

Patterns of Entry of Women Judges into Arab Judiciaries: Glass Ceiling, Glass Cliff, or Simple Tokenization?

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Patterns of Entry of Women Judges into Arab Judiciaries:
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Introduction

This policy analysis paper examines the judicial training systems in three Arab countries—namely Egypt, Lebanon, and Jordan—and scrutinizes the role of women judges in these systems. It considers the types of appointments that women receive and asks if there is a “glass ceiling” beyond which they rarely advance. The choice of these three countries was determined by the different patterns that they exhibit regarding the entry of women into the judiciary: elite appointment in the case of Egypt, quota-based entry in the case of Jordan, and open/organic entry through the judicial institute in the case of Lebanon. The impact of these different entry patterns on women judges’ career trajectories and prospects of advancement is an important topic when considering effective policies for promoting gender equality.

Beverly Blair Cook influentially described three distinct patterns of women’s representation in judicial systems. In the “ladder pattern” women’s career advancement is fair and equal across all court levels; in the “pyramid pattern” there is a greater representation of women judges in lower courts compared to higher courts; and in the “inverted bell pattern” there is token representation at both the highest and lowest levels, but not at the main trial level.¹ Grounded in Cook’s interpretive framework, the current paper considers two primary research questions: How do the three countries under study correspond to Cook’s classifications? And does the pattern of entry into the judiciary influence access to high-ranking positions?

Considering each of the three countries in turn, the following sub-questions are discussed:

- In Egypt, does the practice of appointment to the judiciary by the country’s political elite result in women judges attaining higher-ranking positions via their personal and political affiliations?
- In Jordan, does the use of quotas mandating women’s representation in the judiciary result in the tokenization of women judges?
- In Lebanon, has the organic entry of women into the judiciary created a lag in access to higher-ranking positions, and is there a reason to believe that increasing numbers of women entering the judiciary will eventually lead to a stable ladder-pattern of success?

Defining the Terms

Increasing the representation of women in the judiciary is an important component of the United Nations’ Sustainable Development Goals, in particular SDG 5 (“achieve gender equality”) and SDG 16 (“provide access to justice for all and build effective, accountable, and inclusive institutions at all levels”).² Yet member states’ commitment to achieving these goals is at times more performative than substantive. There are many ways in which women’s equality can be thwarted, all the while giving the appearance of inclusion.

¹ Beverly Blair Cook, ‘Women Judges: The End of Tokenism’, in W. L. Hepperle and L. Crites (eds.) *Women in the Courts* (Williamsburg, VA: National Center for State Courts, 1978).

² United Nations Department of Economic and Social Affairs, ‘Sustainable Development: The 17 Goals’, <https://sdgs.un.org/goals> accessed 18 July 2024.

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Tokenization

The concept of tokenization was first discussed in 1977 by Rosabeth Kanter.³ Since then, it has become an indispensable analytical concept, frequently used to elucidate the experiences of women and other marginalized people who gain entrance to workplaces that were previously closed to them. Tokenization refers to a condition in which a person is lured into limited and caricatured roles within an organization based on the dominant group's stereotyped assumptions and the underlying belief that the tokenized individual's foremost value is representation. Institutions that tokenize under-represented populations do so to appear progressive or divert criticism, while still maintaining biased approaches to advancement and influence within the organization.⁴

Glass Ceiling

The term "glass ceiling" was coined in 1978 by Marilyn Loden.⁵ It refers to an invisible barrier that prevents women and other marginalized people from ascending to top leadership positions in an organization. When a glass ceiling is in effect, women with strong qualifications and achievements consistently see men who lack superior credentials rise above them. In such organizations, women may be widely represented in the lower ranks of employees, but they are largely absent from senior roles (this corresponds to the "pyramid pattern" discussed by Cook.) Researchers have found that glass ceilings have remained very widespread and consistent in the decades since this phenomenon was first theorized, while excuses and justifications for the ceilings' existence have proliferated.⁶

Glass Cliff

The "glass cliff" is a more recent term, coined in 2005 by University of Exeter researchers Michelle Ryan and Alexander Haslam.⁷ It refers to a phenomenon in which women and other marginalized people are more likely to be appointed to leadership roles during times of crisis or downturn, when there is a likely risk of failure. This is closely related to the glass ceiling phenomenon, because members of the dominant group tend to have other advancement options that allow them to turn away from precarious or undesirable leadership opportunities, while members of marginalized groups may perceive these risky and difficult positions to be their only chance to lead.⁸ The glass cliff can have detrimental effects on the careers of those appointed, as they are more likely to be associated with professional failure; and it can reinforce the view that marginalized people are less competent.

³ Rosabeth Kanter, *Men and Women of the Corporation* (New York: Basic Books, 1977).

⁴ See Lynn Zimmer, 'Tokenism and Women in the Workplace: The Limits of Gender-Neutral Theory', *Social Problems* 35, no. 1 (February 1988), 64–77; and Catherine J. Turco, 'Cultural Foundations of Tokenism', *American Sociological Review* 75, no. 6 (December 2010), 894–913.

⁵ 'Why I Invented the Glass Ceiling Phrase', *BBC News* (12 December 2017), <https://www.bbc.com/news/world-42026266> accessed 18 July 2024.

⁶ Gary N. Powell and D. Anthony Butterfield, 'The Glass Ceiling', *Journal of Organizational Effectiveness* (7 December 2015), <https://doi.org/10.1108/JOEPP-09-2015-0032> accessed 18 July 2024.

⁷ Michelle K. Ryan and S. Alexander Haslam, 'The Glass Cliff: Evidence that Women Are Over-represented in Precarious Leadership Positions', *British Journal of Management* 16 (2005), 81–90.

⁸ Emily Stewart, 'Why Struggling Companies Promote Women', *Vox* (31 October 2018), <https://www.vox.com/2018/10/31/17960156/what-is-the-glass-cliff-women-ceos> accessed 18 July 2024.

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How do these concepts apply to the women in Arab judiciaries? Are women simply tokenized, or are they put in high positions to fail? If not, what kind of glass ceiling do they reach in judicial institutions?

This study will first examine the case of Egypt and Jordan where women judges were appointed by the political elite. The study will then analyze the more intriguing Lebanese case where women constitute at least half of the judges but are rarely appointed to positions of power.

The Republic of Egypt

Despite significant political changes and some social progress over the past two decades, Egyptian women continue to face considerable barriers in entering the judiciary. In 2003, President Hosni Mubarak appointed (by presidential decree) Tahani al-Gebali as the first woman member of the country's Supreme Constitutional Court. However, Gebali was dismissed after the Muslim Brotherhood's Mohamed Morsi acceded to the presidency in 2012. Her ascendancy was always considered exceptional, and at the time of the current writing in 2024 (as far as sources can verify) women still make up less than 1% of the judiciary in Egypt.⁹

Some previous scholars have analyzed the appointment of Gebali as a simple case of tokenism, linked to the Mubarak regime's efforts to cultivate international approval. It was also influenced, however, by the prominent role of the president's wife, Suzanne Mubarak, in Egypt's political culture.¹⁰ Similar top-down appointments followed in 2007 and 2008, during which time 42 women judges were appointed by presidential decree to lower levels of the judiciary (first instance courts, including civil, economic, criminal, and family courts). These women judges were primarily drawn from positions within the state bureaucracy rather than through the usual routes of advancement in the legal profession, which contributed to the criticism that their positions were undeserved and merely tokenistic. The Egyptian scholar Hala Abdelgawad, for example, observed that "Egypt was pressured to implement international conventions dealing with women's rights and gender equality, especially the UN's Convention on the Elimination of Discrimination against Women [...] The exceptional appointments of a handful of women judges mentioned above were an attempt to embellish the liberal image of Mubarak's autocratic regime."¹¹

Regardless of the underlying reasons for these judicial appointments, they raise the question of how effective such top-down approaches might be in promoting the acceptance of women judges and in helping additional women ascend to high-ranking positions. Evaluating the long-term impact of Mubarak's appointments requires an examination of the country's judicial institutions and their subsequent trajectory.

⁹ Omnia Gadalla, 'Her Honor Setting the Bar: Fighting for Equality in Egypt's Judiciary', Tahrir Institute for Middle East Policy (2 October 2020), <https://timep.org/2020/10/02/her-honor-setting-the-bar-fighting-for-equality-in-egypts-judiciary/> accessed 19 July 2024.

¹⁰ See Mustafa Menshawy, 'Ruling by Wife: First Ladyship in Mubarak's Authoritarian Playbook' *Journal of Middle East Women's Studies* 19, no. 2 (July 2023), 209–231.

¹¹ Hala Abdelgawad, 'Egypt Will Finally Appoint Women Judges. But Is the Move Really Progress?', *Open Democracy* (28 June, 2021), <https://www.opendemocracy.net/en/north-africa-west-asia/egypt-will-finally-appoint-women-judges-move-really-progress/> accessed 19 July 2024.

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Egypt's Judiciary and the Top-down Strategy

Egypt's judicial system is structured into three levels: the Courts of First Instance (Mahkmat al-Daraga al-Ula), Appellate Courts (Mahkmat al-Esti'naf), and the Courts of Cassation (Mahkmat al-Naqd). Aspiring judges must initially serve as public prosecutors before advancing through these tiers. Historically and by custom, if not by law, women have been entirely absent from the ranks of public prosecutors, which in turn meant that there were no women judges.

This lack of advancement ladders helps to explain why the Mubarak regime, as well as later Egyptian administrations, have viewed extraordinary appointments as the only practical way to add women to the judiciary. The top-down strategy used by Mubarak was later adopted by President Abdel Fattah el-Sisi, who, since 2015, regularly appoints women judges outside of the standard advancement ladders. Nearly all of these appointments were to first instance courts, but many of the women appointed have subsequently risen to serve in the Appellate Courts.¹² The country's highest courts have seen far fewer appointments of women, but a breakthrough occurred in 2015 when Sally al-Saidi was appointed as Aide to the Head of the Court of Cassation, making her the first woman to hold this role since the court's inception in 1931. Two years later, Saidi was appointed to the General Secretariat of the Supreme Judicial Council, becoming the first woman to hold this position in the history of the Egyptian judiciary.

These gains have not been celebrated in all quarters, with many scholars and observers continuing to view the exceptional appointments of women judges as tokenistic and undeserved. Resistance to the appointments has been particularly fierce in the State Council, which deals with administrative legal cases involving government agencies. In 2017, the State Council angered women's advocates by bluntly dismissing a case brought by the law graduate Omnia Gadalla, who claimed gender discrimination in judicial advancement.¹³

Ironically, President Sisi also chose 2017 to declare as the "Year of the Egyptian Woman," in coordination with an empowerment campaign conducted by Egypt's National Council of Women (a governmental administrative body originally formed and headed by Suzanne Mubarak).¹⁴ The campaign called for increasing the representation of women judges to 25 percent. Commentators dryly noted that achieving this goal would require *all* new judicial appointments for more than a decade to be women. Such a goal was clearly over-inflated; it would be highly infeasible in a political sense, as well as likely illegal under constitutional anti-discrimination measures.¹⁵

¹² See Nancy Messieh and Suzanne Gaber, 'A Win for Women in Egypt's Courts', Atlantic Council (22 July 2015), <https://www.atlanticcouncil.org/blogs/menasource/a-win-for-women-in-egypt-s-courts/> accessed 19 July 2024.

¹³ Omnia Gadalla, 'Her Honor Setting the Bar: Fighting for Equality in Egypt's Judiciary', Tahrir Institute for Middle East Policy (2 October 2020), <https://timep.org/2020/10/02/her-honor-setting-the-bar-fighting-for-equality-in-egypts-judiciary/> accessed 19 July 2024.

¹⁴ See Nahla Zeitoun, 'Taa Marbouta, the Secret of the Egyptian Women', World Bank Arab Voices (25 September 2017), <https://blogs.worldbank.org/en/arabvoices/secret-egyptian-women> accessed 19 July 2024.

¹⁵ Omnia Gadalla, 'Her Honor Setting the Bar: Fighting for Equality in Egypt's Judiciary', Tahrir Institute for Middle East Policy (2 October 2020), <https://timep.org/2020/10/02/her-honor-setting-the-bar-fighting-for-equality-in-egypts-judiciary/> accessed 19 July 2024.

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Elite Appointments vs. Lobbying for Inclusion

Aspiring women in Egyptian legal fields received a significant boost in 2021, when Sisi's administration released directives mandating the hiring of women by the State Council and the Office of Public Prosecution.¹⁶ These ordinary employment opportunities, which are distinct from judicial appointments, would seem to hold the promise of helping establish stable career ladders and more organic entryways for women into higher positions.

The regime's decision to promote equality in hiring practices can be understood as a response to many years of activism and lobbying by Egyptian women law graduates. Omnia Gadalla, for example, who is currently a lecturer in the College of Sharia and Law at Al-Azhar University and whose case was mentioned above, has since 2014 brought an entire series of sequential legal actions challenging administrative refusals to accept women candidates' applications. First denied the ability to present her case in the lower courts, she was then rebuffed by the State Council, which bluntly wrote that the call for applications was "addressed to male law graduates exclusively." A later case was summarily dismissed by the Supreme Administrative Court, which did not even give Gadalla an opportunity to participate in a hearing. By 2020, she had been litigating these cases for seven years without success.¹⁷

The 2021 executive instruction to accept women law graduates' applications thus helped to resolve a boiling dispute that threatened to reveal the severe lack of women's progress on the ground. At the same time, however, this formal acceptance of employment opportunity has not yet translated into a substantive organic entry of women into the country's legal institutions. The Sisi regime has continued its practice of extraordinary appointments, decreeing numerous women onto the bench in 2021, and finally in 2022 placing Radwa Helmi as the first women judge to preside over a hearing at the State Council.¹⁸ Gadalla was not among the women hired or elevated to the bench.

The Need for Reform in Legal Training and Requirements

The research shows that the practice of extraordinary appointments in Egypt is arbitrary and paternalistic, frequently rewarding women who are strong loyalists allied with the regime and who do not "cause trouble." For many years this practice of extraordinary appointments has coincided with a status quo that is openly hostile toward women participating in the ordinary advancement process that is undertaken by men who achieve the bench. It therefore reinforces the view that women do not truly belong in the judiciary and are only present as tokens to satisfy international political pressures.

The appointment requirements for the Egyptian judiciary are quite broad, including factors such as "being competent" and "possessing a good reputation."¹⁹ A bachelor's degree in law is required, but

¹⁶ 'Sisi's Directives: Egyptian Women to Start Working at State Council, Public Prosecution', Egypt Today (2 June 2021), <https://www.egypttoday.com/Article/1/104610/Sisi's-directives-Egyptian-women-to-start-working-at-State-Council> accessed 19 July 2024.

¹⁷ Omnia Gadalla, 'Her Honor Setting the Bar: Fighting for Equality in Egypt's Judiciary', Tahrir Institute for Middle East Policy (2 October 2020), <https://timep.org/2020/10/02/her-honor-setting-the-bar-fighting-for-equality-in-egypts-judiciary/> accessed 19 July 2024.

¹⁸ 'First Female Judge Presides over Hearing at Top Court in Egypt', Guardian (5 March 2022), <https://www.theguardian.com/world/2022/mar/05/first-women-judge-presides-over-hearing-at-top-court-in-egypt> accessed 19 July 2024.

¹⁹ These requirements are elaborated in full in Egypt's Judicial Authority Law No. 42 of 1972, Article 38. For additional discussion see Moataz Muhammad al-Saghir Aidaros, 'Appointing and Training Judges in

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there are no further admission exams. Prospective judges are interviewed by members of the high board of the relevant judicial institution, are subjected to a security check and medical exam, and ultimately, if selected and nominated by the board, are appointed via executive decree. As discussed above, judges are traditionally selected from among the ranks of public prosecutors, a position to which women did not have access until 2021, making their appointments to the bench extraordinary.

Contrary to other countries in the region such as Jordan and Lebanon, there is no training institute for the Egyptian judiciary. Changing this, and including a merit-based application process, would present a substantial first important step of reform. Currently, there are no requirements in Egyptian law for such training, and the judicial institutions have no cohesive training strategy. There is no policy for judicial internships or pre-appointment experience. Those appointed to the bench receive, at best, only a few weeks of basic on-the-job instruction.²⁰

Such a system is primed for patronage dynamics and reduces the opportunities for any candidate to demonstrate their deservingness or merit. It allows persistent prejudices such as those against women to go unchecked, while attempts to mitigate these imbalances are reduced to competing claims of favoritism. So long as this elite appointment-based system continues, it is likely that women appointed to the judiciary will have to contend with the assumption that their only value is to serve as “window dressing.” The conditions of tokenization are ascendent in this context, limiting any deep and lasting transformation of the Egyptian judiciary into a gender-inclusive institution.

The Hashemite Kingdom of Jordan

The Jordanian legal system is structured with the judiciary as an independent branch of government. It combines diverse influences from French and British legal traditions as well as Islamic law. As stipulated by Chapter 7 of the Jordanian Constitution, the courts fall under three categories: “regular courts,” “religious courts,” and “extraordinary courts” (the latter include military tribunals as well as certain specialized courts addressing matters such as import/export customs).²¹ These divisions have led to a strongly bifurcated system in which women legal professionals commonly practice in the regular court system, and to some extent in the extraordinary court system, but are not allowed to practice at all in religious courts.

Historically, women have been significantly under-represented throughout the legal profession in Jordan, especially in its higher echelons, with no woman having held a judgeship prior to 1996. In that year, Jordan’s King Hussein appointed Taghreed Hikmet as the country’s first woman judge. Hikmet went on in later years to also serve in several prestigious international positions, including being the first Arab woman judge on the International Criminal Court.²² This pattern of breaking gender barriers through executive decree is quite similar to what was discussed in regard to the Egyptian judiciary above, and in fact it is likely that King Hussein’s appointment of Hikmet served as a model for Mubarak’s

Egypt and Comparative Systems’, MA Thesis, American University in Cairo (2022), <https://fount.aucegypt.edu/cgi/viewcontent.cgi?article=2952&context=etds> accessed 19 July 2024.

²⁰ See David Risley, ‘Egypt’s Judiciary: Obstructing or Assisting Reform?’, Middle East Institute Policy Focus Series (January 2016), https://www.mei.edu/sites/default/files/publications/Risley_Egyptjudiciary.pdf accessed 19 July 2024, pp. 9–10.

²¹ The full text of the Jordanian constitution is available in English at: https://www.constituteproject.org/constitution/Jordan_2011 accessed 19 July 2024.

²² See ‘Court Members: Mrs. Taghreed Hikmet’, Constitutional Court of Jordan, https://www.cco.gov.jo/EN/ListDetails/Court_Members/1150/2 accessed 19 July 2024.

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similar move in Egypt several years later. Both regimes can be seen as responding to pressures from the international community to enhance gender inclusion. However, the subsequent reforms in Jordan went much further than those in Egypt, for example by incorporating quotas mandating women's broader representation in the judiciary. These reforms in Jordan were also carried out in the context of a more robust and professionalized judicial system.

The Role of Professional Education

Candidates for judgeships in Jordan receive extensive training. The Judicial Institute of Jordan (JIJ) was established in 1988 and tasked with qualifying candidates for judicial positions and other legal roles required by ministries and public institutions. Candidates seeking to enter the IJJ must already have a bachelor's degree in law; within the professional school they then receive an additional two years of training in specialized topics such as civil and criminal codes, intellectual property and copyright law, juvenile law, and domestic violence law.²³

Beginning in 2005, the Jordanian Ministry of Justice undertook an initiative to increase women's representation in the judiciary, including a minimum quota of 15 percent for female students at the IJJ (Judicial Institute Regulation No. 88 of 2007).²⁴ The institute has exceeded this quota in recent years, with the number of women graduates now approaching 30 percent of the overall class.²⁵ Thus, the quota was removed again a few years later. By 2022, the representation of women in the regular judiciary had likewise increased to roughly 28 percent—an accomplishment that has been attributed not only to the quota system but also to the IJJ's competitive and anonymous matriculation process, which gives women the opportunity to be evaluated on their accomplishments rather than their gender.²⁶

Another milestone was reached with the promotion of Judge Ihsan Zuhdi Barakat to Jordan's Supreme Court in 2017, making her the first woman to reach a position on the kingdom's highest judicial body. Barakat is a woman of firsts; she had previously been the first woman to hold the position of the City of Amman's attorney general, the first woman chair of the West Amman Court, and the first woman inspector at the Judicial Inspections Directorate, among other positions.²⁷

The Impact of Proactive Policies

Significant gains have been made by women in the Jordanian legal system over the past 30 years, demonstrating the possibilities of rapid social change when coordinated action is taken to remedy historical inequalities. Although the country still harbors a reservoir of bias against women in high professional positions, and full equality has not yet been attained, the number of women judges is continuing

²³ 'About the Judicial Institute of Jordan', Euro-Arab Judicial Training Network, <https://www.eajtn.com/member-states/jordan/> accessed 19 July 2024.

²⁴ 'Women and the Judiciary', International Commission of Jurists, Geneva Forum Series no. 1, <https://www.icj.org/wp-content/uploads/2014/10/Universal-Women-and-Judiciary-Gva-For-1-Publications-Conference-Report-2014-ENG.pdf> accessed 19 July 2024, p. 35.

²⁵ 'About the Judicial Institute of Jordan', Euro-Arab Judicial Training Network, <https://www.eajtn.com/member-states/jordan/> accessed 19 July 2024.

²⁶ Razan Abdelhadi, 'Women Make Up 28% of the Judiciary', Jordan News (26 July 2022), <https://www.jordannews.jo/Section-106/Features/Women-make-up-28-of-the-judiciary-19663> accessed 19 July 2024. See also 'A Mile's Journey Begins with a Single Step', USAID (16 March 2023), <https://medium.com/usaid-2030/a-miles-journey-begins-with-a-single-step-ccb6f11c5fff> accessed 19 July 2024.

²⁷ 'Jordan Just Appointed Its First-ever Female Supreme Court Judge', Ammon News (16 September 2017), <https://en.ammonnews.net/article/35963> accessed 19 July 2024.

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to rise gradually according to the most recent annual report of the Jordanian Judicial Council.²⁸ Currently the representation of women in the Jordanian judiciary follows what Cook described as a “pyramid pattern,” with a greater presence of women at the bottom than at the top of the system—but conditions seem to be in place for the country to continue shifting toward women legal professionals having a more stable career ladder.

The implementation of quotas and a few elite appointments have played a valuable role in increasing women’s representation in the regular Jordanian judiciary. However, these approaches have been supplemented with efforts to achieve greater public buy-in and shift public discourse about women’s roles. The existence of a professionalized judicial training apparatus in Jordan and its use of anonymous evaluation helps to combat the perception that women who advance are undeserving. It is also notable that high-achieving women in the Jordanian judiciary have been celebrated in the country’s media and held up as role models for younger women, demonstrating a broader supportive environment for their accomplishments. The promotion of women judges such as Barakat to esteemed positions has not followed the worst patterns of tokenization; instead of being viewed as passive symbols, such high-achieving women are noted for their abilities. Jordan has also largely avoided the “glass cliff” phenomenon as women promoted in the judiciary have entered stable and successful leadership positions, rather than being set up to fail in precarious environments. Overall, the country has made great strides in sending a powerful message that women can achieve the highest positions and that their successes should be celebrated and valued.

The Republic of Lebanon

Similar to Jordan, the judiciary in Lebanon reflects a mixture of European and Islamic influences, notably from French and Ottoman law. The system includes regular courts that oversee most civil and criminal cases; these are divided into Courts of First Instance, Courts of Appeal, and the highest Court of Cassation. Beyond these regular courts, Lebanon also has a separate administrative court (i.e., the State Council, which addresses notable disputes involving government agencies) as well as independent military courts and religious courts.²⁹

Lebanon differs significantly from Egypt and Jordan in that women are estimated to constitute more than 50% of the country’s regular judiciary. However, despite this apparent equality Lebanon continues to show a strong glass-ceiling or “pyramid pattern,” with a much greater representation of women at the lower court levels.

Entry Requirements to the Judiciary

²⁸ ‘Strategic Vision: Excellence in Justice,’ Report of the Judicial Council 2023 <https://www.jc.jo/storage/app/uploads/public/660/c0e/bd6/660c0ebd60aa2347229843.pdf> accessed 20 July 2024, p. 21.

²⁹ For more details regarding Lebanon’s court system, see Isabel Henzler Carrascal and Sandy Haddad, ‘Lebanon’s Administrative Judiciary and Its Implication on the Country’s Rule of Law’, Konrad Adenauer Stiftung Rule of Law Programme (April 2020), <https://www.kas.de/documents/252038/7995358/Lebanon’s+Administrative+Judiciary+and+its+Implication+on+the+Country’s+Rule+of+Law.pdf> accessed 20 July 2024; and Maya W. Mansour and Carlos Y. Daoud, ‘Lebanon: The Independence and Impartiality of the Judiciary’, Euro-Mediterranean Human Rights Network (February 2010), <https://euromedrights.org/wp-content/uploads/2018/03/LEBANON-The-Independence-and-Impartiality-of-the-Judiciary-EN.pdf> accessed 20 July 2024.

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Lebanon benefits from a rigorous legal training process. Most trainee judges complete a three-year program at the Institute of Judicial Studies (IJS), which includes extensive theoretical and practical education. The country's Minister of Justice collaborates with the High Judicial Council (HJC) to conduct a needs assessment determining the number of candidates accepted to the IJS, and then the HJC organizes a competitive exam and interview process for eligible law graduates.³⁰

The reputation of the IJS is very well-established. Founded in 1961, it was one of the first modern training facilities for judges in the region, and students from other countries such as Jordan, Qatar, and Tunisia frequently attended the IJS during its early years. The Lebanese civil war (1975–1990) had a negative impact on the institute, and today it continues to struggle with challenges related to limited resources and staff in Lebanon's dysfunctional political climate.³¹ Nonetheless, in the years up to 2018, it has steadily admitted and educated around 50–60 trainees each year, and a study conducted in 2017 found that 85% of Lebanon's judges were IJS-trained.³² Since 2018 the IJS has not having accepted any new trainee judges due to the persisting economic and political crisis.³³

Lebanon's generally robust judicial entry approach does have some liabilities, however, which result from a lack of transparency and an overabundance of discretionary evaluation at key points in the process. First, the preliminary interviews that help determine entry into the IJS are not grounded in objective and transparent criteria. External assessments have suggested that these interview mechanisms allow for significant partisan and sectarian bias in determining which law graduates are accepted as trainee judges.³⁴ Second, when trainee judges graduate from the IJS, they are evaluated by the HJC, which in coordination with the Minister of Justice determines their tenured appointments. This process is entirely discretionary, which means that successful graduates have no guarantee of becoming tenured judges, and no guarantee that the decision will be based on demonstrated merit. The appointment process is heavily influenced by the executive, particularly the Ministry of Justice, which has a great deal of control over the HJC and the appointment of its members.³⁵ While two women have previously served in the position of Minister of Justice—Alice Chaptini, *ad interim*, replacing Ashraf Rifi after his resignation³⁶, from February to December 2016 and Marie-Claude Najm from January 2020 to September 2021—these influential offices are most typically filled by men, and either conscious or unconscious bias could potentially affect the types of appointments that women graduates receive. Since the Lebanese system lacks an anonymous matriculation process such as that seen in the Judicial Institute

³⁰ Students who hold of a doctorate in law can sometimes skip the entry exam and be directly appointed as trainee judges; and experienced legal practitioners can sometimes be appointed as tenured judges without going through the IJS training. For more details see 'The Career of Judges in Lebanon in Light of International Standards', International Commission of Jurists (February 2017), <https://www.icj.org/wp-content/uploads/2017/03/Lebanon-Memo-re-judges-Advocacy-Analysis-Brief-2017-ENG.pdf> accessed 20 July 2024.

³¹ See 'Lebanon: Legal and Judicial Sector Assessment', World Bank (January 2005), <http://documents.worldbank.org/curated/en/478751468056940276/Lebanon-legal-and-judicial-sector-assessment> accessed 20 July 2024.

³² 'The Career of Judges in Lebanon in Light of International Standards', International Commission of Jurists (February 2017), <https://www.icj.org/wp-content/uploads/2017/03/Lebanon-Memo-re-judges-Advocacy-Analysis-Brief-2017-ENG.pdf> accessed 20 July 2024.

³³ See '(AR) Judiciary of Lebanon...Is there justice in collapsing?' Independent Arabia (August 2024), <https://t.ly/I9iQG> accessed 30 October 2024.

³⁴ *Ibid.*, p.7

³⁵ *Ibid.*, p. 4.

³⁶ See 'Chaptini, ministre de la Justice par intérim', *L'orient-Le Jour* (February 2016), <https://www.lorient-lejour.com/article/971678/chaptini-ministre-de-la-justice-par-interim.html> accessed 30 October 2024.

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of Jordan, there is a much greater risk of trainees being treated unfairly and/or perceived as tokenistic appointments.

The Glass Ceiling Effect

Women's achievement of high rates of representation in Lebanon's judiciary was not smooth or widely accepted. While the country's constitution and subsequent laws have long guaranteed the principle of gender equality in civic positions, this was routinely ignored in the judicial arena due to the widespread belief that women were unsuited to the task. The first woman to break into Lebanon's judiciary was Katina Ghulam in 1966. But it was only in the post-war period that the numbers of women judges slowly began to rise.³⁷

These changes accelerated rapidly during the 1990s, with human rights activists successfully challenging discriminatory practices that had prevented women law students from advancing.³⁸ By 1998, women comprised most of the trainees entering the IJS.³⁹ This has continued to be the case in most years following. By 2017, 47,7 % of the regular Lebanese judges were women.⁴⁰ Currently, they are expected to comprise over 50 % of the regular Lebanese judiciary. These advances compared to the other countries discussed were due to the devaluation of the profession in the eyes of male candidates after the civil war. Because of the comparatively low salaries, men were more likely to work for international law firms.⁴¹

However, women's ascension to the higher echelons of the Lebanese judiciary has been less robust. While there is a moderate to good representation of women in some notable institutions, such as the HJC, State Council, and Ministry of Justice, their representation in court circuits remains notably lower. Women are also rarely found in certain "sensitive" roles (in which their gender is more likely to be considered problematic) such as public prosecutors, investigating judges, and labor arbitration.⁴² Furthermore, similar to Jordan, women judges are barred from practicing in Lebanon's religious courts, which means they do not have the opportunity to adjudicate on "personal status" matters that directly affect women, such as divorce, custody, or inheritance.

The current situation of women in Lebanon's judiciary, then, is one of apparently equal representation that masks a reality of limited advancement opportunities. Women enter organically into the system without the need for quotas and without being parachuted into position by the ruling elite. However, once they are part of the system, they rarely advance beyond its lower or mid ranks, and they often confront a prejudicial "phobia" or skepticism about their role from judicial peers and members of the public.⁴³ Such glass ceilings for women are unfortunately far from unusual, across many professions

³⁷ 'Women in the Judiciary in Lebanon', United Nations Economic and Social Commission for Western Asia (10 December 2018), <https://www.unescwa.org/publications/women-judiciary-lebanon> accessed 20 July 2024, pp. 3–4.

³⁸ Ibid.

³⁹ Ibid, p. 5.

⁴⁰ Ibid, p. 6.

⁴¹ 'Women in the Judiciary in Lebanon', United Nations Economic and Social Commission for Western Asia (10 December 2018), <https://www.unescwa.org/publications/women-judiciary-lebanon> accessed 20 July 2024, p. 5.

⁴² Ibid, p. 16.

⁴³ Samer Ghamroun, 'Who Is Afraid of a Female Majority in the Lebanese Judiciary?', *Legal Agenda* (31 March 2015), <https://english.legal-agenda.com/who-is-afraid-of-a-female-majority-in-the-lebanese-judiciary/> accessed 20 July 2024.

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and across many international regions (in some European countries, for example, the representation of women judges in the highest courts is virtually nonexistent).⁴⁴ One can hope that over time, the culture of gender equality in Lebanon will continue to solidify and that we will see more women at the top of the judicial hierarchy. While working towards these advancements, Lebanon's women judges will also have to contend with the country's equally pressing challenges of sectarian influence and political interference in high-profile criminal investigations such as the Beirut port explosion of August 2020.⁴⁵

Conclusion

By analyzing the entry patterns and career trajectories of women judges in Egypt, Jordan, and Lebanon, this paper clarifies central issues regarding the influence of elite appointments, quota systems, and training institutes on women's access to high-ranking judicial positions. It improves our understanding of the features of these judicial systems that assist in establishing stable career ladders for women judges; and in contrast, those features that lend themselves to enabling bias, tokenization, and glass-ceiling effects.

The findings suggest that while there are significant differences in how women enter the judiciary in these countries, a common challenge is the persistence of deeply rooted beliefs that women are intrinsically unsuited or undeserving of positions of authority. This is likely also linked to Islamic tradition, including a *hadith* or saying of the Prophet Mohamed which alleges that nations led by women do not prosper.⁴⁶ In Egypt, elite appointments have resulted in a minimal increase in the number of women judges, with occasional advancements often appearing as token gestures rather than systemic change. Furthermore, the dependence on paternalistic appointments tends to reward women who are regime loyalists and adhere to traditional expectations. Jordan has been more successful in increasing women's representation and acceptance in the judiciary, via a multi-pronged approach that has combined a few elite appointments, a quota system, anonymous evaluation of candidates, and media outreach to promote public buy-in. Nonetheless, Jordan continues to have very few women in the highest echelons of the judiciary, and women judges are barred entirely in the country's religious courts, which rule on crucial matters of family law.

Of all the countries discussed here, Lebanon has the most robustly established culture of women's judicial inclusion. In recent decades, women have achieved equal numerical representation in the country's judicial training institutes, and most recently, in the regular judiciary itself (though, as in Jordan and Egypt, women judges are still absent from Lebanon's religious courts). Lebanon's organic entry

⁴⁴ Mónica García Goldar, 'The Glass Ceiling at the Highest Levels of the Spanish Judiciary', *International Journal of the Legal Profession* 27, no. 2 (2020), 189–202, <https://doi.org/10.1080/09695958.2020.1775601> accessed 20 July 2024.

⁴⁵ Recent examples of such interference are discussed at length in: 'Lebanon: Upholding Judicial Independence', International Commission of Jurists (December 2022), <https://icj2.wpenginepowered.com/wp-content/uploads/2022/12/LEBANON-Judicial-Independens-ENG-full.pdf> accessed 20 July 2024.

⁴⁶ For a discussion of women as judges and Islam see Nik Noriani Nik Badlishah & Yasmin Masidi 'Women as Judges' <https://sistersinislam.org/wp-content/uploads/2021/10/booklet-women-as-judges.pdf>.

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system has been able to achieve this parity without the use of quotas. However, the prevalence of discretionary evaluation and lack of transparency at key points in the advancement process enhances the possibility of bias as well as suspicions of tokenism. It may also contribute to the ongoing underrepresentation of women in the highest judicial positions. While women now very likely make up more than 50% of Lebanon's judges, a statistical glass-ceiling effect means that they remain concentrated in the lower courts.

Based on Cook's classification scheme, the representation of women judges in Egypt follows an inverted bell pattern, while their representation in Jordan and Lebanon is more pyramidal. The latter conditions offer a greater hope of gradually transforming into stable career ladders as the overall percentage of women improves. However, both Jordan and Lebanon face specific challenges in reaching this full measure of equality, and both can benefit from further enhancing the professionalism of their systems and working to improve public attitudes about women's roles and abilities. The case of Egypt demonstrates that top-down appointments alone may not be sufficient to have a meaningful and transformative impact on women's prospects, and that such appointments need to be combined with a more robust strategy to build women's participation from the ground up. One advantage that elite appointments do have is that they tend to mitigate the "glass cliff" effect—the failure of a woman appointed in this fashion would reflect badly on the person who appointed her, and therefore such assignments are usually measured and secure. However, they run the risk of making the broader public even more skeptical of women's capabilities, since the appointee appears as a token who did not reach the position on her own merit. In contrast, measures to support women's education and training, combined with the use of anonymous evaluations in which the gender of the candidate is not considered, are among the strongest ways to combat perceptions of un-deservingness.

The findings in this paper underscore the need for continued efforts to ensure gender equality in judicial systems, not only through increasing the number of women judges but also by addressing the structural and social barriers that hinder their advancement. Achieving true gender inclusivity in the judiciary requires comprehensive reforms that go beyond symbolic appointments and aim for genuine integration and empowerment of women at all levels of the judicial hierarchy.

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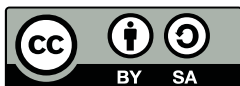
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