

DIRECTORATE OF HUMAN DIGNITY AND EQUALITY
Conference “Towards guaranteeing equal access of women to justice”
Bern, 15-16 October 2015

Director General’s opening speech on 15 October

[introduction]

[Head of the Federal Department of Home Affairs], Ladies and Gentlemen,

Let me welcome you all to this important Conference on a topic – guaranteeing equal access of women to justice – which is very dear to my heart. I would like to thank the Swiss authorities for hosting this event and for the excellent cooperation we have had in preparing for it. Special thanks to you, Mr. Berset, for your commitment to this issue which is witnessed by your presence here today.

[why is access to justice for women an issue? Examples]

Ladies and Gentlemen,

This is regrettably still an unusual topic for justice circles – for judges, for lawyers, for justice officials generally. Whenever I raise it with my interlocutors, I often receive an interrogative face in return. They - implicitly or explicitly - ask me: access to justice may be an issue per se, but why would it be more a problem for women than for men? If access to justice is a problem, it is so for everyone – women and men alike, they argue.

Well, I beg to disagree. While access to justice may be an issue for everyone, it is even more so for women. For them – for us - the doors of the courts are often tightly closed or, worse, slammed in our face, with very few avenues available to seek redress.

When a girl in school uniform is raped and stigmatized, and the rape gets unpunished, it is because she is a woman.

When a girl is forced by law to unfairly negotiate with her rapist male through mandatory alternative dispute resolution, it is because she is a woman.

When a woman does not manage to get legal aid because the eligibility test is calculated over the husband's income, it is because she is a woman.

When in court, women's testimonies are given less weight, face stigma, risk harassment and retaliation, it is because they are women.

When an unmarried girl living in a rural area is sentenced to 20 years imprisonment for murder, after carrying out an illegal abortion on herself, it is because she is a woman.

When female rape victims must be considered "deserving" to win a case and the outcome is compromised if they were drunk, on drugs, wearing revealing clothing, or if they allowed their aggressor to kiss them or let him into their home, if he is their husband, or if they are a prostitute, it is because they are women.

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[the reason: gender inequality]

I could go on with these real life examples which, I am sure, you can sadly complete. These are not anecdotes, but patterns often supported by legal provisions. The real question is, however, why. Why is it that women are, either in law or in practice, or both, denied equal access to justice? And yes, what we are talking about is not more access to justice for women than for men, but just an equal access.

The answer for me is gender inequality. It is the persistent inequality between women and men which has developed justice systems fundamentally fit for men. Patriarchal ideology that often underlies gender relations, the shaping of institutions, organisations and systems according to the life patterns and experiences of men, the widespread sexualisation of women's bodies suggesting their permanent sexual availability, gender-biased customs and traditions, all contribute to treating women as subordinate members of the family or society.

Violence against women and the virtual impunity of many aggressors is a direct manifestation of this inequality; it directly affects how women are treated and perceived by public institutions and societal structures, including by the justice system – the stereotypes.

Obstacles to women's equal access to justice are numerous, ranging from fear, shame, lack of knowledge, to procedural barriers. The existence of these obstacles to equal access to national justice is reflected in the international justice system, including our own European Court of Human Rights. Most cases concerning sex discrimination at the Strasbourg Court have been brought by men, even though gender discrimination disproportionately affects women. Overall, far fewer women than men apply to the

Court; roughly 16%, according to the only published research data. Applicants must have tried all possible legal remedies nationally before going to the Court, so this figure indicates the obstacles women face at a national level. I'm sure we will hear more about these issues from both Judge Tulkens, former Vice-President of the Court, and the Swiss judge at the Court, Ms Helen Keller.

[possible avenues: 5 points to make]

While I don't need to convince you, I hope I have convinced my usual interlocutor that women have a problem with access to justice and that this problem cannot be dismissed with the usual sarcastic smile. The question now is: what do we do about it?

1) First and foremost, we need to implement the standards that we have. The Council of Europe's work on human rights and gender equality has resulted in a solid legal and policy framework which contributes to fight gender inequality and to better protect women's human rights and dignity in our 47 member States. In force since 1 August 2014, the most recent Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence - better known as the Istanbul Convention - marks a milestone achievement in the fight to eradicate violence against women and domestic violence. This treaty, I am convinced, will ultimately achieve greater equality between women and men. You will hear more about the Convention and how its independent monitoring body – GREVIO - will ensure its full and effective implementation. We have the privilege to have amongst us today GREVIO's President, Professor Feride Acar.

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2) The second, integral, part of the solution is training and increased awareness by the justice system of women's rights and needs. As part of our cooperation activities, at the Council of Europe we are conducting a regional co-operation project, funded by the EU, to improve women's access to justice in five countries of the Eastern Partnership. It includes making available to our member States training materials for judges.

3) Third, we must improve on the persistent issue of lack of data disaggregated by sex which, by the way, concerns also our own Human Rights Court and other Council of Europe bodies. We need to provide a male-female breakdown of crime and justice statistics that help better understand the problem and devising policy solutions.

4) Fourth, please let's not re-invent the wheel! There are many good practices in our member states which provide examples of how to tackle and overcome barriers that obstruct women's access to justice, including setting up specialised courts, police units and access to free legal aid for victims of violence. We are launching at this Conference a compilation of such good practices and we hope it will provide a useful resource and inspire positive action at national and international level.

5) Fifth, and last, we must engage and work together with men, notably those working in the justice sector, to change mentalities and attitudes, some of which negatively affect men as well.

[Conclusions]

Ladies and Gentlemen,

I sincerely look forward to our discussions during this event, to map solutions and good practices that will help us guarantee equal access of women to justice. We, at the Council of Europe, are fully committed to this work. Our Gender Equality Commission will analyse the results of this conference and discuss its follow-up. In addition, our Parliamentary Assembly has adopted a Resolution calling on member States to carry out an in-depth analysis of the impact of gender on access to justice, in particular by collecting gender-disaggregated data, and adopt gender-sensitive policies taking account of the specific barriers to access to justice encountered by women. We will be supporting our member states with these tasks.

Access to justice is not only a fundamental right in itself, but it is also a right that is instrumental to achieving other - equally fundamental - rights. This is why it is so important that it be effective and equal. As Martin Luther King said, *“human progress is nether automatic not inevitable....every step toward the goal of justice requires sacrifice, suffering, and struggle; the tireless exertions and passionate concern of dedicated individuals.”* I see so many dedicated individuals in this room today; and I am confident that, together, we will succeed in re-balancing the balance of justice.

Thank you for your attention.