conference connect with our common experiences, as they symbolise our shared dedication to turning the principles of equality and justice into concrete achievements within our own professional spheres.
- [4] The inspirational message I will deliver today will be structured around four broad themes, namely:
- (i) Promoting Gender Balance in the Judiciary
  - (ii) Addressing Challenges to Achieving Gender Parity in the Judiciary

(iii) Women Judges' Initiatives for Advancing Gender Parity

## PROMOTING GENDER BALANCE IN THE JUDICIARY

- [5] Ladies and gentlemen, let us begin by acknowledging the immense importance of achieving gender balance on the bench. We can take inspiration from Lady Hale, a true pioneer and the first-ever female President of the Supreme Court of the United Kingdom. In her words, she succinctly captured the essence of this idea when she stated, "*[a]s women make up half of the community, they should be half of the judges.*"<sup>1</sup>
- [6] In the United States, the remarkable Ruth Bader Ginsburg, who etched her name in history as the second female United States Supreme Court Justice, further championed the cause of gender equality within the Judiciary. When asked how many of the nine Judges on the United States Supreme Court should be female — and at what point there would be enough women on the bench — Ruth Bader Ginsburg had a simple answer: "*When there are nine.*"<sup>2</sup>
- [7] Both these statements underscore the long-standing issue of gender imbalance within the Judiciary, a sector that, despite progress, continues to see women's representation lagging significantly behind that of their male counterparts.

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<sup>1</sup> Diane Taylor, 'Lady Hale: At Least Half of UK Judiciary Should Be Female' (The Guardian, 24 March 2019) <<https://www.theguardian.com/law/2019/mar/24/lady-hale-at-least-half-of-uk-judiciary-should-be-female>> accessed 1 April 2024.

<sup>2</sup> Jill Filipovic, 'Justice Ginsburg's distant dream of an all-female supreme court' (*The Guardian*, 30 November 2012) <<https://www.theguardian.com/commentisfree/2012/nov/30/justice-ginsburg-all-female-supreme-court>> accessed 1 April 2024.

- [8] Throughout history, the Judiciary has mostly been occupied by men, creating substantial obstacles for women who aspired to enter and progress in this profession. This male dominance is apparent in numerous legal systems worldwide, where women have encountered significant challenges in pursuing careers as lawyers and Judges. In the United States, for instance, Arabella Mansfield shattered barriers when she became the first female lawyer in 1869, marking a remarkable achievement that came 80 years after the establishment of the judicial system in the country. Before her groundbreaking milestone, women in the United States were often explicitly prohibited from practicing law solely because of their gender.<sup>3</sup>
- [9] Women in the Judiciary have faced obstacles not only in entering the legal profession but also in advancing to senior leadership roles. These barriers are both cultural and systemic, often stemming from wider gender inequalities in society. Seniority, a key consideration in the appointment of senior Judges, has historically disadvantaged women, who have had fewer opportunities to build the required tenure and experience due to earlier barriers.<sup>4</sup>
- [10] In recent times, there has been a heartening shift towards rectifying these imbalances, with a noticeable increase in the appointment of women to various judicial roles across the globe. This progress towards gender diversity within the Judiciary signifies a break from the past and highlights a growing recognition of the invaluable perspectives and

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<sup>3</sup> Clay Halton, 'Gender Representation in the Judiciary' (*Investopedia*, 28 March 2024) <<https://www.investopedia.com/gender-representation-in-the-judiciary-5113183>> accessed 1 April 2024.

<sup>4</sup> Nancy Kanyago, 'Blog: Women's representation in the judiciary has come a long way but remains far from being equal' (*The Commonwealth*, 31 March 2023) <<https://thecommonwealth.org/news/blog-womens-representation-judiciary-has-come-long-way-remains-far-being-equal>> accessed 1 April 2024.

contributions women bring to the bench. For instance, Rwanda has nearly half of its Judges as women, and the Bahamas has seen women account for 61.1% of its Supreme Court as of December 2021. Kenya also appointed its first female Chief Justice in 2021.<sup>5</sup> Justice Ayesha Malik from Pakistan and Justice Judith Prakash from Singapore hold the distinction of being the first female appointees to the Supreme Courts of their respective countries.

[11] Referring to my own country, since the inception of the earliest court in the territory, known as the Court of Judicature of Prince of Wales' Island, in 1807 by the British, the Malaysian Judiciary has traditionally been characterised by male predominance. Nevertheless, a significant milestone was reached in 1983 when Tan Sri Siti Norma Yaakob became the first woman to attain the position of a judge in the High Court. She continued to achieve numerous other "firsts" as she progressed in her profession, notably becoming the first woman to be appointed as a judge in the Court of Appeal in 1994 and as a judge in the Federal Court in 2001. Tan Sri Siti Norma Yaakob's groundbreaking career culminated in her historic appointment in 2005 as the first female Chief Judge of Malaya, which ranks third in the hierarchy of judicial offices in the nation.

[12] Following Tan Sri Siti Norma Yaakob's pioneering achievements, Tan Sri Zaharah Ibrahim assumed the mantle and furthered the legacy by becoming the second woman to be appointed as the Chief Judge of Malaya in 2018. History was yet again made when Tan Sri Rohana

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<sup>5</sup> Ibid.

Yusuf was appointed in 2019 as the President of the Court of Appeal, the second highest judicial office in Malaysia.

[13] In the same year, Tun Tengku Maimun binti Tuan Mat was appointed as the Chief Justice of Malaysia, marking a historic moment as she became the first woman to ascend to the highest judicial office of the country. Her appointment garnered widespread acclaim as it was seen as a constructive and encouraging step towards increasing the number of women in positions of leadership and decision-making in Malaysia and fostering greater diversity in the gender composition of the Malaysian Judiciary. I am proud to highlight that currently, the Federal Court of Malaysia, which is the apex Court of the country, boasts a commendable presence of women Judges. Out of the 14 Judges who presently sit on the Federal Court, 7 are women.

[14] The strides made in achieving gender diversity within the Judiciary is a positive development, marking a significant departure from historical practices. It underscores a growing recognition of the valuable perspectives and contributions that women bring to judicial decision-making.

[15] The progress achieved in terms of women's representation in the judiciary globally is commendable; however, true equality still remains a distant goal. This underrepresentation is not limited to national courts, but also extends to influential international forums like the International Court of Justice. It is disconcerting to note that out of the 15 Judges,

only 4 are women, thereby highlighting a considerable gender disparity even within the most esteemed legal institutions.<sup>6</sup>

[16] Ensuring gender parity in the Judiciary is crucial for its legitimacy and impartiality. It cements the judiciary's role as a vital part of democracy and the rule of law. If women are not adequately represented in leadership positions, we risk ignoring the viewpoints and experiences of half the population, which could undermine fair justice. Therefore, it's vital that the bench reflects the diversity of the population it serves. This builds trust and shows the public that judges are fair, unbiased, and in touch with the community.

[17] In the broader context, a gender-balanced Judiciary has the potential to significantly enhance the Judiciary's capacity to address the multifaceted and intricate issues confronting society. The inclusion of both women and men Judges brings diverse perspectives to the forefront, fostering a more comprehensive and impartial judicial process that leads to equitable and just decisions. The amalgamation of their distinct viewpoints, shaped by biological variances and unique life experiences, enriches the deliberative process within the Judiciary.

[18] The presence of women Judges on the bench ensures the incorporation of a wide spectrum of life experiences into judicial decision-making, thereby adding depth and inclusivity to the process. Their perspectives, often influenced by societal roles, personal experiences and distinct challenges, contribute to a more holistic understanding of the issues at hand, ultimately augmenting the quality and fairness of justice delivered to individuals and communities.

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<sup>6</sup> <https://news.un.org/en/story/2023/03/1134487>



- [19] Citing my own country as an example, recent years have witnessed the Malaysian Judiciary delivering judgments aimed at countering gender discrimination within the legal system. For instance, in the recent case of *Lai Hen Beng v Public Prosecutor*,<sup>7</sup> the Federal Court, led by the Chief Justice, the Right Honourable Tun Tengku Maimun binti Tuan Mat, deliberated on the constitutionality of section 498 of the Penal Code, which criminalised the enticement of a married woman from her husband. This provision was found to be unconstitutional as it contravened Article 8(2) of the Malaysian Federal Constitution, which prohibited discrimination on the grounds of gender.
- [20] In a landmark ruling, the Federal Court delivered a resounding denouncement of section 498 of the Penal Code, aptly characterising it as an archaic and anachronistic provision emblematic of a bygone Victorian era mentality that subjugated women as the personal property of men. The court's astute recognition of this provision's outdated and regressive nature signifies a pivotal step towards dismantling entrenched gender biases and upholding the intrinsic equality and autonomy of both men and women in modern society. The Federal Court's unequivocal stance not only signifies a departure from antiquated gender norms but also exemplifies the significance of a gender-balanced judiciary.
- [21] The Federal Court's clear stance not only represents a shift away from outdated gender norms but also highlights the importance of having a balanced gender representation in the judiciary. In essence, the integration of women Judges alongside their male counterparts on the

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<sup>7</sup> [2024] 1 MLJ 225 (FC).

bench is pivotal in cultivating a Judiciary that is not only representative of the populace it serves but also one that is better equipped to navigate the complexities of modern society, thereby bolstering the legitimacy and effectiveness of the judicial system.

[22] Addressing gender disparities within the Judiciary is essential for nurturing a legal system that is fair and inclusive, serving the interests of all individuals. To effectively promote and uphold justice, Courts must embrace gender perspectives across all facets of their jurisdiction, structure and operations. Failure to do so perpetuates the ripple effects of women's underrepresentation on the bench, leading to the skewed perception of "male concerns" as universal, while relegating "women's issues" to the sidelines.

[23] For me a well-balanced judiciary in terms of gender is akin to setting a gold standard for others. Having a judiciary that is gender-balanced not only mirrors the diverse makeup of the society it represents, but also reverberates beyond the courtroom and serving as a laudable model for other organisations to emulate in their pursuit of gender parity and inclusivity.

[24] Nonetheless, it is imperative that we tread carefully on this subject. It behoves me to stress that the points I have raised thus far are not intended to support the notion that gender is the sole determining factor in the contributions of women Judges to the Courts they preside over. Emphasising gender as the primary lens through which to view their impact risks oversimplification. Such a stance may inadvertently suggest that women Judges are exclusively suited for gender-related cases, overlooking the breadth of their expertise. Stereotypes that

pigeonhole women Judges as being primarily concerned with issues such as child welfare, juvenile justice or gender discrimination overlook the multifaceted nature of their judicial prowess.

[25] We are fortunate in Malaysia to have surpassed gender disparities in the number of women judges serving the apex court. It is pertinent to note that this evolution has not been engineered artificially to achieve the numbers or to make a statement; rather, the evolution has been a natural progression which has come about purely on the basis of merit.

[26] Our approach to judicial appointments remains steadfastly focused on merit and capability, ensuring a fair and equitable selection process. As a result, the Malaysian Judiciary has achieved a balanced representation of male and female Judges, all appointed based on their individual qualifications and competence. This goes to show that when merit is considered, without any particular bias for certain traits like gender, the numbers will eventually reflect that equality. In the truest sense, this achievement is not just a numerical representation, but a robust affirmation of the Malaysian Judiciary's unwavering commitment to fairness, justice and societal equality.

[27] The point I am trying to make is that while it is important to have regard to gender equality, it is equally important for the appointment of women Judges to not be determined solely by gender, but by merit.<sup>8</sup> Gender inequality manifests within the Judiciary when women are unfairly overlooked or sidestepped for roles or promotions in favour of their

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<sup>8</sup> Opening Speech delivered by the Right Honourable the Chief Justice of Malaysia, Tun Tengku Maimun Binti Tuan Mat titled 'Breaking Barriers: Empowering Women and Girls Through Human Rights and SDGs' at the Judicial Colloquium 2023 on 21 August 2023.

male counterparts based only on their gender. Merely striving for a balanced gender ratio without considering merit or qualifications does not address the root of gender inequality.

- [28] The role of a judge requires certain qualities, such as independence, integrity, and a profound knowledge of the law. While it is important to promote gender parity within the judiciary, it is equally important to ensure that the most qualified candidates are appointed through a fair selection process. We should not prioritize appointing women solely to fulfill quotas, as this can undermine the true pursuit of gender equality. Instead, our focus should be on providing equal opportunities to all based on qualifications, rather than solely considering gender.

## **ADDRESSING CHALLENGES TO ACHIEVING GENDER PARITY IN THE JUDICIARY**

- [29] Our gathering today serves as a poignant reminder of the ongoing journey towards reaching gender parity within the Judiciary, not only in the Asia Pacific region but also beyond. It is, therefore, imperative to acknowledge the challenges that persist in this noble pursuit as we strive towards ensuring that our Judiciary reflects the diversity and equality we envision.
- [30] One cannot understate the historical and systemic barriers that have contributed to the underrepresentation of women in judicial roles and inhibited their advancement within the Judiciary. For centuries, societal norms and entrenched biases have perpetuated a male-dominated Judiciary, wherein women have faced discrimination in recruitment,

promotion and retention. These biases continue to manifest in various forms, from subtle prejudices to outright gender-based discrimination, thereby hindering the progress of women across the Judiciary.

[31] Women often confront a "glass ceiling" when seeking judicial appointments to higher Courts or leadership positions within the Judiciary. Stereotypes and preconceived notions regarding gender roles tend to influence perceptions of women's capabilities and suitability for leadership positions. Women may face implicit biases that presume they are less competent, assertive or authoritative compared to their male counterparts, undermining their professional credibility and advancement prospects.

[32] Furthermore, the intersectionality of gender with other aspects of identity, such as ethnicity and socioeconomic status, introduces additional layers of complexity to the pursuit of gender parity. Women belonging to marginalised or underrepresented groups, including those with disabilities, often face compounded barriers to entry and advancement within the Judiciary, further exacerbating the disparities in judicial representation.

[33] In addition to these structural and systemic challenges, there are practical obstacles that impede women's progression within the Judiciary. The demanding nature of judicial roles often presents significant challenges for individuals, particularly women, to balance their professional responsibilities with personal and family commitments. Women may face unique pressures related to caregiving responsibilities, which can impact their ability to pursue career growth opportunities within the Judiciary.

- [34] This challenge not only affects women Judges, but also confronts other women striving to excel in their careers while managing their domestic commitments. Despite societal progress, prevailing patriarchal attitudes persist in imposing caregiving and homemaking burdens on women, irrespective of their professional status. This unequal distribution of labour results in extended workdays for women, leaving them with limited time and energy for professional pursuits compared to their male counterparts.
- [35] The expectation for women to excel in their professional roles while simultaneously managing household duties perpetuates the misconception that women cannot fully commit to leadership roles. This imbalance not only obstructs women's career advancement but also leads to stress, burnout and feelings of inadequacy, even among women in senior positions within the Judiciary.
- [36] Moreover, mentorship and networking are integral components of career development within the Judiciary. However, women frequently encounter significant barriers to accessing these crucial opportunities. The underrepresentation of women in leadership roles within the Judiciary exacerbates the scarcity of mentorship opportunities available for aspiring female Judges. Consequently, many talented women find their professional growth stunted by a lack of guidance and support from experienced mentors, thus perpetuating the existing gender disparities within the Judiciary.
- [37] Women may also face challenges in cultivating professional networks, which are indispensable for career advancement. They may find it

difficult to establish meaningful connections within a predominantly male-dominated environment. The lack of representation and inclusion in professional networks can isolate women from valuable career-enhancing opportunities, thereby further widening the gender gap across the Judiciary.

## **WOMEN JUDGES' INITIATIVES FOR ADVANCING GENDER PARITY**

- [38] It is heartening to note that the IAWJ stands as a beacon of hope and inspiration in our collective quest for gender parity at all levels of the Judiciary. Through its advocacy, research and capacity-building initiatives, the IAWJ has been at the forefront of promoting gender equality, diversity and access to justice around the world. This conference serves as a testament to the initiative and dedication of women Judges from various parts of the Asia Pacific region who have come together to address the pressing challenges facing our profession and to champion the cause of gender parity.
- [39] In 2019, the IAWJ, in collaboration with the United Nations Development Programme and the Commonwealth Secretariat, launched a pioneering initiative dedicated to advancing gender diversity within the Judiciary.<sup>9</sup> This groundbreaking initiative utilises data on female representation and barriers to gender-balanced judicial institutions to provide national decision-makers with evidence-based

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<sup>9</sup> Evelyn Edroma, 'Promoting Gender Equality in the Judiciary' (*United Nations Development Programme*, 5 July 2019) <<https://www.undp.org/blog/promoting-gender-equality-judiciary#:~:text=Considering%20this%2C%20UNDP%20and%20the,participation%20in%20the%20I%20equal%20profession.>> accessed 4 April 2024.

insights on increasing gender parity and improving the quality of women's judicial decision-making.

[40] The transformative potential of this initiative lies in its commitment to tackling the discrimination, as well as the social, economic and structural barriers confronting women in the judicial profession. It involves collaborations with Governments, the Judiciary, civil society, and female jurists and lawyers to identify ways to remove persisting gender stereotypes relating to women's entry and advancement within the Judiciary, thereby fostering women's full and effective participation in the judicial profession.

[41] Furthermore, the initiative prioritises the identification of strategies to ensure a balance in women's work-life commitments, recognising the importance of providing support mechanisms to address the unique challenges faced by women in the judicial profession. This includes advocating for a spectrum of measures such as flexible working arrangements, childcare support and parental leave policies to accommodate the needs of women Judges balancing their professional and personal responsibilities. Such measures are poised to empower women Judges to excel in their roles and contribute effectively to the administration of justice.

[42] The initiative also analyses the intersectionality of gender with other demographics such as age, disability status, ethnic groups and linguistic groups to find ways to prevent further discrimination against women. This endeavour is pivotal towards fostering an inclusive legal ecosystem where every individual, regardless of their background, can thrive and contribute meaningfully.



- [43] In addition to the aforementioned initiative spearheaded by the IAWJ, women Judges across the globe have employed various strategic approaches to dismantle barriers and promote gender equality within the Judiciary. These comprehensive policies and strategies encompass a wide range of initiatives, including recruitment and retention efforts, professional development opportunities and mentorship programmes.
- [44] In terms of recruitment and retention strategies, women Judges have led efforts to attract and retain a diverse pool of talent, ensuring representation across all levels of the Judiciary. This has involved advocating for gender-sensitive hiring practices, such as the implementation of blind recruitment processes to mitigate unconscious bias and the establishment of diverse selection panels to ensure fair evaluation of candidates. Moreover, women Judges have pushed for the adoption of transparent promotion criteria to facilitate merit-based advancement within the Judiciary, thus levelling the playing field for women seeking career progression.
- [45] Professional development opportunities are essential for nurturing the skills and capabilities of women Judges, enabling them to reach their full potential. This includes access to specialised training programmes, leadership development initiatives and networking events designed to cultivate a supportive environment conducive to the career advancement of women within the Judiciary.
- [46] Mentorship programmes also play a crucial role in providing guidance, support and encouragement to women Judges as they navigate their

careers. By pairing experienced Judges with aspiring women jurists, these programmes grant access to role models who have successfully traversed similar career paths, and are willing to offer insights and advice based on their own experiences. Mentorship fosters a supportive network within the Judiciary, facilitating knowledge transfer and empowering women to overcome obstacles and seize opportunities for progression.

[47] As advocates for gender equality within the Judiciary, we must actively engage with policymakers, stakeholders and the broader legal community to build consensus and drive meaningful reform. This entails advocating for legislative changes, participating in policy discussions and raising awareness about the importance of gender parity at all levels of the Judiciary. It is paramount that we collectively strengthen our endeavours to effect lasting change in this pivotal domain.

[48] Ultimately, by championing policies and initiatives that promote gender parity within the Judiciary, we can create a more inclusive and equitable legal system that reflects the diversity and complexity of the societies we serve. Our collective efforts in this regard will not only benefit women Judges but will also enhance the integrity and legitimacy of the Judiciary as a whole.

## **CONCLUSION**

[49] In closing, I extend my deepest gratitude to the organisers of this conference for providing us with this invaluable platform to exchange ideas, share best practices and forge partnerships in our shared pursuit

of gender parity at all levels of the Judiciary. May our deliberations this afternoon inspires us to redouble our efforts in building a Judiciary that is truly reflective of the societies we serve.

Thank you.