

To “Mother” or not to “Mother”: The Representative Roles of Women Judges in Ghana

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Abstract

Feminist scholars have debated questions of gender and judging by focusing on variables such as representation, difference, diversity and legitimacy. While illuminating, most of these studies are by scholars in the global north. More research is needed to understand issues of gender and judging in the global south. This article adds to existing literature by asking whether women judges promote women’s rights. Through in-depth interviews with women judges in Ghana, the article demonstrates that women judges do promote women’s rights. The article presents a new method of analysis: exploring the dichotomy between *direct and indirect* modes of representing women’s rights. Recognizing the importance of substantive representation and the contributions of female judges in promoting women’s rights, it argues that female judges are not a sufficient condition for promoting women’s rights. Necessary conditions include laws guaranteeing women’s rights, working partnerships with women’s civil society organizations and an enabling socio-cultural climate.

Keywords

Female judges, Ghana, judiciary, representation, women’s rights

INTRODUCTION

Steady’s examination of women in leadership in West Africa¹ illustrates the role of women in “mothering the nation” and the impact of their peculiar leadership roles in producing a “humanized state”. Steady argues that available evidence in post-conflict situations strongly suggests that women in leadership positions have produced positive outcomes. Nonetheless, existing evidence also indicates that the path to women’s leadership has not always been easy. On 1 March 1954, Justice Annie Jigge entered the annals of history

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1 F Steady *Women and Leadership in West Africa: Mothering the Nation and Humanizing the State* (2011, Palgrave Macmillan).

as the first woman to join the bench as a magistrate in Ghana (then called the Gold Coast).² Having paved the way for women in the legal profession and the judiciary more specifically, Jiagge's feat was replicated when, in 1991, Justice Joyce Bamford-Addo became the first woman to sit on the Supreme Court of Ghana. In 2008, Justice Georgina Theodora Wood became Ghana's first female chief justice. Ghana's achievement in appointing a female chief justice is, however, not unique in terms of the number of female chief justices across the continent.³ Globally, there has been a growing call for the creation of a diverse judiciary that is representative of society and mirrors the needs of all citizens.⁴ This article makes a critical contribution to the body of literature addressing a myriad of salient questions on the nexus of gender and judging.⁵ In particular, it contributes to existing studies by arguing that female judges represent and promote women's rights through *direct* and *indirect* processes.

Here, *direct* is conceptualized to include all activities that fall within the confines of the due process of the law and occur largely within the court room. *Indirect* contributions, on the other hand, include activities which occur largely outside the courtroom. For the purposes of this study, direct contributions include attentiveness to addressing socio-cultural discrimination in the courtroom, increased legitimacy of women's access to the courts, increased access to the courts and socialization of male judges. Indirect contributions include the feminization of the judiciary, putting a human face to the law, changing perceptions of gender justice, working partnerships with women's organizations and gender empowerment through awareness raising programmes. Combined, these direct and indirect changes have contributed to addressing some of the challenges women face institutionally, culturally and legally in Ghana. This article observes that, with the growing number of women joining

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- 2 J Dawuni "Justice Annie Jiagge" in E Acheampong and H Gates (eds) *Dictionary of African Biography* (2011, Oxford University Press) 207.
 - 3 J Dawuni and A Kang "Her Ladyship Chief Justice: The rise of female leaders in the judiciary in Africa" (2015) 62/2 *Africa Today* 45.
 - 4 T Mandosella "Beyond putting women on the agenda" (1995) 11/24 *Agenda* 27; V Hoekstra "Increasing the gender diversity of High Courts: A comparative view" (2010) 6/3 *Politics and Gender* 474; M Ndulo "African customary law, customs and women's rights" (2011) 18/1 *Indiana Journal of Global Legal Studies* 87 at 110; E Rackley *Women, Judging and the Judiciary: From Difference to Diversity* (2013, Cavendish Routledge); S Kenney *Gender and Justice: Why Women in the Judiciary Really Matters* (2013, Routledge).
 - 5 K Malleon "Justifying gender equality on the bench: Why difference won't do" (2003) 11/1 *Feminist Legal Studies* 1; K Malleon "Prospects for parity: The position of women in the judiciary in England and Wales" in U Schultz and G Shaw (eds) *Women in the World's Legal Professions* (2003, Portland / Hart Publishing) 175 at 182; R Hunter "Can feminist judges make a difference?" (2008) 15/1 *International Journal of the Legal Profession* 7 at 30; S Kenney "Thinking about gender and judging" (2008) 15/1 *International Journal of the Legal Profession* 87; P Coontz "Gender and judicial decisions: Do female judges decide cases differently than male judges?" (2000) 18/4 *Gender Issues* 59; R Cowan "Do women in South Africa's courts make a difference?" in U Shultz and G Shaw (eds) *Gender and Judging* (2013, Portland / Hart Publishing) 317 at 320.

the judiciary in Ghana and the rise of female chief justices across the continent of Africa,⁶ it is timely and empirically relevant to situate the "difference" debate within the African context by examining the impact women judges have in enforcing and promoting women's rights through constitutional provisions and available legal tools.⁷

The empirical data and analyses presented here are an attempt to advance our knowledge of the role of female judges in upholding the constitutional and legal rights of women in Ghana. While acknowledging the need to uphold judicial impartiality on the part of female judges, the article argues that, where the tools are available for women judges to use, they can, through interpretation and culturally sensitive contextualization, apply the law in a way that upholds the rights of female litigants.⁸ This study has three goals. First it attempts to situate the analyses of women's rights in Ghana within existing literature on gender and judging. Secondly, this study adds to the existing scholarship by creating a distinction between the direct and indirect representative roles of women judges. Thirdly, it highlights continuing challenges to achieving women's rights through judicial processes and proposes solutions to these challenges.

WOMEN ON THE BENCH IN GHANA

A diverse judiciary, one reflective of the gender balance in society, has the potential to contribute to achieving equitable outcomes for women who access the courts.⁹ The idea of women judges making a "difference" in the lives of women who access the courts has galvanized much of the discussion on gender and judging.¹⁰ Building on Gilligan's seminal work,¹¹ difference theory advocates argue that women judges can produce gender sensitive judgments that take into consideration the gendered factors that male judges may tend to overlook.¹² Advocates of the difference theory further

6 Dawuni and Kang "Her Ladyship Chief Justice", above at note 3.

7 C Nyamu-Musembi "Ruling out gender equality? The post-Cold War rule of law agenda in sub-Saharan Africa" (2006) 27/7 *Third World Quarterly* 1193 at 1200; K Prempeh "Africa's 'constitutional revival': False start or new dawn?" (2007) 5/3 *International Journal of Constitutional Law* 469 at 500; and Ndulo "African customary law", above at note 4.

8 Hunter "Can feminist judges", above at note 5.

9 E Junqueira "Women in the judiciary: A perspective from Brazil" in Shultz and Shaw (eds) *Women in the World's*, above at note 5, 437; Malleon "Prospects for parity", above at note 5; Rackley *Women, Judging*, above at note 4; Kenney *Gender and Justice*, above at note 4.

10 Coontz "Gender and judicial decisions", above at note 5; Malleon "Justifying gender equality", above at note 5; Kenney *Gender and Justice*, above at note 4; Rackley *Women, Judging*, above at note 4.

11 C Gilligan *In a Different Voice: Psychological Theory and Women's Development* (1982, Harvard University Press).

12 S Goldman "Should there be affirmative action for the judiciary?" (1979) 62 *Judicature* 488; Coontz "Gender and judicial decisions", above at note 5.

stress that the life experiences of female judges may allow them to understand better the gendered nature of the law. For this reason, it has been argued that having a gendered perspective can help female judges identify and address gender-based discrimination cases that come before them in the courtroom.¹³

The interview results presented in this article confirm earlier studies, which indicate that some female judge respondents shy away from the fact that their gender impacts their decisions when the parties to a case before them are women.¹⁴ The use of the “difference theory” to argue for more women on the bench has been challenged on many grounds as being falsely misleading, reductionist and lacking legitimacy by some women judges and researchers.¹⁵ In a study of voting patterns between men and women, Westergren found no significant difference in the patterns of the decision-making processes between male and female judges.¹⁶ In their study of female judges and the impact of gender on jurisprudence and decision-making, Miller and Maier found that female judges did not see their “difference” as having an impact on the decisions they ultimately took, as compared to their male counterparts.¹⁷ Westergren similarly finds little to no measurable impact of the relationship between women on the bench and gendered outcomes for plaintiffs.¹⁸ As a result, studies on the effects of gender on judging remain largely conflicting. It is within this existing framework of gender and judging, using the difference theory, that this work is situated.

There remains a relatively weak body of literature on gender and judging in Ghana.¹⁹ Ghana’s judiciary is a vestige of the British colonial governance system, operating the common law system. The structure, powers and functions of the judiciary are detailed in Ghana’s Constitution of 1992 (1992 Constitution), the Judicial Service Act, 1960 (CA10) and other legislative instruments and by-laws. Ghana’s judicial system is two-tiered. At the top are the superior courts, consisting of the Supreme Court, the Courts of Appeal, the High Court and any tribunals that Parliament establishes. The lower courts, which form the second tier, consist of the circuit courts, magistrates’

13 M Yancey, J Reynolds and S Keith “Gender bias and feminist consciousness among judges and attorneys: A standpoint theory analysis” (2002) 27/3 *Signs: Journal of Women in Society* 665 at 700; S Westergren “Gender effects in the Court of Appeals revisited: The data since 1994” (2004) 92 *Georgetown Law Journal* 689.

14 Junqueira “Women in the judiciary”, above at note 9; Hunter “Can feminist judges”, above at note 5.

15 Malleson “Justifying gender equality”, above at note 5; Kenney *Gender and Justice*, above at note 4.

16 Westergren “Gender effects”, above at note 13.

17 S Miller and S Maier “Moving beyond numbers: What female judges say about different judicial voices” (2008) 29/4 *Journal of Women, Politics & Policy* 527.

18 Westergren “Gender effects”, above at note 13.

19 For an exception, see J Dawuni “Ghana: The paradox of judicial stagnation” in G Bauer and J Dawuni (eds) *Gender and the Judiciary in Africa: From Obscurity to Parity?* (2016, Routledge) 120 at 126.

courts, juvenile courts and other such lower courts as Parliament may by law establish.

The educational, experiential and integrity requirements for joining each court are detailed in the 1992 Constitution, beginning at article 125. While the wording of the 1992 Constitution and the Courts Act 1993²⁰ appear to be gender neutral, the outcome has been a predominance of men in the rank and file of the judiciary. Other studies have explored the factors for this scenario, including the nature of the legal system, social-cultural practices and the time required to acquire a legal education.²¹ Overall, the gender composition of Ghana's judiciary presents a paradox, with a higher percentage (but not necessarily number) of women in the superior courts than in the lower courts. In 2014, five out of 13 Supreme Court judges were women; at the Court of Appeal, women made up ten out of 27 judges; at the High Court, women accounted for 13 out of 90 judges, while at the lower courts, district and circuit courts combined, roughly 40 out of 123 judges were women.²² Notwithstanding this imbalance in the gender composition and distribution in the courts, this study finds that women judges, within all ranks of the judicial system, have in different ways contributed to promoting the rights of women both in and out of the courts. It is therefore instructive to see that, despite the paltry number of women in the courts, changes are taking place that have the potential to change the institutional perceptions of women who access the courts (direct) and contribute to social change within the larger community (indirect).

DATA AND METHODS

In order to provide a robust synthesis of the contributions of women judges, this research is based on personal interviews conducted with women judges in Ghana in 2013. The data presented in the article are analysed through the perceptions of the judges interviewed and thematic analyses based on the author's observations. The findings presented, while exploring the impact of women judges on women's rights, are not an attempt to review judgments written by the judges. In order to establish variations in the responses of

20 Act 459, as amended in 2004 (Act 674).

21 J Dawuni "Ghana: The paradox", above at note 19 at 126.

22 The data presented represents the numbers that were captured at the end of 2014. Since then, there have been promotions through the ranks of the court system, while one of the female judges on the Supreme Court resigned upon reaching the statutory retirement age. Attempts to update the information as at the time of writing were not successful due to technical issues on the Judicial Service of Ghana website, which does not currently display the list of judges in each court, and unsuccessful efforts to obtain updated data from contacts at the judicial service. Since 2014, 13 new judges have been promoted to the High Court, out of whom five are women. See for instance "CJ swears in 13 High Court judges to replace 'Anas judges'" (15 July 2016) *Myjoyonline*, available at: <<http://www.myjoyonline.com/news/2016/july-15th/cj-swears-in-13-high-court-judges-to-replace-anas-judges.php>> (last accessed 27 September 2016).

the judges across the different courts, the study employed purposive sampling,²³ interviewing judges drawn from a list of female judges provided by Ghana's judicial service.²⁴ A total of 18 female judges were interviewed for this study.²⁵

The sampling method took into account the types of courts in Ghana, thus drawing, in descending order of superiority, from the Supreme Court, Court of Appeal, High Court, the circuit court, the magistrates' courts and some career magistrates.²⁶ By focusing on the different levels of the courts, the data gathered also aim to be representative of the different types of cases that come through the courts depending on the courts' jurisdiction. Care was taken to ensure that the sample was representative of female judges serving at different levels within the court structure. This included two female judges in the Supreme Court, four Court of Appeal judges, six High Court judges, five circuit court judges and one magistrate. The length of time served by the judges also varied, lending a rich diversity to their experiences dealing with gender-based cases. Some judges had been on the bench for three years, while others had served as long as 15 years. There was also diversity in terms of the judges' career paths. Some judges have risen through the ranks, serving from the lowest courts and reaching the higher courts, as was the case with one of the Supreme Court judges interviewed.

Interviews with male judges could have proved instructive in comparing the strategies and tools judges use to promote women's rights in the courts. The decision to interview female judges was informed by earlier studies, which have sought to investigate more closely the perceptions of female judges on gender and judging.²⁷ The study employed thematic analysis to

23 R Barbour "Checklists for improving rigor in qualitative research: A case of the tail wagging the dog?" (2001) 322/7294 *British Medical Journal* 1115.

24 The process of obtaining judges' names and contact information was long and arduous, due to the need to protect and safeguard judicial independence.

25 Based on information received from the Judicial Service of Ghana at the time of the interviews, it is estimated that, out of a total of 326 judges, magistrates and career magistrates in Ghana, only about 80 are women. Due to the lack of proper record keeping, the exact numbers of judges could not be obtained from the Judicial Service. The total of 326 includes career magistrates who are often not considered to be judges.

26 Career magistrates are a recent development in Ghana, introduced in 2003 in response to the dearth of judges in district courts. They include people who do not necessarily possess a law degree. After two years training at law school, they qualify to serve as judges, but are not promoted to higher courts. They were introduced to help deal with the heavy caseload, which had often resulted in delays to the effective administration of justice.

27 S Davis "Do women judges speak in a 'different voice?'" (1993) *Wisconsin Women's Legal Journal* 143; E Martin "The representative role of women judges" (1993) 77 *Judicature* 166; E Rackley "Difference in the House of Lords" (2006) 15/2 *Social & Legal Studies* 163; S Anleu and K Mack "Magistrates, magistrates courts and social change" (2007) 29/2 *Law and Policy* 183 at 190; Kenney *Gender and Justice*, above at note 4.

interpret the findings through the perceptions of female judges as to whether their gender plays a role in their decision-making when women are involved in a case before them.²⁸

The research acknowledges that the results of the interviews may be weakened by the subjectivity of women judges saying what they think they ought to say in order to maintain judicial impartiality and not to appear sexist or biased.²⁹ To address this issue, before each interview, the judges were made aware of their informed consent and the fact that, if they wanted to speak off the record, they could indicate that before responding to a question. The analyses that follow are drawn largely from the responses of judges interviewed for this research.

THE FINDINGS: FEMALE JUDGES AND WOMEN'S RIGHTS

Have female judges in Ghana made a difference to women's rights? The answer is "yes they have", based on the analyses presented in this section. Through these analyses, this article argues that female judges in Ghana have made meaningful, albeit modest, contributions to the promotion and enforcement of women's rights in Ghana, both directly and indirectly. By taking advantage of existing judicial (the discretionary power of the judge), constitutional (equal protection under the law) and legal (laws aimed at protecting women) opportunity structures, women judges have had an impact on women's rights. The next section presents and discusses the findings on the impact of female judges both within and outside the judiciary.

Feminization of the judiciary

Globally, it has been observed that the gradual growth in the number of women on the bench is contributing to the feminization of the judiciary, which, for many years, remained a largely male-dominated institution.³⁰ With the increasing enrolment of women into law schools and an increase in the number of women joining the bench, women judges have symbolically, through their presence, actualized the principle of gender equality before the law. The appointment process for becoming a judge in Ghana is set out in chapter 11 of the 1992 Constitution, which specifies the requirements and qualifications for joining each court within the judiciary, including a law degree, years of service as a lawyer and moral integrity. Once these formal qualifications have been met, candidates must take a written exam, satisfy background checks and be interviewed by a panel of judges and members

28 Cowan "Do women in South Africa's", above at note 5.

29 Martin "The representative role", above at note 27.

30 C Menkel-Meadow "The comparative sociology of women lawyers: The 'feminization' of the legal profession" (1986) 24 *Osgood Hall Law Journal* 89 at 101; M Mossman "Becoming the first women judges in Ontario: Women lawyers, gender and the politics of judicial appointment" in Shultz and Shaw (eds) *Gender and Judging*, above at note 5, 51 at 60.

of the Judicial Council. Upon successful completion of these steps, an applicant may be invited to sit at one of the courts and “shadow” a sitting judge until they are appointed to a court of their own.³¹

In response to being asked why she chose to join the bench, one judge responded: “I joined the bench because of Justice Mrs Sawyer-Williams who gave a talk and the confidence she portrayed made me have personal ambition to become a judge based on her as a role model”.³²

This response points to the fact that symbolic representation may play an important role in contributing to creating a critical mass of female judges. Thus, by seeing that a woman was a judge, this respondent realized that she could become a judge too.

In response to being asked why more women are joining the bench, most respondents noted that the appointment of the current chief justice, the first female chief justice to be appointed in Ghana, has encouraged other women to join the bench. One High Court judge noted: “traditional patriarchal law practice has changed, with the new chief justice, now there are more women joining the bench and more women are being promoted”.³³

In other words, the idea of women serving in positions of authority within the judiciary serves as a catalyst for promoting women’s rights in other important leadership positions within the judiciary. In August 2013, the chief justice promoted 14 judges to the High Court, of whom six were women.³⁴ As individuals or as a collective, women judges, through their increasing symbolic presence, are advancing women’s equitable right to occupy positions of power which have hitherto been viewed as the exclusive territory of men.³⁵

The fact that women have legal equality under Ghana’s Constitution to apply for work as judges without facing discrimination points to the existence of a prima facie principle of equality before the law. Through the symbolic representation of women on the bench, women’s rights groups have begun to harness such developments as a platform for demanding more gender sensitive policies from the government, aimed at promoting women’s rights in other issue areas and high offices, such as women cabinet ministers and female vice presidential candidates.

31 Chap 11 is available at: <<http://www.ghanaweb.com/GhanaHomePage/republish/constitution.php?id=Gconst11.html>> (last accessed 14 June 2014).

32 Interview with a High Court judge, June 2013 (copy on file with the author).

33 Interview with a High Court judge, June 2013 (copy on file with the author).

34 The promotion procedure for judges in Ghana is not contained in an accessible document. However, most of the judges asked about the promotion procedure noted that it involves a review of the cases and judgments written by the judges, and an examination and rigorous interview by the Judicial Council before promotion is approved. For details of the 2013 promotions, see SK Obour “14 new judges sworn in” (7 August 2013) *Graphic Online*, available at: <<http://graphic.com.gh/news/general-news/7790-14-new-judges-sworn-in.html>> (last accessed 14 June 2014).

35 B Allah-Mensah *Women in Politics and Public Life in Ghana* (2005, Friedrich Ebert Stiftung Foundation).

For most gender advocates, the idea of symbolic representation of women in government is not enough unless such representation is accompanied by substantive representation of women's rights. In response to this observation, this article demonstrates ways to measure the substantive representation of women's rights through gender representation on the bench.

Situating the argument within the Kenyan context, Kamau argues that, despite the recent increase in the number of women joining the bench, more still needs to be done through positive action aimed at promoting gender equity in the courts.³⁶ Achieving a critical mass of women has the potential to have a positive affect on judicial culture and decision-making processes, which may provide some positive outcomes for women.³⁷

The symbolic representation of female judges on the bench promotes judicial diversity and the much needed feminization of the judiciary.³⁸ Globally, the traditionally low numbers of women in the judiciary have led to renewed calls by scholars and gender advocates for strategies aimed at reforming the appointment, promotion and tenure processes, to allow more opportunities for women to join the bench.³⁹ In the case of Ghana, efforts by the current chief justice to recognize and promote hard working women judges have led to some upward mobility for women within the judiciary. For advocates of more women on the bench, the increase in the number of women on the bench, it is argued, will result in a "feminization" of the judiciary to allow for female judges to enter a profession hitherto considered in many jurisdictions around the world to be the domain of men.⁴⁰ Feminization of the judiciary has the potential to contribute to changing the institutional culture of the judiciary, hopefully leading to a domino effect in other professions, by posing challenges to institutional and cultural barriers to women holding key positions of authority.⁴¹

The impact of the presence of women in creating a diverse judiciary is aptly summarized by Rackley, in discussing the appointment of Lady Hale as the first woman in England's Supreme Court: "a diverse judiciary will remain out of reach unless and until we get clearer on what difference women judges can and should make to the judiciary. It is only by appreciating the substantive contribution women judges can make to judging that we will see what we really do have to gain from a diverse judiciary".⁴²

36 W Kamau "Women judges and magistrates in Kenya: Challenges, opportunities and contributions" in Shultz and Shaw (eds) *Gender and Judging*, above at note 5, 167 at 180.

37 P Collins, K Manning and R Carp "Gender, critical mass and judicial decision making" (2010) 32/2 *Law and Policy* 261.

38 Rackley *Women, Judging*, above at note 4; Kenney *Gender and Justice*, above at note 4.

39 Malleson "Justifying gender equality", above at note 5; Kamau "Women judges", above at note 36; M Cardinal "The impact of women on the administration of justice in Syria and the judicial selection process" in Shultz and Shaw (eds) *Gender and Judging*, above at note 5, 191 at 205.

40 D Feenan "Editorial introduction: Women and judging" (2009) 17 *Feminist Legal Studies* 1.

41 Cardinal "The impact of women", above at note 39.

42 Rackley *Women, Judging*, above at note 4 at 200.

To the extent that women make up half of the nation's population, it is a simple argument. Women should have equal representation in democratic institutions, in this case the judiciary, which is fundamental to upholding and protecting the rights of all citizens. Within the last decade, the promotion of women within the judiciary and the appointment of new judges to the bench in Ghana holds some promise for achieving gender parity on the Ghanaian bench.

Attentiveness to addressing socio-cultural discrimination

Judges in Ghana, irrespective of their gender, are aware of the challenges women face in Ghanaian society. Where permissible within the confines of the law, some female judges have taken into consideration socio-cultural factors in addressing social injustice directed at women. In trying to protect and promote women's rights, all the judges interviewed acknowledged their primary goal of being impartial umpires in the courtroom.⁴³ In the case of women on the bench, while protecting judicial impartiality is important, the evidence gathered through interviews strongly suggests that female judges bring with them high levels of attention to detail, are less corruptible and in many cases are very conciliatory in how they handle cases.⁴⁴ Furthermore, it is vital for judges to take the social context into account when rendering decisions in order to achieve equitable outcomes for female litigants. Existing studies have demonstrated that some women judges do adopt a representative role in acting as agents for promoting social change, especially change for women's rights issues.⁴⁵ While cautious of the dangers of judicial activism, Anleu and Mack posit that using the law to break the façade of patriarchal gendered norms should not be viewed as judicial activism.⁴⁶ The law, they argue, can and should be used as a tool to correct societal injustice towards women and other marginalized groups.⁴⁷ This article argues the need to expand analysis of the contributions of women judges outside the courtroom and to see other ways in which their activities are having an impact. In the context of Ghana, these changes have arguably occurred through the indirect activities of women judges contributing to the promotion of women's rights, resulting in some positive outcomes for both women and children.

In one case involving a girl, the judge pointed out her role in paying closer attention to the body language of the girl:

43 Junqueira "Women in the judiciary", above at note 9.

44 MR Bartolomei "Gender and judging in traditional and modern societies: A comparison of two case studies (Ivory Coast and Italy)" in Shultz and Shaw (eds) *Gender and Judging*, above at note 5, 283 at 290.

45 Martin "The representative role", above at note 27; Anleu and Mack "Magistrates", above at note 27; Hunter "Can feminist judges", above at note 5; Cowan "Do women in South Africa's", above at note 5.

46 Anleu and Mack, *ibid.*

47 *Id* at 202.

"Women are by nature more observant, that quality adds up to the female judges and makes us more meticulous in the way we handle cases, for example in the case of a man who wanted a court order to take a child out of the jurisdiction, I watched the body language of the girl in the courtroom which told me she was not familiar with the man, who claimed to be a relative. I asked for her mother to be brought to court and I never saw them again. I do not think femininity always comes in, it may help you to arrive at the conclusion of the case but it is not the main factor."⁴⁸

While this respondent is echoing the idea that women judges do tend to pay closer attention to the nonverbal communication of litigants, it is interesting to note her conscious act of defending her impartiality to demonstrate that her gender does not play a huge role in the conclusion she reaches in a case, though this observation may be due to the problem of quantification of the extent to which gender and the life experiences of women judges plays a role in judicial outcomes.⁴⁹

Conversely, some critics point to the fact that the idea of women paying more attention to detail may not necessarily be due to implicit differences between men and women, but may be the result of attempts by some women judges to make their judgments stand out and prove that they are as capable as their male counterparts. Junqueira argues: "female judges' attention to detail and meticulous argumentation, always backing up decisions with reference to case history, then represents a conscious female strategy, in contrast to greater self confidence among male judges that allows them to make decisions more independently".⁵⁰

Some studies tend to demonstrate that, especially in cases involving women and children, female judges are able to establish a connection with, and understand the case better, because of their personal life experiences, which cannot be divorced from their roles as judges.⁵¹ In their study, Douglas and Laster confirmed that women judges do bring with them a sense of compassion and understanding, resulting in special outcomes in their decision-making processes.⁵²

Consequently, attention to detail, such as observing the body language of litigants, can prove crucial in digging deeper to understand what may be going on with a case in order to protect a litigant. For that reason, the special

48 Interview with a High Court judge, June 2013 (copy on file with the author).

49 B Kruse "Women of the highest court: Does gender bias and personal life experiences influence their opinions?" (2005) 36 *University of Toledo Law Review* 995 at 1012.

50 Junqueira "Women in the judiciary", above at note 9 at 447.

51 E Martin "Differences in men and women judges: Perspectives on gender" (1989) 17 *Journal of Political Science* 74.

52 R Douglas and K Laster (1992) "Reforming the people's court: Victorian magistrates' reactions to change" (Criminology Research Council grant 13/90), as cited in R Hunter, SR Anleu and K Mack "Judging in lower courts: Conventional, procedural, therapeutic and feminist approaches" (2016) 12/3 *International Journal of Law in Context* 337 at 341.

characteristic of female judges in paying attention to detail is crucial in identifying gender-based discrimination and the abuse of women. This is even more important in a case involving a minor girl child (as presented in the words of the judge above), who may be facing some form of abuse or is perhaps a silent victim of trafficking. In cases involving domestic violence, female judges have also used their attention to detail to help create a safe space for women in the courtroom. Noting some of the existing challenges to full implementation of the Domestic Violence Act of 2007 (DVA), one judge responded:

“Gender based violence is a human rights violation. There are barriers that prevent them (women) from coming to court, cultural barriers, stigmatization, court proceedings being delayed, financial costs etc. S.8(3) of DVA states that medical attention should be free but it does not happen so the cases do not even come to court. Prosecutors still bring charges under the Criminal Offences Act so you cannot use the remedies under the DVA. The fund for the DVA is not available. With the seminars we attended we are using the knowledge to make our courts user friendly so victims are not re-traumatized so the judge has to help the victim, the judge can make the room not too tense so victims do not face the accused.”⁵³

The challenges posed by the failure of the executive branch of government to implement fully the law on domestic violence have led to some female judges assuming a more activist gendered representative role. This article is not arguing that all women judges necessarily make attempts to create a welcoming courtroom for victims of domestic violence. However, the idea that some women judges make a conscious effort to make their courtrooms a welcoming environment for women in cases involving sexual abuse and discrimination helps explain the representative role of women judges in addressing gender based discrimination.⁵⁴

Increased legitimacy of women’s rights in courts

Gender merits representation in the judiciary. Courts are supposed to be representative institutions; a representative bench commands more legitimacy and is perceived to be fair and equitable.⁵⁵ Women have a legitimate reason and right to assess the courts without fear or intimidation. With the presence of female judges, women begin to see and feel that their needs are being represented, and such changes contribute to increased confidence of citizens in the judiciary. Female litigants come to court believing that a female judge may

53 Interview with High Court judge, June 2013 (copy on file with the author).

54 Martin “The representative role”, above at note 27.

55 S Kenney “Critical perspectives on gender and judging” (2010) 6 *Politics and Gender* 433; Cowan “Do women in South Africa’s”, above at note 5.

relate to their case and that, even if they lose the case, justice has been served. One judge noted: "I personally do not believe that men and women are biologically equal, but I do recognize that women are a vulnerable group; for instance if a woman comes to my court and is pregnant, I will deal with the case rapidly or fine her instead of putting her in jail".⁵⁶

Essentially, the judge is making the statement to the effect that, with her presence as a female judge, there has been an awareness created in the community that women will be equally represented in court, thus limiting the extent to which some men treat women with impunity without fear of any legal retribution. The possibility of achieving some positive social outcomes of having a woman judge have subsequently been noted, as Junqueira argues in the case of Brazil: "the simple fact of being a woman and a judge has important social consequences, as it makes the female judge a point of reference for other women, especially in less developed districts where problems of feminine submissiveness are more prevalent".⁵⁷

The same can be said in the context of Ghana where, due to strong socio-cultural beliefs and practices, women in some communities continue to play subservient roles to men. The presence of a qualified and educated woman judge occupying a position traditionally held by a man does have an impact on societal perceptions of women's ability as judges. This can ultimately impact such perceptions, for fear of retribution when individuals appear before a female judge. Anleu and Mack however note that the extent to which magistrates or judges can make a difference is dependent on other institutional factors: "[a] magistrate's capacity and opportunity to influence change presuppose a court structure constituted by virtual schemas (for example, the law) and actual resources (for example, the authority to make or not to make a particular order). The court as a structure implies agents whose everyday work reproduces and potentially transforms the structure."⁵⁸

In the context of Ghana, women judges are contributing in various ways to changing the perceptions of social justice for women in court. Similarly, in Kenya, Kamau posits that female judges, through the Kenya Women Judges Association, have been able to articulate women's issues by fostering debates that call for greater leverage in promoting women's constitutional rights.⁵⁹ Women judges have played, and continue to play, critical symbolic roles in promoting the feminization of the judiciary and other sectors of society. In Ghana, as in other jurisdictions, with the increasing numbers of women joining the judiciary at all ranks, there is a gradual shift to break the "old boys' club" within the judiciary. Women judges, both directly and indirectly, have played distinctive roles as agents of social change. In particular, "feminist

56 Interview with a district magistrate, June 2013 (copy on file with the author).

57 Junqueira "Women in the judiciary", above at note 9 at 445.

58 Anleu and Mack "Magistrates", above at note 27 at 185.

59 Kamau "Women judges", above at note 36 at 184.

judges” have consciously explored avenues of using the law to promote social awareness and uphold the rights of women in the courtroom.⁶⁰

Increasing access to justice for women

With the growing number of female judges, the courts have become more accessible to most female litigants, who, before such “feminization of the judiciary”, may not have felt that the courts served their needs.⁶¹ Increased gender representation and diversity have had positive impacts, allowing women to take their cases to court without fear of gender based discrimination in the courtrooms. Cowan argues that, in the case of South Africa, the presence of women on the bench has contributed to increasing access to justice for women through the adoption of volunteer commitments by female judges through the judges’ associations.⁶²

In Ghana, through personal strategies aimed at making courtrooms more accessible and accommodating women’s needs, some judges have advocated providing protective screens during testimony in court against abusive defendants. One magistrate mentioned that she makes every effort to prioritize hearing the cases of women in the court who come with young children or babies who may need to be fed. This is very significant, considering the fact that courthouses in Ghana do not have lactation rooms and, in some cases, even lack restrooms. Such attention to the needs of a female litigant greatly improves her experience in court, irrespective of the outcome of the case.

It is worth mentioning that not all female judges are taking such measures to promote and protect women’s rights in their courts. The idea of representing the needs of women litigants carries with it the notion that judges will speak to the needs of women, which in itself can be detrimental to judicial impartiality.⁶³ In order to reduce such gender bias, one judge noted, “if you are not careful, you will be seen as descending into the arena of conflict or as being biased”.⁶⁴ Women judges do acknowledge that their presence in the courts creates a welcoming environment for female litigants. In the words of one judge: “we have to be impartial, but it does not mean we should stay out of it, we can help at all levels even in church, but in court you have to be fair to all parties but your help can be directed and cases involving women given a priority in the sense of hearing and disposing of them early. I refer parties to counselling, both men and women”.⁶⁵

As part of national efforts to address the issue of inaccessible courts, a new courthouse, which opened in 2005, has courtrooms dealing with domestic violence and juvenile cases. It also has a playroom for children, a lactation room

60 Hunter “Can feminist judges”, above at note 5.

61 Martin “The representative role”, above at note 27.

62 Cowan “Do women in South Africa’s”, above at note 5.

63 Rackley *Women, Judging*, above at note 4.

64 Interview with a circuit court judge, June 2013 (copy on file with the author).

65 Interview with a High Court judge, June 2013 (copy on file with the author).

for nursing mothers and a temporary shelter for battered women. These strategies, it is hoped, will help address some of the infrastructural problems women face in Ghana's courts, such as the lack of or inadequate nursing rooms, restrooms and play rooms for children.

Gender empowerment through awareness raising programmes

The Judicial Service of Ghana holds an arbitration week each year where the judicial service educates the public on the use of alternative dispute resolution mechanisms as an alternative for dispensing quick and affordable justice. However, in cases where judges deem it fit, they may encourage parties to use alternative dispute resolution in their decision making as tools for promoting social justice.⁶⁶ As a number of judges noted in their responses, promoting women's rights from the bench should not be measured only when there is a judgment in favour of the woman. Promoting women's rights also involves indirect activities aimed at raising awareness and educating women, both in and out of court, on their rights and privileges. As one judge noted: "each year as part of the Judicial Service Week, the chief justice has an arbitration day and I use this day to educate the women who come to my courtroom about how to seek other opportunities to solve their problems, such as economic empowerment through jobs".⁶⁷ The same judge noted:

"It is women judges who will help women-based offences. In the media now we have a lot of cases on gender based violence so it is raising awareness and it is becoming an issue. We (judges) cannot come out in the public to promote women's issues but as a referee in the court we can control and tone [down] the aggression. I have a passion for women's rights. I have a passion to tell the women to be fulfilled and do not relegate yourself to the back and listen to what the man says ... the chickens are always running after the mother hen ... have you seen the father hen before? So women have to be financially independent. We do not have a lot of public outreach so the public does not know what happens in court."⁶⁸

These responses indicate that some women judges do realize and take their representative roles seriously, while always conscious not to appear to be meddling in the outcome of a case.

Putting a human (woman's) face to the law

Despite the legal and constitutional tools available to female judge to promote women's rights in the courtroom, judges also have the duty to dispense justice equitably for both male and female litigants. Tetteh-Charway, a High Court

66 K Appiagyei-Atua "Alternative dispute resolution and its implications for women's access to justice in Africa: Case-study of Ghana" (2013) 1/1 *Frontiers of Legal Research* 36 at 44.

67 Interview with a High Court judge, June 2013 (copy on file with the author).

68 Interview with a High Court judge, June 2013 (copy on file with the author).

judge in Ghana, has argued for the adoption of a “victim-centred approach” to addressing issues of domestic violence in Ghana. According to her, the victim-centred approach is one that looks at the totality of the social and cultural determinants that may have contributed to the situation of victimhood and attempts to make decisions to address the victim’s rights throughout the litigation process.⁶⁹

Similarly, as Hunter points out, “the feminist judge’s ability to hear and understand the stories told by women litigants may be based partly on her own gendered experience, which enables her to respond sympathetically when other women speak of similar experiences. However, a judge’s personal experience alone cannot possibly encompass the diversity of experiences women litigants bring to the court”.⁷⁰

The respondents in this study noted overwhelmingly that the judge should not only be a referee of justice, but should also seek to reach out to litigants where necessary. This includes bringing a “human face” (compassion) to the law, a process which entails judges making their courtrooms a welcoming environment for women.⁷¹ In exploring this issue, other studies have confirmed that the presence of female judges creates a humanizing effect in the courtroom.⁷² As one Supreme Court judge in Ghana noted, regarding the opportunities for judges to promote women’s rights:

“We [judges] should also treat the women with respect because the women are already coming to court broken ... as a judge you should have the instinct as to exactly why these parties are there. For instance, in a case where a woman who refused to marry her deceased husband’s brother according to their custom, I sent them to alternative dispute resolution. The judge has to be aware and that is why we need sensitization to know these issues and be able to apply the law. As a woman judge you should be able to know what is happening in society and be able to listen and also to correct women and not necessarily always be sympathetic.”⁷³

Another respondent noted:

“I agree that men do not see eye to eye with women on some gender cases and they may not see that preference should be given to gender-based offences. Of course I will not compromise rules of court but I will step in when necessary to

69 B Tetteh-Charway “Promoting a victim-centred approach to the adjudication of domestic violence cases” (2012) 52 *Journal of the Association of Magistrates and Judges of Ghana* 50 at 53.

70 Hunter “Can feminist judges”, above at note 5 at 11.

71 Martin “The representative role”, above at note 27.

72 S Abrahamson “The woman has robes: Four questions” (1984) 14/3 *Golden Gate University Law Review* 489 at 492; id “Do women judges really make a difference? The American experience” in S Shetreet (ed) *Women in Law* (1998, Kluwer) 195 at 200.

73 Interview with a Supreme Court judge, June 2013 (copy on file with the author).

make sure the victims are protected. Under the Domestic Violence Act, we do not have the victim protection unit, we do not have video conferencing to limit the interaction between the accused and defendant in some rape cases, these are areas in which I am concerned about protecting women in my courtroom."⁷⁴

Both responses indicate the need to take into account the social context of women's social subordination when hearing a case. Attempting to adhere strictly to the letter of the law, which is inherently masculine, without taking into account feminine considerations, essentially reproduces societal perceptions of masculinity through the law.⁷⁵

In no way does this article seek to essentialize the experiences of women judges; as their responses indicate, there are different degrees of engagement with female litigants. For instance, most of the responses from the High Court judges indicated a lesser need for using a "gendered lens" due to the types of cases reaching their courts, such as commercial, contract, land and property cases.⁷⁶ On the other hand, judges in the circuit courts and district magistrates were more proactive in shielding women litigants, because it was usually in these courts that cases pertaining to family, custody, child welfare, divorce and maintenance are first presented. These are also often cases that tend to have a disproportionately direct effect (often with negative consequences) on women.⁷⁷

Attitudinal change in perceptions of gender justice

Judges, especially female judges, in Ghana are seen as "no-nonsense" (implying they are very strict) and, through the decisions they reach and the rationales for those decisions, they can send a stern warning to the general community that women are human and deserve to be treated equally in society. The observed attitudinal change can also be attributed to the combined effect of the work of women's rights advocacy groups, the Ministry of Women and Children and other rights based organizations in promoting national awareness of women's rights. The awareness raised as a result of these activities has resulted in an upsurge in awareness among women that they do have justiciable rights under the law and for their abusers to know that they will be brought to justice for engaging in actions that are tantamount to abusing the rights of women.

Socialization of male judges

Social change for the purposes of promoting women's rights through the judiciary cannot be won solely by women judges. Male judges, and even "non gender aware" female judges, are amenable to (re)socialization. Male

74 Interview with a High Court judge, June 2013 (copy on file with the author).

75 Junqueira "Women in the judiciary", above at note 9.

76 Anleu and Mack "Magistrates", above at note 27; Cardinal "The impact of women", above at note 39.

77 Anleu and Mack, *ibid.*

judges can be made more aware of the social context of gender based discrimination through conversations and discussions with their female counterparts. That is not to say that all men are unaware of the role of gendered norms in cases that come before them. Hunter, however stresses the importance of women judges, in particular those she calls “feminist judges” or judges who are outwardly inclined to protect and advance the rights of women. Hunter notes that, in the process of socialization, “rather than behaving as one of the boys - trying to emulate men as far as possible, the feminist judge can remind her colleagues that law does include the feminine and in doing so, socialize them to think twice about sexist language, assumptions and behavior”.⁷⁸

Women judges can have a socializing effect, which can gradually lead to positive institutional change regarding women’s issues. Increasing the gender representativeness of the judiciary arguably has the potential in the long run to have a positive transformational impact in changing the judicial institution’s attitudes and perceptions towards gender rights.⁷⁹ Such change can contribute to opening spaces within the judiciary for women’s rights to be articulated and filtered through a gendered lens that takes into account women’s life experiences.⁸⁰ Breaking patriarchal barriers may not be the only solution to addressing gendered problems; however, female judges, through collegiality with their male colleagues, have been shown to socialize male judges to gendered perspectives, of which they may have been unaware, or to which they had not paid particular attention.⁸¹

Working partnerships with women’s rights organizations

While judges have legal tools at their disposal to promote women’s rights, the female judge cannot unilaterally be expected to do so. To address this challenge, female judges who often handle cases involving women, have resorted to building working partnerships with other agencies to advance the rights of female litigants. Some of the strategies have included working very closely with other agencies, such as counsellors and financial institutions, and the use of court supervised settlements in appropriate cases. Through such efforts, enforcing and promoting women’s rights becomes a holistic endeavour with or without a favourable court decision.

Collaboration with women’s organizations has led to the adoption of problem solving and “therapeutic jurisprudence”.⁸² In Ghana, women judges have adopted some of these strategies to help deal with women’s issues that come through their courts. Counselling services help to deal with the trauma,

78 Hunter “Can feminist judges”, above at note 5 at 30.

79 Dawuni “Ghana: The paradox”, above at note 19.

80 Rackley *Women, Judging*, above at note 4; Anleu and Mack “Magistrates”, above at note 27; Hunter “Can feminist judges”, above at note 5.

81 Cardinal “The impact of women”, above at note 39.

82 Anleu and Mack “Magistrates”, above at note 27 at 190.

financial services help provide financial assistance towards paying court fees as well as micro-credit loans to set up businesses, which act as a tool for economic empowerment and liberation. In some cases, arbitration and out of court settlements have helped keep family structures together and reduce the tensions that lengthy court battles sometimes produce. The police services, the juvenile units and the social welfare department are all partners engaged in various levels of enforcing women's rights as their cases pass through the judicial system.

The judiciary has worked with women activists and other societal stakeholders to make change happen. This is suggestive of earlier studies to the effect that, as a critical mass of women are represented on the bench, there will be a corresponding attitudinal change in society regarding the role of enforcing women's rights through the courts.⁸³ Female litigants will begin to feel that their gender is not a hindrance to seeking justice and their fear that a male judge will not take the gendered implications of the case into consideration will begin to reduce. For instance through the "Court Watch Program", instituted by the Ghana chapter of Women in Law and Development in Africa (WiLDAF) in partnership with the judicial service,⁸⁴ women's rights groups have been able to monitor the application of the DVA in the courts and have made recommendations towards better enforcement to address existing challenges implicit in the current enforcement mechanisms. Women judges have drawn information from the research and activities of women's organizations to use as material for understanding and contextualizing women's issues.

Judges partnering with women's organizations is a vital strategy in the fight to promote women's rights. However, female empowerment must be viewed as a condition precedent to the ability of female judges to promote women's rights. Attempts at female empowerment should include programmes aimed at education and awareness raising within society on the rights and duties of women under the law.

Legal empowerment of women can be bolstered through the availability of economic ventures to help women become financially independent and therefore less susceptible to spousal abuse. The combined effect of such empowerment measures is to make women independent, thus minimizing gender based violence cases. Thus, when women begin to assert their legal rights and freedoms, accessing the courts becomes easier and their presence in court before a female judge becomes an empowering process where the woman can feel that she is not a stranger in the land of a male dominated

83 Martin "The representative role", above at note 27; Kamau "Women judges", above at note 36.

84 The Court Watch Program is an initiative led by WiLDAF to observe the outcomes of the fast track courts established to provide justice to victims of domestic abuse in three pilot regions. The programme involved a partnership between WiLDAF and the Judicial Service in monitoring court hearings, examining data on cases filed before the courts and observing the work of court clerks and staff towards victims of abuse.

courtroom. The presence of a woman on the bench can generate a sense of freedom that may have the effect of making the woman aware she has rights and that she has an equal opportunity to be heard in court.⁸⁵

CONTINUING CHALLENGES TO PROMOTING WOMEN'S RIGHTS

This discussion has presented the data from interviews on the perceived and actual roles of female judges in promoting women's rights through direct and indirect activities. Notwithstanding these contributions, the article highlights some of the remaining challenges that continue to constrain the extent to which women judges can make a meaningful impact on women's rights. This section highlights some of these challenges and possible solutions.

First, public prosecutors should bring the correct charges before the court. Most of the judges interviewed for this research bemoaned the fact that, in cases involving women, such as domestic abuse, spousal support and maintenance, some prosecutors do not bring charges under the relevant law that would allow the judge to give judgments and get the right remedies for female victims. For a judge to be able to impose the maximum sentence or highest amount of damages, the charges must be brought under the correct law. For instance, one judge noted in an interview that most prosecutors tend to rely on the Criminal Offences Act, instead of the DVA, which has higher penalties and also provides for counselling, and medical and economic assistance to victims of domestic abuse. A report issued by WiLDAF noted that only 0.8 per cent of cases brought before the domestic violence courts in 2010 were charged under the DVA.⁸⁶ This problem can be solved through training and continuing education for prosecutors.

Secondly, the government must fulfil its executive function. The failure of government institutions charged with implementing the DVA was constantly cited as a challenge to judges' ability to protect women's rights in court. While the act provides that the medical and other related costs of female victims shall be paid by the government, most women who end up in hospital either have to pay themselves or receive no treatment. The legal costs of the case are also left to the women to bear, most of whom are indigent in the first place, thus making recourse to justice through the courts a non-starter as they cannot afford to pay the legal fees. A circuit court judge notes that, "section 8(3) of the Domestic Violence Act states that medical attention should be free to victims but it does not happen, so the cases do not even come to court. Prosecutors still come under the Criminal Offences Act so you cannot provide remedies under the Domestic Violence Act. Even the fund set up for helping victims under the DVA is not available".⁸⁷

85 Martin "The representative role", above at note 27.

86 WiLDAF "Court watch report: Observation of the application of the Domestic Violence Act in courts in Greater Accra, Volta and Western Regions" (2010).

87 Interview with a circuit court judge, June 2013 (copy on file with the author).

Thirdly, socio-economic conditions in the country must be improved. Generally poor socio-economic conditions also play a negative role in attempts to protect women's rights through the judicial system. The lack of money and resources to enforce judgments often means that female litigants may win the case but receive no money from damages awarded against the defendant. For instance, in cases where judgment may be given in favour of a woman, the defendant's economic inability to pay damages renders the whole process futile. One can argue that a judgment in favour of a woman who has been physically and emotionally abused by her male partner demonstrates the law protecting her rights. Conversely, what is the point of winning a legal battle when the plaintiff cannot afford to pay hospital bills or for counselling and related services for which the payment of damages may have been helpful?

Fourthly, the slow pace at which attitudinal change is taking place further complicates the extent to which gender justice can be promoted. For instance the persistence of customary and religious practices which restrict women's rights, such as inheritance, marital and widowhood rights, and property ownership, continue to bar women's access to the justice system. While judges are aware of the implications of such traditional practices on women who are presented in their courts, these very practices serve as a barrier to the initiation of cases in the courts. A judge's hands can only go so far in enforcing a woman's rights when no charges are actually filed.

CONCLUSION

This research has sought to answer whether women judges promote women's rights in Ghana. It has argued that female judges can make, and have made, meaningful impacts in promoting women's rights. Within the judiciary in particular, women judges have adopted a representative role by taking advantage of the opportunities offered within the law to represent the needs of women who come before their courts, while balancing the need for judicial impartiality and lack of bias. This observation is based on the self-reported statements of the judges interviewed. The goal of this article was not to examine the judgments of the judges to ascertain the effect of their statements; such a study can be conducted as part of future research.

This article has presented empirical data strongly indicating that female judges are, among others, playing a role in increasing access to justice for women, contributing to feminization of the judiciary, changing the perceptions on gender justice, putting a human (woman's) face to the law, socializing male judges, and working in partnership with women's organizations to effect wider change for women's rights. Overall, the analysis strongly indicates that female judges in Ghana have contributed to changing the institutional, cultural and legal norms in the social strata of society and in the process have made some meaningful gains in advancing women's rights.

One caveat should be made here: the argument set out in this article is not an attempt to essentialize all female judges as pro-women's rights or as a monolithic group who take a gendered focus in their decisions towards

women. Not all female judges interviewed felt the same way about using a gendered lens in reaching their decisions. This is in line with existing literature.

Despite continuing challenges to the promotion of women's rights, the plethora of tools available to women judges, including partnerships with women's organizations and membership of women judges' associations, provide other avenues through which women judges can engage with one another and with other women's groups to address women's rights issues in Ghana. It would be unreasonable to expect all female judges to take up the mantle of fighting for women's rights. Using the judiciary and female judges as tools for promoting women's rights requires the concerted effort of women judges working in partnership with women's organizations, the enforcement of laws and a willingness within society to address gender based discrimination. Until then, the analysis presented here provides some preliminary evidence that women judges have played, and continue to play, critical roles in addressing women's rights issues in Ghana.

Notwithstanding the evidence presented in this study, which demonstrates that women judges are having some impact in addressing women's rights issues, the larger picture of women's rights promotion arguably requires more system-wide changes within the institutional culture within the judiciary. Addressing these challenges will accelerate the impact of what female judges can do, both as individuals and as a collective body.

This exploratory research into the role of female judges in Ghana, grounded in existing studies on representation roles and the difference female judges make, is a contribution to furthering our understanding of the roles of female judges in sub-Saharan Africa, where few studies have critically explored this nexus. Future research is needed to address existing critical questions within the African context. First, future research can engage in a review of cases and judgments by female and male judges to understand the gendered outcomes, if any, of their decisions. Secondly, considering that this research focused only on female judges, it is critical to engage in a comparative analysis of the perceptions of male and female judges in promoting women's rights. Thirdly, other studies could focus on understanding the impact of female judges in changing the legal and judicial institutional culture of courts through their decisions and socialization of male judges and other court staff.