

Judicial diversity in common law jurisdictions outside of England and Wales

A rapid evidence assessment

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NatCen Social Research

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Disclaimer

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1. Summary

Barton-Crosby et al. (forthcoming) **previously conducted a rapid evidence assessment (REA)** for the Ministry of Justice (MoJ) that synthesised **evidence** about **diversity** within the **legal professions and the judiciary in England and Wales**. The REA focused on compiling and appraising evidence on barriers to diversity impacting entry, retention, and progression within the legal professions and the judiciary of England and Wales, as well as initiatives designed to overcome these barriers and improve diversity. **Building on the previous REA**, the Judicial Appointments Commission (JAC) appointed NatCen to carry out the **current work** to compile and appraise **evidence on measures** used by **common law jurisdictions outside of England and Wales** to improve **judicial diversity** and **diversity** within the **legal professions** more broadly.¹ This included evidence of their effectiveness. In order to provide context to the evidence on diversity initiatives, information on barriers to diversity was also included.

In order to achieve this, the research methodology included three core elements, all of which explored common law jurisdictions outside of England and Wales.

- **Component 1:** A review of academic peer-reviewed evidence.
- **Component 2:** A review of grey literature obtained via searches of relevant websites to obtain publicly available evidence.
- **Component 3:** A stakeholder consultation to identify hard to reach evidence not detected in the searches carried out for the academic peer-reviewed literature and grey literature.

¹ For a definition of common law jurisdictions and further details on the countries in scope for the REA, please see Chapter 2.

1.1 Findings

The findings from the current REA suggest that for common law jurisdictions outside of England and Wales:

- The **evidence base** regarding diversity within the legal professions and the judiciary is **dominated by evidence of barriers** to diversity rather than evidence of diversity initiatives.
- There is **little evidence around specific initiatives** to improve diversity and much of the existing **evidence is of poor quality**. This is particularly the case for the judiciary.
- There appear to be **few targeted programmes** designed to improve judicial diversity across the common law jurisdictions selected for inclusion in the REA (or there is a lack of publicly available evidence).
- The prevalent theme within the evidence base is that **efforts** to improve diversity tend to **concentrate on encouraging consideration of diversity** rather than structured programmes of activity (e.g. outreach programmes, training programmes).
- Where diversity is considered, **gender** appears to be the **most widely targeted diversity characteristic**. There is a clear gap across the common law countries included within the scope of the review to promote diversity across a range of diversity characteristics.
- Where diversity initiatives and programmes were identified, the **evidence base regarding effectiveness was very weak**, with a **lack of any formal, rigorous, and structured evaluation**. As such there is a need for robust independent evaluations of existing initiatives, and for the findings to be published.

1.2 Areas for consideration

The findings presented in this report highlight general points for **consideration** by any organisation or official body looking to **improve diversity** within the **legal professions** and the **judiciary**.

Considerations for improving diversity within the legal professions

- **Focus on a broader range of diversity characteristics.** For example, make the workplace more LGBT+ inclusive.
- **Develop more mentoring opportunities**, both for legal students and professionals. Judicial diversity starts with diversity in the legal profession/s.
- **Implement unconscious bias training** in organisations (e.g. law firms).
- **Address recruitment approaches** that perpetuate recruitment of those who reflect the existing make-up of the legal workplace.
- **Undertake targeted recruitment** of under-represented groups.
- Organisations (e.g. law firms and universities) should **collect and report diversity monitoring data**.
- **Create flexible working opportunities**, including developing family-friendly flexible working policies. As part of this, efforts should be made to promote a more accepting attitude to flexible working arrangements, which is led from the top.
- Implement and improve initiatives (e.g. policies, training) to **address sexual harassment** and bullying within the legal professions.
- Instigate the use of **target-based initiatives**, especially equitable briefing and diversity scoring policies.

Considerations for improving judicial diversity

- Take steps to create and/or maintain **transparent** selection and appointments processes.
- **Proactively recruit qualified candidates from under-represented groups** (e.g. promote vacancies amongst under-represented groups).
- **Focus on a broader range of diversity characteristics** (e.g. disability, sexual orientation, socio-economic status).
- **Formal mentorship programmes and networks** for under-represented groups should be initiated.
- Provide **accessible and early career training** on the pathways to becoming a judge and the skills judges require (from legal training and early career level).
- Provide **training to potential applicants** on how to apply for judicial selection, and how to prepare for interviews.
- **Monitoring and robust evaluation of initiatives** must be carried out in order to measure effectiveness.
- **Flexible and part-time options** should be more **available and accepted**.
- Provide **unconscious bias training and equality and diversity training** to decision-makers involved in the judicial selection and appointments process.
- Implement initiatives (e.g. policies, training) to **address sexual harassment** within the judiciary.

2. Introduction and methodology

In the summer of 2021, the Judicial Appointments Commission (JAC) appointed the National Centre for Social Research (NatCen) to conduct a rapid evidence assessment (REA) of judicial diversity in common law countries outside of England and Wales.² More specifically, the aim of the REA was to compile and assess evidence from common law countries outside of England and Wales on initiatives to improve judicial diversity and diversity within the legal professions, as well as indicators of the effectiveness of the initiatives identified. In doing so, the findings of the REA allow stakeholders to identify and understand where England and Wales sits within the legal and judicial diversity landscape.

2.1 Background and context

The value of judicial diversity is increasingly recognised, and there is a broad consensus that it is integral to the legitimacy of a jurisdiction's legal system (Gee & Rackley, 2017). Namely, it is argued that if the judiciary is broadly representative of the society it serves, the public will have more confidence that justice is being administered fairly and without bias (Levy Ariel, 2018; Cahillane, 2016; Gee & Rackley, 2017). In addition, judicial diversity is part of ensuring that people from all backgrounds have fair and equal opportunities to pursue a judicial career (e.g. Cahillane, 2016).³ However, in order to understand the judicial diversity landscape, it is also necessary to consider the diversity of the judicial candidate pool; that is, the diversity within legal profession/s.⁴ Within common law countries, the legal professions provide the main candidate pool from which judges are selected; therefore, a lack of diversity within the more senior levels of the legal professions hinders the diversity of the judiciary (Gee & Rackley, 2017). It follows that this REA

² Within this context, 'common law countries' are considered those with legal systems influenced by periods of British colonial rule or other forms of British administration, and which share core features of English common law including the use of adversarial court procedures and the recognition of court decisions as a source of law (precedent).

³ We recognise that there are numerous arguments for judicial diversity, as well as debates around the topic. However, we are unable to delve into the topic within this report.

⁴ We refer to the legal profession and legal professions in recognition that some common law jurisdictions have separate legal professions similar to England and Wales (i.e. solicitor, barrister, legal executive), while others have fused or unitary legal professions (i.e. where there is not a distinction between different legal practitioners).

explores barriers to diversity, and the initiatives that have been implemented to break down these barriers, within both the legal professions and the judiciary in common law jurisdictions outside of England and Wales.

Building on earlier work

In recognition of the importance of judicial diversity, in 2020, the Ministry of Justice (MoJ), at the request of the Judicial Diversity Forum (JDF),⁵ commissioned NatCen to conduct an REA to compile and appraise evidence about diversity within the legal professions and the judiciary in England and Wales (Barton-Crosby et al., forthcoming). The main focus of the work was to synthesise the evidence on:

- The barriers to diversity impacting entry, retention, and progression within the legal professions and the judiciary of England and Wales.
- Existing initiatives designed to overcome these barriers and improve diversity within the legal professions and the judiciary, and their effectiveness.

Building on the previous REA, and to allow for comparison with England and Wales, the JAC appointed NatCen to carry out the current work to compile and appraise evidence on measures used by other common law jurisdictions to improve judicial diversity and diversity within the legal professions more broadly. This included evidence of their effectiveness. In order to provide context to the evidence on diversity initiatives, information on barriers to diversity was also included. It follows that the present REA allows for the identification of where good practice is implemented in other common law jurisdictions, as well as considerations for how diversity within the legal professions and judiciary can be improved.

A caveat regarding the conceptualisation of judicial diversity within a cross-national context

Writing broadly on the issue of judicial diversity, Gee and Rackley (2017) observed that there is often a lack of agreement on what judicial diversity means, what a diverse judiciary should look like, how diversity should be measured, and how diversity should be achieved.

⁵ The JDF is comprised of the following organisations: Judicial Appointments Commission, Ministry of Justice, the Judicial Office/Judiciary, the Bar Council, The Law Society, CILEX, and the Legal Services Board.

These challenges are compounded when exploring judicial diversity cross-nationally and cross-culturally. Van Zyl Smit (2017) noted a number of issues faced when undertaking a comparative examination of judicial diversity across jurisdictions. First, diversity challenges faced by jurisdictions vary – they are “a function of the patterns of privilege, prejudice, group socialization and power dynamics that exist within particular legal communities and their societies” (Van Zyl Smit, 2017, p. 61). As such, views around the need for diversity, the diversity characteristics that are considered important, and the appropriateness and relevance of diversity initiatives will likely vary between jurisdictions. Therefore, care should be taken in assessing what diversity looks like in other jurisdictions, and cultural differences considered when analysing evidence from jurisdictions outside of England and Wales.

2.2 Research aims

The aims of the present REA were to compile and appraise evidence on:

- The barriers to diversity within the legal professions and the judiciaries of common law jurisdictions outside of England and Wales.⁶
- The measures / initiatives (e.g. programmes, policies, recommendations) that have been used by common law jurisdictions outside of England and Wales to improve diversity within the legal professions and the judiciary.
- The effectiveness of the existing diversity initiatives that have been implemented across common law jurisdictions outside of England and Wales.

2.3 Research approach

The research comprised three components, which were designed to identify evidence on:

⁶ A list of the countries to be included within the scope of the REA was provided to the NatCen research team by the JAC. In developing this list, the JAC aimed to select countries that would provide a breadth and range of diverse cultures, relative diversity (where known), a mixture of separate and unitary legal professions, as well as different population sizes. This list of countries formed part of the inclusion/exclusion criteria when assessing the evidence. See further, [Appendix B](#) as well as [Section 2.3](#).

- Barriers to diversity within the legal professions and judiciaries of common law jurisdictions outside of England and Wales.
- Measures / initiatives implemented by common law jurisdictions outside of England and Wales to improve diversity within the judiciaries and legal professions.
- Information regarding how effective these existing initiatives have been.

The research components were:

- **Component 1:** A review of academic peer-reviewed evidence.
- **Component 2:** A review of grey literature obtained via searches of relevant websites to obtain publicly available evidence.
- **Component 3:** A stakeholder consultation to identify hard to reach evidence not detected in the searches carried out for the academic peer-reviewed literature and grey literature.

Conducting the REA

An REA is a method used to collate, integrate, and synthesise available and accessible research evidence on any given policy concept or issue, as comprehensively as possible but within a limited time frame (Davies, 2003). The aims and objectives of REAs are to:

- Consider widely and comprehensively the relevant electronic and print based literature (within specified parameters).
- Identify, record, and exclude evidence that is considered of poor quality.
- Integrate descriptive outlines of the evidence available on a specific topic.
- Critically evaluate the evidence identified.
- Summarise the information, linked to project-specific research aims.

Academic literature search

The process of identifying and appraising academic peer-reviewed literature for inclusion in the REA followed a staged approach:

- **Development of a series of Boolean search strings** that incorporated a range of key words and concepts relevant to the research questions (see Table A:1 and Table A:2 in Appendix A).⁷ A series of **inclusion and exclusion criteria** for each piece of evidence to be assessed against were also developed (see Appendix B).
- **Pilot search and identification.** The pilot stage tested the strength of search strings and the inclusion / exclusion criteria by assessing the volume and relevance of returns. The pilot stage followed the steps and processes outlined below on a single database; any amendments required to the search strategy were incorporated into the searches of the remaining databases.
- **Full Search and identification of evidence.** Following the pilot stage, a full search of the selected academic databases was carried out (see Appendix C for the databases searched).
 - In addition to the use of specially developed Boolean search strings for academic databases, specially developed summary search terms linked to the research questions were used to search Google Scholar for relevant evidence (see Table A:3 in Appendix A).
 - Two PhD theses were also selected, and a review of their reference lists was undertaken in order to locate relevant documents not identified in prior searches.
- **Evidence screening and weighting.** The first stage of screening involved appraisal of the titles returned from each search. Titles were assessed against the inclusion / exclusion criteria and checked for relevance against the research

⁷ We consulted an expert librarian to provide input and expert opinion on string construction, testing strings and feeding back to the research team on their strength and limitations. As a result, an iterative process of testing search strings and search strategy was followed. Tables A:1 and A:2 in Appendix A provide examples of these iterations.

questions. The abstracts and executive summaries of the documents retained at the title screening stage were then appraised. Finally, any document still included was read in full to check for relevance. Documents retained for final inclusion then underwent an evidence extraction process whereby key information was entered into an extraction sheet and organised into various categories, including: author(s), year of publication, country of origin, methodological approach, brief summary of content, information relevant to the research questions, and a weight of evidence (WoE) score (see [Appendix D](#)). Overall, 41 documents were retained for final inclusion (summaries of the literature included in the REA can be found in [Table E:1 of Appendix E](#)).

Grey literature search

The grey literature search targeted websites of professional organisations related to the legal profession/s and judiciary in each country in scope. Websites were searched to identify publicly available documents or webpages relevant to the research aims of the REA (see [Appendix E](#) for a list of organisations). Identified documents were assessed against the inclusion / exclusion criteria used for the academic sources, and their relevance further considered, before evidence was extracted and organised in the same manner as the academic evidence.⁸ Ninety-four pieces of evidence were retained for inclusion in total (summaries of the documents included can be found in [Table E:2 of Appendix E](#)).

Stakeholder consultation

A stakeholder consultation was carried out to identify hard to reach evidence that did not appear in the first two components. The JAC identified a list of stakeholders to contact, and the NatCen research team prepared a ‘call for evidence’ document, which was sent out by the JAC to the stakeholders that they had identified. Stakeholders who agreed to provide a contribution were invited to have a brief phone call with a NatCen researcher. The purpose of the phone calls was to identify how to locate relevant documentation on diversity, diversity initiatives and policies, and the evaluation of these initiatives in each stakeholder’s jurisdiction.

⁸ Where relevant, a WoE score was also applied to some evidence identified a part of the grey literature search, for example, where academic literature was identified and retained under this search strategy.

The JAC contacted 52 organisations and/or individuals as part of the call for evidence, which ran from the end of June 2021 until the end of October 2021. Within this time period, the JAC sent a series of follow up messages. In total, we received 25 responses; however, the majority of these responses involved the organisation or individual providing limited top-level information or sharing that their jurisdiction does not have diversity initiatives. Eleven stakeholders agreed to engage in a call, which resulted in the submission of 25 documents. After the exclusion of duplicates and documents that were not relevant to the REA, 6 documents were retained (summaries of the documents included can be found in [Table E:3 of Appendix E](#)).

In total, 141 pieces of evidence were retained for extraction. A flow chart illustrating the process of searching through to retention can be found in [Appendix G](#).

Narrative development and integration / synthesis of evidence

In producing the final report, the information extracted from the evidence was synthesised and organised into thematic narratives. Each chapter of the report presents the evidence on the key research themes, before conclusions and areas for consideration are presented. The report is structured as follows:

- Barriers to diversity with the legal professions and judiciary
- Initiatives to improve diversity within the legal professions
- Initiatives to improve diversity within the judiciary
- Conclusions and areas for consideration

Methodological caveats

Limitations of an REA

An REA is a quick and streamlined method used to aggregate evidence linked to a policy issue within a fixed, short timeline, typically 2-6 months. This means REAs do not aim to include all available literature and are not as rigorous as systematic reviews, which are more comprehensive and time-intensive, generally taking 12-18 months to carry out. However, both approaches follow similar steps to identify, appraise, and synthesise relevant evidence.

The quality of the evidence

The evidence base for the present REA lacked original, good quality empirical research or evaluation, with a lack of evidence on the effectiveness of initiatives. We identified 141 pieces of evidence from which to extract, of which 81 were suitable for a weight of evidence (WoE) assessment. As documented in Appendix D, only 11 of these were rated as high quality.

Defining initiatives

The evidence base contained a paucity of information on specific programmes of work designed to improve diversity within the legal professions and judiciary. This lack of evidence necessitated a broad approach to defining ‘initiative.’ For example, the collection of diversity data and policies that recommend (rather than mandate) that diversity is considered are light touch activities within the diversity space but were included within the present REA.

The volume of jurisdictions in scope

Due to the number of jurisdictions (and the different levels of courts and court structures within these jurisdictions) in scope for the REA, this report takes a broad approach to synthesising the evidence and does not specifically analyse by jurisdiction or levels of court.

3. Barriers to diversity within the legal professions and judiciary

Chapter summary

- **Barriers to diversity within the legal professions and the judiciary** were identified within the evidence base. This includes barriers to **access and recruitment** to the legal professions and **selection and appointment** to the judiciary, as well as barriers to **retention and progression** in both professions.
- Evidence around barriers to **access to and recruitment** into the **legal professions** was limited. However, barriers related to **cultural background and ethnicity, social class and economic poverty, and gender** were identified.
- A range of barriers to **retention and progression** within the **legal professions** were identified; however, much of the **evidence concentrated** on barriers that particularly impact **female legal professionals**. Key barriers include **lack of access to mentoring opportunities** for female legal professionals; **difficulty pursuing informal networks** due to caring responsibilities; **limited opportunities for flexible working**; and experiences of **sexual harassment, bullying, and discrimination**. There was **limited evidence around barriers** faced by other under-represented groups such as **disabled legal professionals or LGBT+ legal professionals**.
- Barriers to judicial diversity include **lack of transparency** throughout the judicial selection and appointments processes, and concerns around **nepotism, favouritism, and corruption**.
- **Additional barriers** to judicial diversity within the evidence base include **educational and professional elitism; negative attitudes towards diversity; the lack of diversity data; and the limited mentorship and networking opportunities** for those from diverse and/or under-represented backgrounds.
- A number of barriers for women in the judiciary were identified, including **gender stereotypes and bias** and the **caring role effect, patriarchal social structures**, and **lack of flexible or part-time opportunities**.
- While there is evidence of **increasing representation of women in legal professions** across a number of jurisdictions, there is a general **lack of a trickle up effect to the judiciary** – particularly within the more senior courts.

This chapter synthesises the evidence on barriers to diversity with the legal professions and the judiciaries of the common law countries included within scope of the review. We begin by setting out the evidence around barriers to diversity within the legal professions, organised into two broad sections. The first section addresses barriers related to access and recruitment, with most of the evidence centring on cultural background and ethnicity, and social class and economic poverty. The second section presents the evidence on barriers to progression and retention within the legal professions – the majority of which is focused on barriers related to gender. Very limited evidence around barriers related to other diversity characteristics was identified.

Next, we outline the evidence on barriers to diversity in the judiciary. A key theme within the evidence base related to barriers associated with the selection and appointments process, particularly regarding favouritism and lack of transparency. We begin by synthesising this evidence. Following from this, we outline barriers associated with some of the requirements and experience needed for appointment to judicial office. Next, we present evidence around (negative) attitudes towards diversity, the lack of diversity data, and the limited mentorship and networking opportunities for those from diverse and/or under-represented backgrounds, all of which can be barriers to judicial diversity. Finally, the evidence around gender-related barriers is reported.

3.1 Barriers to diversity within the legal professions

The evidence related to barriers to diversity within the legal professions is organised around two broad sub-sections: access and recruitment into the legal professions; and retention and progression within the legal professions. However, the evidence base focused predominantly on barriers to progression and retention rather than barriers to access and recruitment of diverse groups into the legal professions.

Barriers to access and recruitment into the legal professions

Within the literature reviewed, diversity-related barriers to access and recruitment into the legal professions primarily focused on cultural background and ethnicity, class and economic poverty, and gender-related barriers.

Cultural background and ethnicity

A study by Lambert and Ellison (2011) found that cultural background and ethnicity were barriers to recruitment into the legal profession in Scotland. Commissioned by the Law Society of Scotland to conduct qualitative interviews and focus groups with ethnic minority law students, solicitors, and trainee solicitors in Scotland, their work aimed to gain a better understanding of experiences of ethnic minority solicitors. They found that 18 of their sample of 27 participants perceived their or their colleagues' recruitment to have been affected by their ethnicity or cultural background, which was particularly the case in the private sector. For example, Lambert and Ellison (2011) reported that some participants had observed that their white peers / colleagues received more invitations to attend interviews for jobs even when they were less qualified or had less experience. Further, participants provided examples of white peers / colleagues with similar levels of experience and skill advancing in the workplace at a faster pace and with greater ease. They also found that for ethnic minority law students, a lack of ethnic minority solicitors acted as a substantial barrier to entering the Scottish legal profession, as it created the perception that ethnic minority lawyers may be less likely to succeed in a legal career (see Section 4.2 for Upskilling for progression initiatives).

Social class, economic poverty, and intersections with ethnicity

In some jurisdictions, lower social class and economic poverty can pose a barrier to pursuing a legal career. Phooko and Radebe (2016) report that due to a lack of access to educational and skill-building opportunities and socio-economic goods and services, black working-class South Africans can experience barriers to entry to the legal profession. The researchers suggest that these barriers will continue for black working-class South Africans until targeted measures providing increased access to opportunities are adopted.

Research cited by the Law Society of Scotland (2013) highlighted that societal attitudes towards social class are perceived to be a barrier to diversity in the legal professions. In their practical guide to equality and diversity for Scottish solicitors, the Law Society of Scotland (2013) suggests that there is a perception in society that white, privately educated, and middle-class individuals dominate the law professions. Indeed, applicants for courses and traineeships from lower socio-economic backgrounds are frequently at a disadvantage due to the use of non-academic criteria (e.g. extra-curricular activities) to

decide between applicants (Law Society of Scotland, 2013). However, this was not a finding in the literature reviewed from other jurisdictions, which primarily focused on barriers relating to gender and ethnicity as opposed to social class and economic poverty (see Section 4.1 for Flexible education and programme provision and Financial initiatives within the legal professions and Section 4.2 for Upskilling for progression initiatives).

Gender

For women entering the legal professions, some specific barriers to recruitment were highlighted. A report from the Law Council of Australia (2014a) detailed findings from the National Attrition and Re-engagement Study (NARS), which found that only 16% of women currently practising as lawyers would consider working at the Bar. Reasons for this included a perception that they do not meet the skills and requirements, the pressure of the role, and the financial burden. This includes the financial investment required to establish and maintain chambers, which was more of a concern for female legal professionals who wanted to take maternity leave or work part-time due to family responsibilities (see Section 4.1 for Flexible education and programme provision and Financial initiatives within the legal professions).

Age was also identified as a barrier to entry into the Australian legal professions for older women (Law Council of Australia, 2014a). This was due to reports of employer misconceptions about older individuals' unwillingness to work longer hours compared to their younger counterparts.

Barriers to progression and retention in the legal professions

Within this section, evidence regarding barriers to progression and retention in the legal professions is organised around the following sub-sections: conscious and unconscious bias; barriers faced by female legal professionals; barriers faced by legal professionals with a disability; and barriers faced by lesbian, gay, bi and transgender (LGBT+)⁹ legal professionals.

⁹ In this report, the initialism LGBT+ is used in line with the following definition, which has been used in other NatCen reports: "a collective term to represent lesbian, gay, bi and trans people, as well those who identify in other ways, such as such as asexual, intersex, pansexual, queer and questioning." See: <https://www.natcen.ac.uk/media/2120188/The-experiences-of-UK-LGBTplus-communities-during-the-COVID-19-pandemic.pdf>

Conscious bias and unconscious bias¹⁰

While the barrier of conscious and unconscious bias can affect any person or group, the evidence within the literature identified bias as a prominent barrier to the progression and retention of women in the legal professions (Law Society of England and Wales, 2019). Likewise, bias can be an issue that particularly impacts black women legal professionals (e.g. Centre for Applied Legal Studies, 2014). Masengu (2016a) suggests that corporate clients in South Africa (who are predominantly white) are less likely to have trust and confidence in women and black lawyers, due to historical conflict and apartheid. The unequal distribution of work based on clients' preference for white middle class male lawyers results in a smaller workload and often less responsibility for women and black lawyers in the legal profession (Masengu, 2016a; see Section 4.1 for initiatives aimed at reducing barriers related to The intersection of gender and ethnicity and Section 4.2 for Equitable briefing policies, Unconscious bias training, and Upskilling for progression initiatives).

Research from other jurisdictions has found women and ethnic minority legal professionals are more likely to be 'pigeonholed' into areas of law that are viewed as less important and prestigious (e.g. family law, immigration law; Bartlett & Douglas, 2018; Lambert & Ellison, 2011; Law Society of Scotland, 2013; Leith and Morison, 2013; Masengu, 2020a).

Roundtables with women in the legal profession run by the Law Society of Scotland (2020a) found that unconscious bias is a key barrier to progression for women (e.g. unconscious bias about women's role in parenting and caring responsibilities) and the main barrier for ethnic minority solicitors' progression to senior positions. Similar evidence was also reported by the New Zealand Law Society (2017; see Section 3.2 for information on The caring role effect in the judiciary).

Barriers faced by female legal professionals

Evidence across jurisdictions indicates that there is a disparity in the number of women entering the legal professions and those progressing to senior roles (see for example, evidence from Australia: Law Council of Australia, 2018). The evidence suggests that

¹⁰ Bias refers to prejudice where a person or group may be treated more fairly or less fairly than another person or group. When bias is conscious this prejudice is explicit and carried out with intent; where bias is unconscious it is outside of a person's awareness. See: <https://diversity.ucsf.edu/resources/unconscious-bias>.

numerous barriers experienced by women have contributed to this disparity. These barriers include a lack of mentorship and support, limited opportunities for informal networking, experiences of sexual harassment, bullying and discrimination, unequal pay, and inflexible working and family circumstances.

Mentoring and role models

Mentoring was identified as an important factor in supporting progression and retention of individuals within the legal professions (Centre for Applied Legal Studies, 2014; Law Council of Australia, 2014a; see Section 3.2 for barriers related to Mentorship and networking in the judiciary). However, the evidence indicates that across a number of jurisdictions (e.g. Australia, South Africa), there is limited access to mentoring opportunities for female legal professionals compared with their male counterparts (e.g. Masengu, 2020a). The NARS report (Law Council of Australia, 2014a) identified limited mentoring opportunities as a primary source of dissatisfaction in the workplace for female legal professionals in Australia. Research has also found that a lack of access to mentoring opportunities for female legal professionals is associated with negative experiences of career advancement and promotion opportunities compared with their male peers – for example, women are less likely to be appointed to senior roles than men if they are not receiving mentorship (Law Council of Australia, 2014a; Masengu, 2020a; Morison, 2015; Wilson Smith, 2015a). Similarly, it was found in the National Attrition and Re-engagement Study (Law Council of Australia, 2014a) that a lack of senior female role models who had achieved a healthy work-life balance in the Australian legal professions deterred junior women from pursuing a leadership role.

Ability to pursue informal networks

Female legal professionals face barriers to pursuing and benefiting from informal networking opportunities in the same manner as men (e.g. Leith & Morison, 2013). Networking opportunities are typically male-oriented (e.g. certain sport or activities that have traditionally excluded women, such as golf), which may feel exclusionary to women, and/or take place outside of typical working hours, which tends to disadvantage women who are more likely than men to be primary caregivers (Law Society of Scotland, 2013; Law Society of Scotland, 2018a). To this point, the Law Society of Scotland's Profile of the Profession research (Law Society of Scotland, 2018a) found that being unable to

participate in out-of-hours networking and business development activities is a substantial barrier to securing partnership or senior positions in the legal professions. Further research in Scotland found that due to the frequent scheduling of evening networking events, the context in which networking occurred often poses a barrier for involvement of women with caring responsibilities (Wilson Smith, 2015b).

The Law Society of Scotland's practical guide to equality and diversity for Scottish solicitors (Law Society of Scotland, 2013) suggests that the context of some networking activities, while often aimed at integrating new colleagues, may disadvantage some individuals. For example, some types of informal networking may not foster inclusive, welcoming environments for legal professionals from ethnic minority backgrounds, those with a disability, those who do not drink (i.e. for religious, health, or other personal reasons), and those who identify as LGBT+ (see also Centre for Applied Legal Studies, 2014; Lambert & Ellison, 2011; see Section 3.2 for barriers related to Mentorship and networking in the judiciary).

Experiences of sexual harassment, bullying, and discrimination

While sexual harassment, bullying, and discrimination can impact any person or group, the concentration of the evidence base was on the sexual harassment, bullying and discrimination of women legal professionals.

Participants in a qualitative study from South Africa reported that the sexual harassment of women is prevalent in the legal professions (Centre for Applied Legal Research, 2014). Evidence from Australia also provided examples of discrimination experienced by female barristers, which included clients showing a preference for working with those barristers displaying 'masculine attributes', due to a perception that they would be more likely to win cases (Ragusa & Groves, 2012).

Some national surveys have provided an indication of the prevalence of sexual harassment, bullying, and discrimination in the legal professions. The National Attrition and Re-engagement Study (NARS) of 3,960 people¹¹ undertaken in 2013 (Law Council of

¹¹ Three online surveys were conducted via this study: an online survey with 3,801 practising lawyers; an online survey with 84 lawyers who have left the profession; and, an online survey with 75 individuals who have a law qualification but have never practised law. There is no detail in the paper on response rates to

Australia, 2014a, Law Council of Australia, n.d.) found that sexual harassment had been experienced by one in four women in the Australian legal workplace and was one of the primary reasons for women leaving the profession. Similarly, a national online survey of 3516¹² New Zealand lawyers conducted in 2018 found that based on the (New Zealand) Human Rights Commission definition of sexual harassment,¹³ 18% of respondents had experienced sexual harassment at work during their career to date (when broken down by gender, this was 31% of women and 5% of men; Colmar Brunton, 2018).^{14, 15} The results also showed that 21% of respondents had experienced work-place bullying in the last six months, with higher prevalence rates reported among Maori, Pacific, and Asian lawyers.

The survey results reported by Colmar Brunton (2018) showed that experiencing workplace bullying and/or harassment can have a detrimental impact on psychological wellbeing. In addition, the survey found that the experience of bullying or sexual harassment can have a negative impact on career prospects. Other research has also noted that sexual harassment and bullying often lead to female legal professionals leaving, or thinking of leaving, the profession (Pender, 2019)

A report by a Working Group appointed by the New Zealand Law Society to explore the issues of sexual harassment, bullying, and discrimination, and approaches to addressing complaints, found that the lack of a clear, sufficient, and closely regulated complaints procedure is a key barrier to tackling this behaviour (New Zealand Law Society, 2018a). However, the findings from the survey of New Zealand legal professionals by Colmar Brunton (2018) indicate that any efforts to improve the complaints process/es must also address people's fear that reporting will result in negative consequences for the person making the complaint (see Section 3.2 for barriers related to Sexual harassment in the

the survey, as the Law Council promoted and distributed the surveys using an overarching communications strategy.

¹² An email was sent to 13,662 lawyers inviting them to complete the survey; 3561 responses represents a response rate of 26%.

¹³ The definition cited in the report is: "Sexual harassment is any unwelcome or offensive sexual behaviour that is repeated, or is serious enough to have a harmful effect, or which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment. Sexual harassment can involve spoken or written material, images, digital material or a physical act." (Human Rights Commission website, 2018; cited by Colmar Brunton, 2018).

¹⁴ Colmar Brunton is now Kantar and Kantar Public.

¹⁵ The survey was carried out by Colmar Brunton but was commissioned by the New Zealand Law Society.

judiciary and Section 4.2 for information on Initiatives to tackle sexual harassment, bullying, and discrimination).

Research by Szoke (2021) cites the 2020 Respect@Work report by the Australian Human Rights Commission,¹⁶ which found that the involvement of alcohol in workplace networking and socialising is seen to be associated with incidences of sexual harassment, sexual assault, and inappropriate behaviour experienced by women legal professionals in these environments (see Section 3.1 for information on Ability to pursue informal networks).

Flexible working / family circumstances

Evidence across jurisdictions indicates that flexible and/or part-time working patterns are typically viewed negatively by managers in employment contexts, career-influencing senior lawyers for those who are self-employed (who would typically select junior lawyers to work on cases), and employees, which can create an obstacle to women's progression in the legal professions (Bagust, 2012; Canadian Centre for Diversity and Inclusion, 2018; Crandall & Lawlor, 2017; Law Council of Australia, 2014a; Law Council of Australia, 2014b; Law Society of Scotland, 2013; Law Society of Scotland, 2020a; Law Society of Scotland, 2020b; New Zealand Law Society, n.d.; Wilson Smith, 2015b).

Evidence from Australia indicates that flexible work policies are applied selectively by employers and supervising partners, with implementation tending to depend on their views of the legitimacy of the request (Campbell et al, 2011). Where utilised by female legal professionals, flexible working patterns can be perceived to be damaging to their career advancement (Law Council of Australia, 2014b; Thornton, 2014). A similar result was found in research conducted by the New Zealand Law Society (n.d.), where flexible / part-time working arrangements were found to have a negative impact on the progression and earnings of women legal professionals. The New Zealand Law Society (n.d.) has also suggested that employee reluctance to request flexible working arrangements may be the direct result of a perception that those who work part-time or flexible hours are less committed to their jobs (see Section 3.2 for information on Workload and lack of flexible

¹⁶ For more information, see:
https://humanrights.gov.au/sites/default/files/document/publication/ahrc_wsh_report_2020.pdf

and part-time working and Section 4.1 for Flexible education and programme provision and flexible working initiatives).

The caring role effect and maternity leave

The caring role effect refers to the assumption that women will have more parental responsibilities than men, which can hinder the opportunities for women to gain experience relevant to career progression (Morison, 2015; see Section 3.2 on The caring role effect within the context of judicial diversity). For example, in South Africa, men are often considered more suitable for legal practice as they are seen as less likely to have caring responsibilities or having to choose between their career and raising a family (Masengu, 2016a). This can lead to women hiding their pregnancies at work and women being less likely to receive important or complex work.

A lack of maternity benefits was identified as a barrier for women in the legal professions (particularly for those working at the Bar). For example, most Bars in South Africa do not offer maternity leave benefits, meaning that overhead costs for chambers are still required when taking maternity leave (Masengu, 2020a). There are also additional financial implications of taking maternity leave, such as the potential risk of losing clients and briefing opportunities (Phooko & Radebe, 2016; see Section 4.2 for information on Maternity, paternity, and adoption leave initiatives).

Barriers for disabled legal professionals

There was little evidence on diversity-related barriers for disabled legal professionals. However, research in Scotland addressed some of the potential barriers faced by disabled lawyers. The Profile of the Profession survey of 2,746 legal professionals by the Law Society of Scotland (2018a) found that 37% of respondents with a disability were either reluctant to request reasonable adjustments¹⁷ due to fear of a negative employer response, or did not feel that their reasonable adjustments had been adequately accommodated.

¹⁷ The Equality Act imposes a duty to make “reasonable adjustments” for disabled persons. Reasonable adjustments are changes needed to prevent a disabled employee or candidate from being at a disadvantage. Adjustments can be necessary at every stage, from job design, interview and assessment, through to making an offer and decisions over the retention of existing employees (Law Society of Scotland, 2013).

A practical guide to equality and diversity for Scottish solicitors by the Law Society of Scotland (2013) outlines various barriers that legal professionals with a disability may face. These include concern about the time and cost implications of reasonable adjustments for employers, mobility and communication accessibility issues, reluctance to disclose information about 'hidden disabilities', and the need for additional support due to fear of stigma and impact on career prospects. Additionally, solicitors who take frequent career breaks, which may be necessary for those who have long-term health conditions, are more likely to experience discrimination (Law Society of Scotland, 2013).

Barriers for LGBT+ legal professionals in Scotland

Although there was limited information on barriers faced by LGBT+ legal professionals in the evidence base, the Profile of the Profession survey by the Law Society of Scotland (2018a) found that alongside female lawyers, ethnic minority lawyers, and lawyers aged 36-55, LGBT+ lawyers had experienced higher rates of discrimination and sexual harassment in the five years prior to the survey than other respondent groups. The practical guide to equality and diversity for Scottish solicitors (2013) cites research by Chittenden (2006), which identified fear of discrimination and an unwillingness to 'come out' in the workplace as particular barriers for lesbian, gay and bi (LGB) solicitors. It was noted that these factors could cause stress and influence career decisions. Secondary analysis of the 2006 Profile of the Profession survey data (Law Society of Scotland, 2011) also found that LGB lawyers were two-to-three times more likely to experience workplace bullying or harassment than heterosexual colleagues. Wilson Smith (2015c) conducted a qualitative case study with a transgender legal professional who reported that they had experienced expectations around gender presentation, fear of making a complaint due to possible career repercussions, and difficulty in progressing past interview stage at trainee level (see Section 4.2 for initiatives for LGBT+ legal professionals in Scotland).

3.2 Barriers to diversity within the judiciary

This section synthesises evidence regarding barriers to judicial diversity across jurisdictions. The section focuses on barriers related to the selection and appointments processes, barriers related to eligibility requirements and expected experience of judicial candidates, and barriers specifically related to gender.

Barriers related to the selection and appointments process

The literature reviewed identified multiple barriers to judicial diversity related to the selection and appointments process, including a lack of transparency and concerns around nepotism, favouritism, and corruption.

Lack of transparency

A lack of transparency in the selection and appointments process was identified as a barrier to a diverse judiciary. In particular, evidence from Israel (Levy Ariel, 2018) and Australia (Bartlett & Douglas, 2018; Lynch et al., 2019) has criticised the lack of transparency around judicial selection and appointment. Handsley and Lynch (2015) observe that the process in Australian jurisdictions is informal, without consistent processes or clear criteria beyond the minimum number of years' experience. Masengu (2015) notes that in South Africa, although criteria for judicial appointments are published, this is not the case for leadership positions within the judiciary (see Section 5.1 for initiatives aimed at Improving transparency).

Concerns about, nepotism, favouritism, and corruption

A lack of transparency in the appointments process may lead to concerns around nepotism. For example, Chandra et al. (2019) suggests the lack of transparency in the Indian Supreme Court appointments process has led to nepotism and corruption; while the secrecy around the appointments process and the Judges' Selection Committee in Israel has led to claims of nepotism from lawyers and the public (Levy Ariel, 2018). Galligan et al. (2017) report that in Canada and other common law countries, professional visibility and access to networks play an important role in becoming a member of the judiciary.

Concerns around nepotism and favouritism in judicial appointments may deter potential candidates from applying for a judicial role (Levy Ariel, 2018). Lynch et al. (2019) conducted a survey of 142 Australian judges working in either federal, state, or territory jurisdictions and found that respondents had concerns around favouritism, including political favours, in the appointments process, suggesting that those who advise on or make appointments tend to appoint candidates similar to themselves. As the make-up of the Australian judiciary is mainly white, middle-class men who were previously barristers

(Lynch et al., 2019), this tendency towards homophily arguably disadvantages those from other backgrounds.¹⁸

Barriers related to requirements and experience

A number of barriers related to the requirements for, and experience expected of, judicial candidates were identified as part of the review. These included elitism and issues around merit and bilingual language requirements.

Educational elitism

A tendency towards educational elitism within the legal professions was identified as a barrier to judicial diversity in some jurisdictions. Bartlett and Douglas (2018) found that Australian judges had often attended prestigious Australian universities for undergraduate studies and universities such as Oxford and Cambridge in the United Kingdom, or Harvard in the United States, for postgraduate degrees.

Legal profession elitism

Across jurisdictions with separated legal professions,¹⁹ there is evidence of a preference for lawyers who are barristers (or equivalent) for judicial appointments. Bartlett and Douglas (2018) report that, while only around 8% of legal professionals in Australia are barristers, nearly all senior judges have previously worked as barristers. While solicitors are increasingly being appointed as judges, there remain very few solicitors in senior judicial roles. Similarly, Dawuni and Kang (2015) observe that in Ghana, Nigeria and Sierra Leone, judges are often appointed from barristers, of which a higher proportion are men than women, compared to solicitors. Masengu (2020a) notes that in South Africa, advocates²⁰ are seen to be more competent and with more relevant experience for judicial roles than attorneys, academics, or magistrates. It follows that advocates are the preferred pool of candidates for judicial appointments in South Africa.

¹⁸ The tendency for people to associate and interact with people who share similar characteristics to themselves such as age, gender, education level, socio-economic background, which can result in homogenous social networks (McPherson, Smith-Lovin, & Cook, 2001).

¹⁹ The separated legal professions refer to systems where the roles of solicitor and barrister (or the equivalents) are separate, with legal professionals practising as one or the other. This system contrasts to countries with a fused legal profession which does not distinguish between solicitors and barristers.

²⁰ In South Africa, there are separate legal professions: advocates and attorneys. Advocates are the equivalent of barristers and attorneys are the equivalent of solicitors in England and Wales.

The issue of merit

Across many jurisdictions, judicial appointments focus on the notion of 'merit' as the key basis for the selection of new judges; for example, in the Republic of Ireland, merit is the basis on which recommendations for appointment must be made – however, 'merit' is not defined (Irish Human Rights and Equality Commission, 2021). Although a robust and explicit definition of merit and how it should be assessed is lacking, merit is often assumed to be an objective measure used by decision-makers (Morrison, 2017). The absence of a clear definition of merit in judicial appointments was identified within the evidence base as a barrier to diverse judicial appointments. Leith and Morison (2013) note that in Northern Ireland the idea of merit is based on vague qualities mainly possessed by barristers, such as experience of advocacy in court, with judges reinforcing this view throughout the appointments process. To this point, Paterson and Paterson (2012) suggest the concept of individual merit is inherently flawed and exclusionary as it is subjective and depends on what qualities the selecting judges value most at the time of selection. In focus groups with male and female solicitors and barristers, female lawyers reported that they believed they were less likely to have the chance to gain the required experience or be seen to possess 'merit' as defined by the selecting judges, which deterred them from applying for judicial office (Leith & Morison, 2013).

The concept of diversity is seen to be in tension with the emphasis on merit in judicial appointments as there are concerns, held by some, that diversity will come at the expense of merit (Bartlett & Douglas, 2018). A view that diversity is replacing merit, leading to tokenistic appointments, may also discourage prospective applicants from marginalised backgrounds (Morison, 2015). However, Masengu (2020a) argues that "having a bench that has racial and gender diversity is not the antithesis to merit" (p. 353) and that merit and diversity can be considered together (see Section 4.2 for the Creation of groups and networks and Section 5.3 for more information on Policies to encourage consideration of diversity during the judicial selection and appointments process).

Bilingual language requirements

In some jurisdictions there is a bilingual language requirement for judicial appointments, which at first may appear to be a measure that enhances linguistic diversity. In Canada, following the election of the Trudeau government in 2016, the selection and appointments

process for Supreme Court Justices was reformed; as part of the reform, a requirement that all candidates be functionally bilingual was included (Beg & Sossin, 2017; Nasager, 2020).²¹ However, some authors have argued that bilingual requirements may actually present a barrier to diversity.

In Canada, the requirement that the Advisory Board should only consider functionally bilingual candidates for appointment to Supreme Court Justice has been criticised. It has been argued that the requirement jeopardises the diversity of the applicant pool, which will limit the diversity of the Supreme Court (Nasager, 2020). Specifically, a number of challenges as a result of this requirement have been raised. The two languages that the appointed judge should be able to speak have been questioned (Cairns Way, 2017). It has been argued that the need for judges to be functionally bilingual privileges those who speak English and French over French or English and one of Canada's indigenous languages (Beg & Sossin, 2017; Cairns Way, 2017; Nasager, 2020). In order to promote diversity and inclusion, it has been suggested that a requirement for functional bilingualism should include fluency in an indigenous language (Nasager, 2020). Cairns Way (2017) has also noted that the opportunity to learn a second language is not equal for all. As such, the requirement advantages those who have had this opportunity, including those who are born into French-speaking or bilingual families and those who are English-speaking but are enrolled in French immersion, and disadvantages indigenous candidates (Nasager, 2020).

Attitudes towards diversity

The evidence indicates that in some jurisdictions there is a lack of recognition that diversity is an issue for the judiciary. For example, in Australia, some authors report that there is a lack of political appetite for judicial diversity reform (Lynch et al., 2019). While in the Republic of Ireland, some judges have expressed the view that diversity is not relevant to

²¹ This requirement is solely for the federal Supreme Court. Bilingualism is not mandatory for appointment to provincial or territorial superior courts or courts of appeal. However, judicial candidates in these courts must answer four language-related questions in their application. The responses to these are compiled by the federal government and then an overview of candidates' language proficiency, based on self-identification, is published. See:

https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201733E

a judge's ability to apply the law; rather, it is argued that all judges should apply the law irrespective of diversity characteristics (Cahillane, 2016).

A data gap

Across jurisdictions there is a diversity data gap; namely, there is a lack of data collection, or where data is collected, it is of poor quality or collected inconsistently. The diversity data gap means that there is an absence of knowledge and understanding of judicial diversity and barriers to diversity in these jurisdictions. Examples of jurisdictions where diversity data gaps have existed, or continue to exist, include Israel, Australia, and Canada, all of which have been noted to lack consistent publicly available data about the diversity of their benches (Bartlett & Douglas, 2018; Levin & Alkoby, 2017; Levy Ariel, 2018).²² In India it has been reported that no regularly collated or historical data on judicial appointments is available for lower courts (Chandrashekaran et al., 2020).

The Organisation for Economic Co-operation and Development (OECD; 2019) reports that across jurisdictions, there is limited evaluation and monitoring of gender equality policies, limited access to gender-disaggregated data, and little analysis of judicial gender gaps. For example, in India, there is a lack of data on the proportion of women judges in different levels of court. While this can be calculated from public data for higher courts, similar data is not available for the lower judiciary (Ghosh et al., 2018).

Limited diversity data means that the true level of diversity in any given jurisdiction will be unknown. Without consistently collected good quality data, understanding and improving judicial diversity will continue to be a challenge (see Section 5.5 for information on the Collection of diversity data in judicial diversity initiatives).

Mentorship and networking

Limited mentorship and networking opportunities for those from diverse and/or under-represented backgrounds can be a barrier to judicial diversity. Across jurisdictions, networking and 'professional visibility' are important for career progression and judicial appointment (Galligan et al., 2017; Leith & Morison, 2013). However, professional networks and networking activities are often male-centric, with a lack of supportive or well-

²² However, see Section 5.5. for information on the moves made in Canada towards addressing the Collection of diversity data gap.

established networks for women and those from diverse backgrounds (Galligan et al., 2017; Leith & Morison, 2013; see Section 3.1 for information on Mentoring and role models and Ability to pursue informal networks in the legal professions).

In a survey of all women district court judges in New Zealand, Doogue (2018) found that nearly half of respondents had no opportunity to receive strategic support for career progression. Only 13% reported receiving strategic support, most of whom indicated this was just encouragement or was from outside work. The limited number of women available to provide mentorship is exacerbated by women often having more family responsibilities than men, and mentoring and networking often occurring outside work hours (OECD, 2014).

The lack of women, particularly ethnic minority women, in senior positions within the judiciary limits opportunities for more junior colleagues to be mentored by someone they relate to, as evidence shows many individuals are more comfortable receiving support from those with similar backgrounds and experience (OECD, 2014).

Sexual harassment

Sexual harassment was identified as a barrier to diversity within the legal professions (see Section 3.1 for information on Experiences of sexual harassment, bullying, and discrimination within the legal professions and Section 4.2 for Initiatives to tackle sexual harassment, bullying, and discrimination); however, evidence identified as part of the review also indicates that sexual harassment is a barrier within the judiciary. The 'Gender Audit' of the Kenyan Judiciary (National Gender and Equality Commission and the International Association of Women Judges – Kenya Chapter, 2019) found that sexual harassment is prevalent and is experienced by both men and women. Evidence from a survey of 385 judiciary employees found that 17.2% (5.2% male and 12.0% female) of respondents reported having experienced sexual harassment as an employee of the judiciary. However, as with the evidence from the legal professions, a culture that ignores the behaviour, and a lack of a sufficient formal complaints process, deters reporting and appears to facilitate the continuation of this behaviour (National Gender and Equality Commission and the International Association of Women Judges – Kenya Chapter, 2019).

Barriers related to gender

Much of the evidence base focused on barriers for women in becoming members of the judiciary, with less focus on other diverse or under-represented groups. For example, in South Africa, disability is not mentioned in policies or criteria for selecting judicial candidates, and there is a lack of implementation of policies to eliminate barriers for disabled people (Nsimbini & Matotoka, 2020). Cahillane (2016) similarly notes that in the Republic of Ireland there is a lack of evidence that diversity characteristics other than gender have been considered. Notwithstanding these gaps in the evidence base, gender-specific barriers identified as part of the review include gender stereotypes and bias, the caring role effect, patriarchal social structures, and limited opportunities for flexible and part-time working.

Gender stereotypes and bias

One barrier for women is the persistence of stereotypes and un/conscious bias, such as the view that men are more competent and better leaders than women (Galligan et al., 2017). Bias in legal practice, such as female judges being assigned fewer significant, influential, and political cases (Chouhan, 2019), or fewer complex cases (Masengu, 2016b), can mean that women struggle to gain the experience needed for promotion to more senior and supreme court roles. In New Zealand, a survey of all female district judges by Doogue (2018) found that more than half reported facing obstacles in reaching a position to be considered for judicial appointment, with almost 40% of these indicating they had experienced discrimination.

Dawuni and Kang (2015) argue that as part of the appointments process in Ghana, Nigeria, and Sierra Leone, questions faced by female judicial candidates often minimise their professional experience, making their consideration for judicial appointment feel tokenistic. Similarly, several lawyers and judges have reported there is sometimes open bias in the Indian judicial appointment process, including women being held to higher standards than men when applying for promotion (Ghosh et al., 2018). Differential treatment is also noted by Masengu (2015) as an issue in South Africa: while male judicial candidates who have support for their nomination from colleagues are regarded positively, female candidates with similar support are viewed as divisive.

The caring role effect

The ‘caring role effect’ refers to the tendency for women judges to work in courts that process cases considered to be in line with their (presumed) caring nature, such as family and juvenile courts (Knaul, 2011; Levy Ariel, 2018), which may present a barrier for progression to more senior judicial positions (Morison, 2015). For example, in Israel, 63% of all judges in Family Courts and 71% in Juvenile Courts are women (Levy Ariel, 2018); while in India, women judges are often assigned to less challenging responsibilities and roles in the Family Court (Virtue Foundation, 2011; see Section 3.1 for information on Conscious bias and unconscious bias and The caring role effect and maternity leave in the legal profession).

Patriarchal social structures

The judiciary is often viewed as a male institution (OECD, 2019; Knaul, 2011; Virtue Foundation, 2011) and patriarchal social structures in some countries can make it difficult for women to break down gender barriers. Holden (2018) reports that some lawyers and members of the judiciary worry the inclusion of women will result in the judiciary becoming ‘too soft’ (p. 96) and inefficient. Murungi (2018) reports that in Kenya, patriarchal social attitudes can lead to qualified women thinking they do not belong on the supreme court. Similarly, in Northern Ireland, patriarchal attitudes and the ‘boys’ club’ culture of the judiciary can deter women from pursuing a judicial position (Leith & Morison, 2013).

Workload and lack of flexible and part-time working

The judicial workload and lack of flexible working hours can lead to difficulties reconciling work and non-work responsibilities. The lack of part-time options for judicial work was noted across jurisdictions (Lynch et al., 2019; Morison & Dickson, 2019; Virtue Foundation, 2011). Reasons for offering only full-time roles include ensuring the ‘effective administration of justice’ (Lynch et al., 2019, p. 24) and working full-time being equated to ‘full commitment to the role’ (Leith & Morison, 2013, p. 4).

Challenges around the lack of flexible and part-time working particularly impact working mothers,²³ with the evidence base providing examples of how working mothers can be

²³ However, these challenges also apply to any individual with caring responsibilities of any kind; likewise, these challenges apply to any individual who may not be able to work full-time or standard office hours for any reason.

disadvantaged in the judicial appointments process. There are also limited opportunities for judicial roles that do not require frequent travel (Masengu, 2020a; OECD, 2019), which poses a challenge for women balancing work and family. These challenges can be exacerbated for women where childcare facilities are not provided, and where the gap between maternity and paternity leave results in women taking on the majority of parental responsibilities (OECD, 2019; see Section 3.1 for information on Flexible working / family circumstances).

A diversity stalemate

Although there is increasing representation of women in legal professions across a number of jurisdictions, there is a general lack of a trickle up effect to the judiciary (e.g. Ghosh et al., 2018, Knaul, 2011; Levy Ariel, 2018). Moreover, lack of (gender) diversity in lower courts can lead to a lack of diversity in more senior courts. For example, while women comprised 52% of judges in Israel in 2015, this proportion decreased at the higher courts, with women comprising only 29% of Supreme Court judges (Levy Ariel, 2018). Cahillane (2016) reports that in the Republic of Ireland potential candidates for more senior judicial appointments are mainly male (Cahillane, 2016). The lack of a trickle up effect in the judiciary, in relation to gender, has been attributed to the structural barriers and caring responsibilities women face (Crandall & Lawlor, 2017).

4. Initiatives to improve diversity within the legal professions

Chapter summary

- Within the evidence base, initiatives to encourage diversity on **entry to the legal professions** and initiatives to encourage **progression and retention** of under-represented groups in the legal professions were identified.
- Options for **flexible education** and training, initiatives that **promote social mobility**, and options for **financial support**, are a key focus of initiatives to **encourage diversity on entry to the legal professions**.
- Initiatives to encourage **progression and retention** of diverse groups in the legal professions include **maternity, paternity and adoption leave initiatives** (i.e. **guidance documents**), and **flexible working initiatives**.
- **A number of target-based initiatives** were identified in the evidence base. These centred on **equitable briefing policies** and more **general equality and diversity policies, Charters, strategies, and action plans**.
- **Policies** designed to tackle **sexual harassment, bullying, and discrimination** have been rolled out across different jurisdictions.
- Professional **groups and/or networks** were prevalent within the evidence base – particularly those **promoting gender diversity and equality**. However, evidence relating to groups aimed at **improving ethnic diversity** within the legal professions was also identified.
- **As part of training to improve equality and diversity** unconscious bias training has been rolled out across various jurisdictions.
- There was very **limited evidence** on **initiatives to reduce barriers for LGBT+ legal professionals**.

This chapter outlines the evidence base regarding initiatives introduced across common law jurisdictions to improve diversity in the legal professions. Within the chapter, the evidence is organised around initiatives to overcome diversity-related barriers to entry to the legal professions, and progression and retention within the professions. Review of the evidence indicates that initiatives to encourage entry to the legal professions centre on educational programmes and financial incentives that encourage people from

disadvantaged backgrounds to pursue a legal career. The evidence around initiatives to encourage progression and retention within the legal professions includes a wider range of examples, such as flexible working, target-based initiatives (i.e. setting and meeting diversity targets), and the implementation of groups and networks to support under-represented and marginalised groups.

Before reviewing the synthesis of the evidence, a number of caveats should be borne in mind. First, the literature reviewed contained little evidence of initiatives focused on entry to the legal professions. Rather, the majority of the initiatives identified as part of the review centre on encouraging progression and retention of diverse groups or refer to promoting diversity in the legal professions more broadly. Second, the review yielded a lack of evidence of the effectiveness of initiatives focused on improving diversity within the legal professions.

4.1 Initiatives to encourage diversity on entry to the legal professions

This section brings together the evidence around initiatives aimed at promoting diversity and/or reducing diversity-related barriers impacting entry to the legal professions; these centre on flexible education and programme provision and initiatives that promote social mobility.

Flexible education and programme provision

A number of education initiatives and programmes have been introduced across jurisdictions to target a range of diversity-related barriers impacting entry to the legal professions. For example, various initiatives in the Republic of Ireland aim to promote a flexible approach to obtaining legal qualifications to help overcome barriers associated with socio-economic status (e.g. limited educational opportunities) and gender (e.g. being a primary caregiver; see Section 3.1 for information on barriers related to Social class, economic poverty and Gender). One initiative implemented by the Law Society of Ireland (2020) aims to tackle barriers and increase access to the legal profession for those from a range of different educational and socio-economic backgrounds. This includes allowing

trainee solicitors to take their Final Examination First Part²⁴ at an earlier stage to enable more time for passing the other core subject exams and providing a flexible approach to becoming a solicitor. In addition, to encourage more equal opportunities in the solicitor profession, a Professional Practice Course Hybrid (PPC Hybrid)²⁵ was introduced in early 2020, which takes a blended approach (i.e. providing both online and face-to-face tuition and training) to trainee solicitors gaining their qualification and does not require trainees to be on-site full-time (Law Society of Ireland, 2020). This has been noted to be particularly beneficial for women legal professionals with caring responsibilities (see Section 3.1 for information on barriers related to Flexible working / family circumstances).

Socio-economic background and social mobility

Access to a legal education

The Law Society of Ireland (2018) has established several outreach initiatives to encourage diversity among students pursuing a solicitor qualification, with particular focus on attracting students from socially disadvantaged backgrounds. For example:

- A week-long programme called '**Solicitors of the Future**'²⁶ is offered to Transition Year (TY) students. The focus of sessions centres on the role of solicitors in practice. Students from Delivering Equality of Opportunity in Schools (DEIS)²⁷ schools in the Republic of Ireland, typically considered to be from socio-economically disadvantaged backgrounds and at risk of educational failure, have reserved spaces on the programme.
- Over a period of two months, **trainee solicitors run weekly teaching sessions within DEIS schools for TY students**, with the aim of developing skills of trainee

²⁴ The entrance exam to the Law Society of Ireland for trainee solicitors. For more information, see: <https://www.lawsociety.ie/globalassets/documents/education/hbs/fe-1-student-resource-pack.pdf>

²⁵ See: <https://www.lawsociety.ie/Trainees/PPC-Courses/ppc-hybrid>

²⁶ See: <https://www.lawsociety.ie/Public/Public-Legal-Education/Solicitors-of-the-Future>

²⁷ The Delivering Equality of Opportunity in Schools (DEIS) programme "aims to address issues of educational disadvantage in a multifaceted and targeted manner, through the provision of extra supports provided to schools serving the highest concentrations of students from disadvantaged backgrounds." For more information, see: https://www.erc.ie/wp-content/uploads/2021/06/FINAL_Web_version_ERC-PISA-DEIS-Report-II_May-2021.pdf

solicitors and educating students about the practicalities of law and the legal system.

- **Workshops** are run for fifth- and sixth-year **secondary school pupils** in collaboration with the **Trinity Access Pathways to Law Initiative**.

These initiatives have successfully achieved their aim of attracting students from socially disadvantaged backgrounds into professions in law (Law Society of Ireland, 2018). However, there is a lack of evaluation of the effectiveness of these initiatives in achieving their intended outcomes.

In 2014, the Law Society of Scotland (2020c) adopted the Street Law programme,²⁸ which aims to engage students in interactive sessions about law and the legal system.²⁹ The programme was introduced in response to findings from the Fair Access to the Legal Profession research (Law Society of Scotland, 2013), which identified that those from lower socio-economic backgrounds have fewer opportunities to pursue a career as a solicitor. The programme is tailored to each school's needs, with an online survey sent to teachers and pupils involved in the Street Law programme to map the core needs and areas of the law that individuals are interested in. Dependent on the school's needs, the programme typically runs across eight lessons, and addresses the basic structures of the legal system, fundamental rights, and the function and operation of trials (Law Society of Scotland, n.d.-a). Street Law Teachers (typically solicitors or trainee solicitors) take part in a voluntary capacity (Law Society of Scotland, 2020c; Law Society of Scotland, n.d.-a). As of 2021, 77 schools (2670 pupils) have taken part in the programme. In addition, Street Law was shortlisted in the UK Social Mobility Awards in 2017 for the category of Innovation Award, and the programme has received positive feedback from those involved.

In Scotland, the Law Society of Scotland has launched a series of social mobility initiatives. For example, the Lawscot Foundation was set up by the Society in 2016 (Lawscot Foundation, n.d.-a) as a strand of their earlier work on 'fair access to the legal profession' (Law Society of Scotland, 2013; Law Society of Scotland, 2014). The

²⁸ See: <https://www.lawscot.org.uk/qualifying-and-education/our-work-with-schools/street-law/>

²⁹ Law Society of Ireland (2018) also report that they introduced the Street Law programme in 2013.

Foundation aims to reduce social mobility-related barriers for academically talented students from socially disadvantaged backgrounds and support them through legal education. Key aspects of the initiative involve offering mentoring relationships, work shadowing opportunities, and an annual £2,500 bursary (Law Society of Scotland, n.d.-a). Since its inception in 2016, the Foundation has supported 29 law students in Scotland, has provided £200,000 worth of bursaries to law students, and is currently sponsored by 12 organisations / firms (Lawscot Foundation, n.d.-b).

Other jurisdictions have also focused on tackling barriers related to social mobility. For example, the Increasing Diversity by Increasing Access (IDIA) Charitable Trust was founded in India in 2010 (Basheer et al., 2014). Based in law colleges, it aims to empower those who may be disadvantaged due to socio-economic factors (IDIA Charitable Trust, 2021). The trust works to do this via the following stages:

- ‘Sensitisation’ sessions (e.g. spreading awareness about a law career among disadvantaged students)
- Selection and educational training of IDIA trainees to prepare them for exams
- Training, mentoring, and additional support for the IDIA Scholars (i.e. those students who pass the exams)

Positive feedback about the initiative has been received, and successful case studies are presented in the IDIA Impact Report 2020-2021 (IDIA Charitable Trust, 2021). Despite this, and the diverse group of 2020 Scholars, IDIA acknowledge that there are still significant barriers to inclusion, which are yet to be addressed.

Recruitment to the legal profession

The Law Society of Scotland (n.d.-b) have implemented and promoted the use of ‘Rare’, which is a contextualised recruitment software. The software is responsible for measuring academic ‘outperformance’³⁰ and disadvantage. These measures are based on a number of factors, including receipt of free school meals, being a carer or having been in care, the

³⁰ The Law Society of Scotland define outperformance as achieving a certain outcome despite facing and overcoming a high degree of barriers; meaning that performance would likely be enhanced if these barriers were removed (<https://www.lawscot.org.uk/qualifying-and-education/social-mobility/rare/>).

school they attended and their home postcode growing up. These criteria are used to identify barriers faced and candidates' levels of resilience in relation to these, which serves to ensure that all applications are reviewed alongside any relevant personal circumstances (Law Society of Scotland, n.d.-b). The Law Society of Scotland has suggested that the contextualised recruitment software approach is preferable to the use of blind recruitment and skills-based tasks for progressing social mobility, due to its ability to highlight outperforming candidates.

Financial initiatives

To address the barriers associated with lower socio-economic status (see Section 3.1 on barriers related to Social class, economic poverty), some jurisdictions have implemented financial initiatives to enable those from disadvantaged backgrounds to pursue a legal career, including bursaries and access schemes. Masengu (2016a) found that some Bars in South Africa (e.g. the Kwa-Zulu Natal Bar Council) had introduced bursaries to a selection of law graduates³¹ and had provided opportunities to work part-time in the evenings to earn money and reduce the financial burden of studying. To reduce barriers to entering the legal profession faced by those from less advantaged socio-economic backgrounds, discretionary grants from the Safety and Security Sector Education (SASSETA Funding) were also introduced for candidate attorneys³² and pupils at the Bar³³ in South Africa for the 2017/2018 financial year (Phooko & Radebe, 2016).

The Law Society of Ireland (2018) offers two financial initiatives. First, the Law Society Bursary Scheme, which is a limited bursary scheme that students can apply for if they consider their resources inadequate for funding their studies. Second, the Law Society Access Scholarship Programme³⁴ offers reduced / waived fees for the FE-1 exam³⁵ and

³¹ There were no further details regarding decision-making around selection criteria.

³² In South Africa, a candidate attorney is equivalent to a trainee solicitor undertaking a training contract in England and Wales.

³³ Training required in order to practise as an advocate in South Africa, similar to pupillage in England and Wales, which is required in order to practise as a barrister.

³⁴ See further: <https://www.lawsociety.ie/About-Us/Diversity-and-CSR/Access-Programme>

³⁵ The Final Examination – First Part (FE-1) is the entrance examination to the Law Society of Ireland. Only those who have passed or gained exemption from the Preliminary Examination can sit this examination. It is held twice a year, usually in spring and autumn. Full details on this exam including the rules governing the FE-1 are available from the Law School and on the Law Society's website www.lawsociety.ie. For more information, see: <https://www.lawsociety.ie/globalassets/documents/lsla/peart-commission-report-2018.pdf>

Professional Practice Course (PPC),³⁶ as well as access to FE-1 exam core texts via the Law Society of Ireland's library, and funding for maintenance. The primary aim of the programme is to support students from socio-economically disadvantaged backgrounds to access a legal education (Law Society of Ireland, 2018). Additionally, to reduce financial burden on smaller rural firms appointing trainee solicitors, five grants, with a combined value of €25,000 euros are available via the Small Practice Traineeship Grant.³⁷ The scheme was implemented to promote smaller solicitor practices outside core training geographical locations, such as Dublin, Galway and Cork (Law Society of Ireland, 2020). However, there is a lack of evidence on the effectiveness of these initiatives.

The intersection of gender and ethnicity

Evidence indicates that barriers to entry to the legal profession are compounded for black women in some jurisdictions (e.g. South Africa; see Section 3.1 for more information on Conscious bias and unconscious bias). Initiatives aimed at promoting diversity in the legal profession and reducing the intersecting barriers of both gender and ethnicity have been introduced in some jurisdictions. For example, a partnership between the Johannesburg Bar and Cape Bar in 2016 through the Legal Resources Centre introduced the Arthur Chaskalson Pupillage Fellowship³⁸ in South Africa (Phooko & Radebe, 2016). The initiative is aimed at aspirant black female advocates and attempts to addresses barriers to black women's access to the legal profession in South Africa. Following the completion of the pupillage, aspirant advocates may be invited to serve as junior counsel in the Legal Resource Centre's Constitutional Litigation Unit and then return to the Bar (Phooko & Radebe, 2016). Other organisations in South Africa (e.g. the South African Human Rights Commission, the Socio-economic Rights Institute and Lawyers for Human Rights) are developing programmes of a similar nature, aimed at improving access to a career at the

³⁶ The Law Society's Law School runs two full-time courses for trainees – the PPC I and the PPC II. The Professional Practice Courses are full-time training courses. The courses are practice-oriented and their purpose is to instruct a trainee to do the work of a solicitor. Instruction is given almost entirely by practising solicitors and by members of the Law Society's staff. The courses are assessed through continuous assessment and end of course examinations. For more information, see: <https://www.lawsociety.ie/globalassets/documents/lsla/peart-commission-report-2018.pdf>

³⁷ For more information on the Small Practice Traineeship Grant, see: <https://www.lawsociety.ie/traineeshipgrant>

³⁸ For more information on the Arthur Chaskalson Pupillage Fellowship, see: <https://capebar.co.za/pupillage/arthur-chaskalson-fellowship/>

Bar by providing financial assistance to marginalised groups (Phooko & Radebe, 2016). However, the evidence base lacks detail regarding these programmes.

4.2 Initiatives to encourage progression and retention in the legal professions

This section presents evidence relating to initiatives undertaken by law firms and non-profit organisations to reduce existing diversity barriers related to progression and retention within the legal professions.

While some initiatives identified as part of the review were aimed at encouraging progression and retention of those with specific diversity characteristics, other initiatives lacked specificity and were broadly focused on improving equality, diversity, and inclusion (EDI) in the legal profession.

Maternity, paternity, and adoption leave initiatives

Much of the evidence related to providing individuals with information about policies and good practice in relation to maternity, paternity, and adoption leave. The Law Society of Scotland (n.d.-c) has developed 12 'parents in the profession' guides for solicitors and other legal professionals and their line managers. These provide guidance, including case studies, for those going on or returning from maternity leave, adoption leave, or shared parental leave. Similarly, the New South Wales Bar Association in Australia has shared resources on their website regarding Model Parental and Other Extended Leave Best Practice Guidelines³⁹ (Law Council of Australia, 2017a).

Some Bars in South Africa (e.g. Cape Bar) have adopted targeted maternity policies (Norton, 2017; Phooko & Radebe, 2016). Such policies entitle women to take maternity leave for one year without a loss to their seniority; they are also able to pay reduced Bar dues and chambers rent. The policies seek to address the financial barriers present for many women advocates when taking maternity leave, as identified in the review of literature (see Section 3.1 for information on The caring role effect and maternity leave as a barrier to diversity).

³⁹ For more information, see: https://nswbar.asn.au/uploads/pdf-documents/bpg_parental_21082015.pdf

Flexible working initiatives

The option for flexible working is viewed as a key factor for improving diversity within the legal professions (Law Society of England and Wales, 2019). Across jurisdictions, a number of initiatives have been implemented to promote flexible working practices and encourage an attitudinal shift towards flexible and/or part-time working in the legal professions (see Section 3.1 for information on barriers related to Flexible working / family circumstances). In some jurisdictions, suggestions for increased flexible working support have been integrated into policies and charters (New Zealand Law Society, 2018b; Wilson Smith, 2015b). Flexible and/or part-time working resources such as guidance documents have also been developed and rolled out, with the aim of sharing best practice around flexible working, parental leave, and remote and part-time working, in order to assist firms in developing relevant policies and applying these to practice (Law Council of Australia, 2017a; Law Society of Scotland, 2018b).

The Law Council of Australia (2017a) describes a number of flexible working initiatives that have been introduced in Australia, particularly relating to the provision of resources. These include:

- **The Victorian Women Lawyers Flexible Work protocols**,⁴⁰ for example, a best practice guide with tips on parental leave, part-time, and remote working.
- **The Queensland Law Society's Flexible Working Group** was developed to encourage open dialogue around flexible working and provision of relevant tools and resources to support and advise employees to explore and negotiate flexible working arrangements.
- **The New South Wales Bar Association's Model Parental and Other Extended Leave Best Practice Guidelines and Fee Waiver Policy**⁴¹ work to develop practices to ensure that legal professionals with caring responsibilities have predictable sitting hours.

⁴⁰ For more information, see: https://vwl.asn.au/wp-content/uploads/2015/05/VWL_Brochure_All_FinalandCover.pdf

⁴¹ For more information, see: <https://nswbar.asn.au/uploads/pdf-documents/pcfeewaiver.pdf>

- **The Law Society of New South Wales' online flexible work resources,⁴²** includes tips for employees on how to successfully propose flexible working arrangements to employers, details around different arrangements, and guidance for practitioners.

However, some evidence included in the review suggests that flexible working policies can pose barriers to women's progression in the legal profession (see Section 3.1 for information on Flexible working / family circumstances). It has been suggested that utilising flexible working opportunities can reinforce existing gender inequalities in the profession and reduce women to a subordinate role when compared with their male peers/colleagues (Bagust, 2012). As such, flexible working policies and opportunities alone may not improve gender diversity in the legal profession.

Target-based initiatives

Within the evidence base, several initiatives focus on setting and meeting diversity targets. These initiatives take different forms across jurisdictions, ranging from the introduction of target-oriented standards and charters, to strategies and action plans. However, the preponderance of these target-based initiatives focus on gender rather than other diversity characteristics.

In 2020, the Law Society of Ireland's gender equality, diversity and inclusion (GEDI) Task Force⁴³ launched the Gender Equality, Diversity and Inclusion Charter (Law Society of Ireland, 2020; see Section 4.2 for the Creation of groups and networks as initiatives to improve diversity). The Charter was rolled out alongside numerous other initiatives aimed at fostering a diverse and inclusive culture in the solicitors' profession in the Republic of Ireland. Signatories are expected to demonstrate their commitment to EDI by actioning suggestions from the Charter, including carrying out their work without bias, promoting gender EDI, raising awareness of its benefits, and ensuring equal access to opportunities for the workforce.

⁴² For more information, see: <https://www.lawsociety.com.au/advocacy-and-resources/advancement-of-women/flexible-work>

⁴³ For more information, see: <https://www.lawsociety.ie/News/News/Stories/new-gender-equality-diversity-and-inclusion-task-force#.YaoHX8fP02w>

The Mansfield Rule Certification⁴⁴ is a Canadian diversity initiative developed by the Diversity Lab⁴⁵ in 2017. The initiative certifies whether for certain roles, including equity partner promotions and leadership and governance positions, at least 30% of the candidates actively considered by law firms are LGBT+ lawyers, lawyers with disabilities, women, and ethnic minority lawyers (Diversity Lab, n.d.). There is an option to achieve a 'Plus' status with the certification by having at least 30% of diverse lawyer representation in current leadership roles. Since its launch in 2017, 100 firms have been certified, and firms involved since 2017 have reported positive feedback. For example, following the adoption of the Mansfield Rule Certification, 96% of participating firms indicated that their formal pitch meetings had a more diverse representation. In addition, 65% of participating firms reported more under-represented lawyers appointed or elected to Management and/or Executive Committee, and 63% of firms reported more under-represented lawyers promoted into equity partnership.

Equitable briefing policies

Some jurisdictions have introduced equitable briefing policies to address under-representation of women in senior positions at the Bar and the gender pay gap in the profession (see Section 3.1 for more information on Error! Reference source not found. and Conscious bias and unconscious bias in the legal profession). A briefing policy was introduced in Australia to make briefing patterns more equitable based on gender.⁴⁶ In 2016, the National Model Gender Equitable Briefing Policy was adopted by The Law Council of Australia (2016a). The Policy contains both interim and long-term targets for women barristers to receive briefings, and confidential reports are requested once a year from adopters of the policy (e.g. individual barristers or briefing entities such as law firms, counsel, and clients of briefing entities). The Policy had an interim target of briefing entities to brief junior women barristers at least 30% of the time, which was met in the financial

⁴⁴ See: <https://www.diversitylab.com/pilot-projects/mansfield-rule-3-0/>

⁴⁵ "Diversity Lab is an incubator for innovative ideas and solutions that boost diversity and inclusion in law. Experimental ideas are created through our Hackathons and piloted in collaboration with more than 150 top law firms and legal departments across the country. We leverage data, behavioural science, design thinking, and technology to further develop and test the ideas, measure the results, and share the lessons learned." See: <https://www.diversitylab.com/>

⁴⁶ "A brief is an authority and instruction provided by a solicitor to counsel to undertake specified work." See: <https://johntooheychambers.net.au/briefing-counsel>. While this definition is from the Australian context, it applies to jurisdictions where barristers (or the equivalent) receive instruction from a solicitor (or the equivalent)

year of 2017/2018. However, the second target of briefing entities to brief senior women barristers at least 20% of the time was not met in 2017/2018 (with only 16% being achieved), though it had improved since the previous year (12%; Law Council of Australia, 2018).

The Equitable Briefing Policy adopted by the Law Council of Australia was positively received, with the number of adopters of the Policy almost doubling from the 2016/2017 to the 2017/2018 financial year (Law Council of Australia, 2018). In addition, the overall representation of women increased and there was positive feedback from adopters during the reporting period, including increases in confidence that the Policy had positive impact on briefing practices. Some organisations had met or exceeded the targets, and some had taken extra steps to improve an equitable approach to briefing, such as including more female barristers in internal training programmes and promoting the policy through networking events (Law Council of Australia, 2018).

Similarly, the New Zealand Law Society (2017) implemented the Gender Equitable Engagement and Instruction Policy, which had several aims, including providing ample opportunities for junior women legal professionals and providing fair allocation of work, among other aims. As with the Law Council of Australia briefing policy, adopters were provided with a list of required actions, including a biannual reporting requirement on the rate of women lawyers' engagement or instruction, with the aim for 30% of court proceedings, arbitral proceedings and major regulatory investigations to be led by women by late 2018. As part of the Gender Equality Charter⁴⁷ in New Zealand, signatories are required to adopt the equitable instruction and briefing practices, as outlined above.

In 2015, the Johannesburg Society of Advocates passed a resolution that aimed to change and improve briefing patterns in South Africa (Phooko & Radebe, 2016). The initiative requires a monitoring system to be established by member groups as well as the submission of data in the form of a transformation report, detailing progress against the resolution's objectives. For example, the resolution requires lead counsel to reject any briefs that do not consist of at least one black member of counsel (where there are three or

⁴⁷ See further: <https://www.lawsociety.org.nz/professional-practice/diversity-and-inclusion/women-in-the-legal-profession/gender-equality-charter/>

more members of counsel, including the lead counsel) and to take active and positive steps to ensure black women are identified by lead counsel and given preference. Failure to comply with any of these requirements constitutes unprofessional conduct under the terms of the resolution (Phooko & Radebe, 2016). However, the evidence base did not provide any information regarding the effectiveness of the resolution. Masengu (2016a) expressed concerns that black and female counsel may be used in briefings for 'cosmetic' reasons, highlighting that the initiative may focus more on diverse representation rather than aiming to instigate a cultural shift and encourage increased diversity in the profession as a whole.

Regarding the effectiveness of target-based initiatives aimed at improving gender diversity in the legal professions, research has indicated that due to the greater flexibility of target-setting, this approach may be preferable to formal quotas for improving gender representation (Whelan & Wood, 2013; cited in Law Council of Australia, 2014a).

General equality and diversity policies / standards

Evidence from the literature shows that in some jurisdictions, such as Scotland and Australia, overarching policies aimed at improving equality and diversity in the legal professions have been implemented (Lambert & Ellison, 2011; Law Council of Australia, 2016b; Law Council of Australia, 2016c).

A Diversity and Equality Charter was developed by the Law Council of Australia and consists of a statement of principles and a public commitment to promoting and improving equality and diversity in the Australian legal profession (Law Council of Australia, 2016b; Law Council of Australia, 2016d). The Charter was adopted by other Australian legal profession leaders at the Law Council of Australia's National Attrition and Re-engagement Study Workshop in 2015 (Law Council of Australia, 2016b).

The Law Society of Scotland (2018b; n.d.-d) developed a 'blueprint' for a more inclusive profession along with an 'inclusion calendar' as part of a range of initiatives promoting inclusion. The blueprint was devised as a response to the Law Society of Scotland's Profile of the Profession (2018a) report, as a plan to guide actions aimed at:

- Achieving the objectives of retaining talented people

- Ensuring fairness around pay and progression
- Ending bullying and harassment in the profession
- Members being able to be their whole selves at work
- Reflecting Scotland's population now and in the future

Each section of the blueprint outlines completed actions, planned actions, and how success will be measured. The inclusion calendar is used to celebrate the diversity of the membership across the year, including religious festivals and specific days such as International Day of People with Disabilities (Law Society of Scotland, 2018b).

The Law Society of Scotland (2015a) also reported that a set of voluntary equality and diversity standards were introduced in 2014. However, there was limited uptake by law firms and organisations. This raises the question of whether initiatives are likely to be more effective in improving progression and retention of diverse groups if they are a mandatory requirement, rather than voluntary.

Regarding standards that relate specifically to gender diversity, the Charter for the Advancement of Women was introduced by the Women Lawyers' Association of South Australia, which aims to remove existing barriers to women's progression in the Australian legal profession (Equal Opportunity Commission, 2021; see Section 4.2 for information on Celebrating equality and diversity achievements). This entails organisations and legal practices becoming voluntary signatories, and the Charter and associated guidelines provide signatories with recommendations to achieve the Charter obligations; including promoting equal opportunities for women lawyers and providing an inclusive workplace environment.

Celebrating equality and diversity achievements

Some jurisdictions have utilised awards and ceremonies to celebrate achievements in improving equality and diversity in the legal professions. For example, in New South Wales, a Charter for the Advancement of Women (see Section 4.2 for information on General equality and diversity policies / standards) has also been adopted and includes holding award ceremonies for legal profession leaders who meet and champion the aims

of the Charter. The focus of these initiatives is to reward achievement rather than punish failure to meet the requirements, and further aims to encourage workplace cultures promoting inclusion and diversity in the solicitor profession (Law Society of England and Wales, 2019).

In Canada, the Canadian Bar Association (n.d.-a) introduced the Touchstone Award. The award is presented to any individual or organisation who succeeds in promoting equality, diversity and inclusion at a national or local level in the Canadian legal profession, judiciary or legal community. This includes the development of equality, diversity and inclusion initiatives, and the Equality Subcommittee administers the Award to the successful candidate or organisation (Canadian Bar Association, n.d.-a).

Initiatives to tackle sexual harassment, bullying, and discrimination

The evidence base identified experiences of sexual harassment, bullying and discrimination as a barrier to progression and retention for women legal professionals across jurisdictions (Pender, 2019; see Section 3.1 for information on Experiences of sexual harassment, bullying, and discrimination as barriers to diversity). In response, various initiatives to tackle sexual harassment, bullying, and discrimination have been rolled out across different jurisdictions. For example, the Law Society of Scotland provides guidance on bullying and harassment, incorporating examples of model policies (e.g. dignity at work policy, prevent workplace harassment and bullying policy; Law Society of Scotland, 2017).

A 2018 global survey by the International Bar Association (IBA) collected data from 6,980 respondents from different backgrounds in the law profession (Pender, 2019). Analysis of the data found varying degrees of sexual harassment and bullying policies, as well as training implemented across different common law jurisdictions (e.g. Canada, Malaysia, Australia) and different levels of confidence about whether the policies and training were successful. The following examples of protocols, policies, and legislation prohibiting sexual harassment in the workplace were identified by Pender (2019):⁴⁸

⁴⁸ It is important to note that these examples are not necessarily applicable to all legal professionals in the relevant countries. For example, where legal professionals are self-employed, employment legislation may not straightforwardly apply (point provided by communication from academic advisor).

- The **Bar of Ireland** amended their Code of Conduct to clearly prohibit sexual harassment and bullying.
- The Employment Act in **Malaysia** specifies that those employers who do not act promptly on complaints regarding sexual harassment can be fined (though some respondents suggested this was not always enforced).
- The Employment Equity Act in **South Africa** prohibits unfair discrimination based on protected characteristics, which encompasses sexual harassment.
- In **India**, where organisations have more than 10 employees, employers are required to set up an Internal Complaints Committee. The Committee is responsible for hearing sexual harassment complaints and producing an annual report consisting of complaints, actions, and outcomes to the employer and local government office.

Pender (2019) also found that employees at workplaces that had implemented sexual harassment training were significantly less likely to experience sexual harassment in the workplace than employees at workplaces that had not implemented sexual harassment training. This points to the value of implementing sexual harassment training in the workplace.

A number of initiatives targeting harassment and bullying have been rolled out in Australia. The Law Council of Australia, the Queensland Law Society and the Law Society of Western Australia have all created resources to support the development of sexual harassment policies in the workplace where these were not already in place (Law Council of Australia, 2017b). A National Action Plan to Reduce Sexual Harassment in the Australian legal profession (NAP) was devised by the Law Council of Australia (2020), which provides a framework and measures to drive cultural change around sexual harassment in the profession. The New South Wales Bar Association has developed a model of best practice guidelines on bullying, harassment, discrimination, vilification and

victimisation,⁴⁹ and the Victorian Bar Association has published policies specific to tackling sexual harassment (see: Law Council of Australia, n.d.).

In 2018, a number of reports and disclosures highlighted the prevalence of sexual harassment, sexual violence, discrimination and bullying in the New Zealand legal professions (New Zealand Law Society, 2018a). In response, an independent Working Group was formed to explore the regulatory framework for reporting these behaviours and whether and how this could be improved. Based on their findings, the Working Group made a number of recommendations, which are set out in a report by the New Zealand Law Society (2018a):

- Closer regulation of legal workplaces was recommended. The Working Group noted that this would involve extending obligations from individuals to legal practices and/or the lawyers who have responsibility for the practice. As part of this, the Working Group recommended more effective monitoring and policies to strengthen the regulatory model.
- In response to concerns that strict rules around confidentiality can result in a lack of transparency and foster a culture of suppression, the Working Group recommended a more flexible approach to confidentiality for complaints and decisions.
- The Working Group proposed a number of actions that could improve people's confidence when making a complaint, such as increasing the diversity of those responsible for processing complaints, providing support for those who make a complaint, and using independent investigators.
- In response to concerns about a hostile complaints process, the Working Group recommended that greater protections are offered to people who submit a complaint to the New Zealand Lawyers and Conveyancers Disciplinary Tribunal (LCDT).

⁴⁹ For more information, see: https://nswbar.asn.au/docs/webdocs/bpg_harassment_210820152.pdf

- A specialised unit or committee dedicated to processing complaints related to sexual violence, bullying, harassment, discrimination, and other personal conduct issues, was recommended.
- The Working Group recommended mandatory training to educate people on the problem of sexual harassment, bullying, and discrimination within the legal professions, as well as training on ways to address the features of the culture that foster these behaviours.
- Moving forward, the Working Group suggested that a programme of implementation and monitoring of their recommendations should be established to understand whether they generate positive changes.

For further detail, see the full report by the New Zealand Law Society (2018a).

A second initiative of the New Zealand Law Society to address a culture of sexual harassment, bullying, and discrimination, has been the creation of a Culture Change Task Force (New Zealand Law Society, 2018a). The Task Force is focused on developing a strategy to support reform of the culture within the New Zealand legal professions.

July 2021 also saw the introduction of new rules and professional standards for lawyers in New Zealand.⁵⁰ These new rules include clearer definitions of sexual harassment, bullying, and discrimination, as well as requirements relating to policies and systems for law practices (including barristers) to prevent and protect people from these behaviours (New Zealand Law Society, 2021). To help promote adherence to professional standards, the New Zealand Law Society website has information on bullying and harassment as well as specific pages for employers and employees (New Zealand Law Society, 2020).

Creation of groups and networks

The creation of groups and/or networks appears to be a popular diversity initiative across common law jurisdictions. The most prominent type of professional group or network are

⁵⁰ Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Amendment Rules 2021. The new rules amend the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (RCCC).

those that promote gender diversity and equality. However, there was also evidence around groups aimed at improving ethnic diversity within the legal professions.

Following a motion in the 2018 annual general meeting, the GEDI Task Force (see Section 4.2 for more information on the GEDI Task Force and Target-based initiatives) was set up in 2019 by the Law Society of Ireland (2020). The aims of the Task Force were to provide resources to promote equality and diversity, and to encourage women and solicitors from other under-represented groups to pursue leadership roles in the legal profession. The Task Force is made up of 16 Law Society members, from a range of backgrounds (e.g. ethnic minority, disability, LGBT+ backgrounds). The Task Force emphasises the importance of meaningful change within law firms, and actively supports firms to achieve the principles of GEDI within their workforce. In 2020, the Task Force developed an actionable framework of recommendations to facilitate meaningful change in the legal profession, including encouraging firms to sign up to the Law Society's GEDI Charter (see Section 4.2 for more information on Target-based initiatives).

Similarly, the Law Society of Singapore established the Women in Practice (WIP) Taskforce in 2018, the aim of which was to improve the representation of women legal practitioners, by identifying and addressing barriers (Law Society of Singapore, 2020). As part of this, in 2018, the Taskforce conducted a survey of female legal practitioners in Singapore to gain a better understanding of their needs and experiences. However, the evidence focuses on the identification of barriers, with a lack of specificity regarding if and how these barriers are being addressed by the Taskforce.

In 2019, the WIP Committee ran a series of roundtables with various groups that focused on recruitment, progression, and retention practices, and whether women are significantly disadvantaged in comparison to their male counterparts in Singapore (Law Society of Singapore, 2020). One key finding from the sessions was a lack of understanding among both male and female lawyers regarding the business case for gender diversity initiatives. For example, the roundtables yielded evidence that male lawyers view gender-parity initiatives as directly detrimental to the principle of meritocracy. This was based on a view expressed by the male lawyers that merit should be prioritised over the drive for diversity in the recruitment process (see Section 3.2 for information on The issue of merit). It was suggested that these misconceptions stem largely from a lack of knowledge of

unconscious bias and the role this plays in recruitment processes (Law Society of Singapore, 2020).

With the aim of reducing barriers for progression and retention of marginalised individuals within the legal professions, in January 2021 the Law Society of Scotland (n.d.-e) introduced the racial inclusion group. The aim of the group was to conduct research to understand the lived and professional experiences of ethnic minority members, how to improve racial inclusion in the legal profession, share best practice, identify challenges faced by ethnic minority legal professionals, students and trainees and explore how these challenges can be overcome (Law Society of Scotland, n.d.-e).

In 2013, with the aim of improving inclusivity across firms, 16 Canadian law firms established a Law Firm Diversity and Inclusion Network (LFDIN).⁵¹ Writing in 2014, Lyon and Sossin highlighted the difficulties of measuring the effectiveness of the network in achieving its aims. It is not clear whether there has been a more recent review of the network's effectiveness.

Mentoring

A number of mentoring initiatives have been set up to support the advancement of women in the legal professions (see Section 3.1 for barriers relating to a Mentoring and role models):

- The **Women in Leadership Mentoring Programme** is an initiative launched in 2016 by the **Law Society of Ireland** (n.d.). Its main objective is to support women who have been in the legal profession for five years or more to advance to senior positions. The programme includes training on how to build mentoring relationships and outlines the structure and key aspects of the mentoring programme, delivered via Zoom (due to the Covid-19 pandemic).
- A similar initiative, the '**Women's Access Network**' was launched in 2021 by the **Law Society of Scotland** (n.d.-f). As part of the network, women solicitors and

⁵¹ For more information on the Network's statement of principles, see: <https://mcmillan.ca/wp-content/uploads/2020/11/LFDIN-Statement-of-Principles-EN-September-2020.pdf#:~:text=The%20Law%20Firm%20Diversity%20and%20Inclusion%20Network%20%28LFDIN%29,to%20practice%20and%20advance%20diversity%20and%20inclusion%20by%3A>

trainees are matched with a senior female legal professional to discuss progression and guidance.

- In South Africa, the Bridge Group of advocates⁵² implemented a mentoring initiative that seeks to increase the work available to junior counsel in South Africa and to provide guidance and mentoring opportunities from an experienced advocate (Masengu, 2016a). However, Masengu (2016a) suggests that relying on experienced advocates to be available to volunteer and ensuring that selection is non-discriminatory (e.g. not based on junior counsels' existing connections within the profession), may present a challenge to the success of the initiative. There was not clear evidence on whether the initiative is on-going.

Mentoring initiatives identified were primarily focused on supporting women legal professionals with career advancement. There was little focus within the literature on mentoring initiatives targeted at other under-represented groups.

Training

Unconscious bias training

Unconscious bias can present a barrier to progression and retention of women and ethnic minority lawyers (see Section 3.1 for information on Conscious bias and unconscious bias). It follows that unconscious bias training is a type of initiative that has been rolled out across various jurisdictions. For example:

- The **New Zealand Law Society's Gender Equality Charter** (2018b) states that all signatories of the Charter are required to implement unconscious bias training for all lawyers and key staff at their firm / organisation.
- The **Law Society of Scotland** (2020a) introduced mandatory unconscious bias training in December 2018 for all new partners through the mandatory Practice Management Course.
- The **Law Council of Australia** (2017c) in collaboration with the diversity and inclusion specialists, Symmetra developed and launched a national training

⁵² For more information, see: <http://www.bridgeadvocates.co.za/about>

programme on unconscious bias. This programme was introduced alongside a range of other initiatives aimed at driving cultural change in the profession, addressing the under-representation of women in senior positions in the legal profession, and supporting the progression and retention of women barristers. It is available to a range of legal professionals (e.g. members of the judiciary, lawyers, non-lawyers) and accessible via various methods, including online e-learning, face-to-face workshops, and train-the-trainer modules (Law Council of Australia, 2017d).

Relatedly, cultural awareness training was rolled out for adopters of the Law Council of Australia's Diversity Policy (2016c). This was optional rather than mandatory, with frequency of uptake and efficacy data not available.

Upskilling for progression

The review of the literature identified cultural barriers to progression and retention of ethnic minority legal professionals, including unconscious bias (Lambert & Ellison, 2011; Law Society of Scotland, 2020a), structural racial inequalities (Bonthuys, 2015), and differential treatment / opportunities (Lambert & Ellison, 2011; see Section 3.1 for information on barriers relating to Cultural background and ethnicity, Social class, economic poverty, and Conscious bias and unconscious bias). To tackle these barriers, increased training for ethnic minority legal professionals has been the focus of some initiatives. For example, in South Africa, The Black Lawyers Association (BLA) has provided training and upskilling for black lawyers. However, it has been suggested⁵³ that due to a lack of government confidence or trust in black women's ability, the support provided did not lead to increased opportunities for progression in the legal profession (Masengu, 2016a).

LGBT+ legal professionals

A small number of initiatives aimed at tackling barriers for LGBT+ legal professionals (see Section 3.1 for more information on Barriers for LGBT+ legal professionals in Scotland) were identified in some jurisdictions.⁵⁴ The Law Society of Scotland organised a social

⁵³ By Ms Martha Mbele at The Free State Meeting, June 2015 (cited in Masengu, 2016a).

⁵⁴ There is a lack of clarity around whether these initiatives were aimed at entry to, progression or retention within the legal profession for diverse groups.

media campaign in 2017, alongside the Glass Network,⁵⁵ called #theseareourprinciples (Law Society of Scotland, 2018b). The campaign entailed public support for LGBT+ equality from leaders in the profession and Nicola Sturgeon.⁵⁶

Australian initiatives have followed a similar theme, with the Law Institute of Victoria developing a LIVout initiative,⁵⁷ which involves hosting events and networking events for LGBT+ individuals (Law Council of Australia, 2017e).

⁵⁵ A group aimed at networking and raising awareness for LGBT+ and allied members in the Scottish legal profession since it was established. For more information, see: <https://www.lawscot.org.uk/media/361502/pop-response-final.pdf>

⁵⁶ The First Minister of Scotland, as of 2014 to present. For more information, see: <https://www.snp.org/your-team/nicola-sturgeon/>

⁵⁷ For more information, see: <https://www.liv.asn.au/Membership/Law-Associations/Diversity-Associations#8>

5. Initiatives to improve diversity within the judiciary

Chapter summary

- The evidence yielded **limited information on judicial diversity initiatives** across the common law jurisdictions selected for inclusion in the REA.
- Much of the limited **evidence centred** on how judicial diversity can be encouraged as part of the **judicial selection and appointments processes**.
- Some jurisdictions have focused on **increasing the transparency** of the **judicial selection and appointments processes** to **improve public confidence** and the **trust** of potential candidates in the **fairness** of the process. Examples include the **introduction of appointments bodies** and making elements of the selection and appointments **processes public**.
- Grounded in the assumption that diverse appointments bodies will create a more diverse judiciary, the evidence base contained examples of **efforts to create diverse appointments bodies**.
- In some jurisdictions, those who nominate and/or select judicial candidates for recommendation are required to **consider diversity** as part of their **decision-making** process.
- A number of countries have introduced **gender quotas** for some elective and appointed judicial positions as part of efforts to improve public confidence in the judiciary.
- To better **understand** the **diversity** of the pool of judicial applicants as well as those appointed as judicial officers, some jurisdictions are making efforts to improve their approach to **collecting diversity data** (i.e. accurate and consistent data collection).
- In some jurisdictions there is evidence of **training or mentoring programmes** for **aspiring or early career judges**, such as outreach activities to encourage applications from under-represented groups in the judiciary.

This chapter presents evidence on initiatives to improve judicial diversity across common law jurisdictions. Central to discussions around judicial diversity and creating a judiciary that is reflective of society, is the need to ensure that the judicial appointments process encourages applications from a diverse range of candidates (Gee & Rackley, 2017; see Section 2.1 for more information on Background and context of the research). It follows that much of the evidence identified as part of this review centres on how judicial diversity can be encouraged as part of the judicial selection and appointments process. While initiatives to encourage judicial diversity are important at the selection and appointments stage, diversity initiatives are equally important in order to retain a diverse bench and support progression within the judiciary (Gee & Rackley, 2017). However, evidence on initiatives to retain judges and support progression in order to promote judicial diversity is lacking.

The evidence yielded limited publicly available information on judicial diversity initiatives across the common law jurisdictions selected for inclusion in the REA. There appear to be few targeted programmes designed to improve judicial diversity. Rather, many of the initiatives identified within the evidence base are broader in nature, centring on reforms of the selection and appointments process to improve transparency, as well as policies and recommendations to encourage diversity. This finding supports observations from the wider evidence; namely, that judicial diversity initiatives are rarely more “radical” than improving the independence, transparency, and diversity of appointments bodies (Van Zyl Smit, 2017).

It follows that the majority of this chapter focuses on synthesising evidence around efforts to improve transparency of the judicial selection and appointments process and policies that encourage consideration of diversity as part of this process. The evidence around the use of quotas, the collection of diversity data, and the implementation of training and outreach activities are also discussed.

Finally, it should be noted that the review yielded a lack of evidence on the effectiveness of initiatives focused on improving judicial diversity.

5.1 Improving transparency

Much of the focus on judicial diversity across jurisdictions centres on the judicial selection and appointments process and how this can impact the diversity of the bench. Within the literature, the lack of transparency and accountability around the selection and appointments process for judicial roles in some jurisdictions was highlighted as a barrier to a diverse bench (see Section 3.2 for more information on Lack of transparency in the judicial appointments process). Levy Ariel (2018) noted secrecy around the nominations and appointments procedure in Israel, while Beg and Sossin (2017) identified issues around transparency and accountability in the appointments processes in Canada, particularly in relation to the federal judicial appointments process and the process for appointing Supreme Court Justices.⁵⁸ Similarly, a lack of transparency in the appointments process in Australia has been noted (Bartlett & Douglas, 2018; Lynch et al., 2019). It follows that some jurisdictions have focused on increasing the transparency of the judicial selection and appointments processes to improve public confidence and the trust of potential candidates in the fairness of judicial appointments.

Appointments bodies – a way to create a more transparent process?

Concerns around the lack of transparency and accountability in the judicial selection and appointments process are related to the tradition of Executive-based ‘tap on the shoulder’ appointments systems whereby individuals are selected by the Executive behind closed doors rather than going through an open application process (Van Zyl Smit, 2017). As part of a response to these concerns, many Commonwealth jurisdictions have moved to judicial appointment/service commissions (Van Zyl Smit, 2017).

Commissions are not a new concept in the judicial appointments processes across Commonwealth countries; however, the emergence of the current wave of judicial appointments bodies is in line with recommendations of the Latimer House Principles and

⁵⁸ There are four levels of court in Canada: Provincial and territorial lower courts; provincial and territorial superior courts; Provincial and territorial courts of appeal; and the federal court system, which is comprised of the Federal Court and the Federal Court of Appeal. The federal court and the provincial and territorial court systems runs in parallel with each other (Levin & Alkoby, 2017). There is also the Supreme Court of Canada, a supreme court, which is “the final court of appeal from all other Canadian courts” (Levin & Alkoby, 2017, p. 723). The federal appointments process in Canada refers to the process for appointing judges to the superior provincial and territorial courts and the federal courts (Beg & Sossin, 2017; Levin & Alkoby, 2017).

Guidelines for Commonwealth countries (Corder & Van Zyl Smit, 2017; Van Zyl Smit, 2017), developed in the 1990s (and finalised in 2003).⁵⁹ The Latimer House Principles and Guidelines argue that one of the intended benefits of judicial appointments bodies is that the process of appointing judges is transparent and independent (Corder & Van Zyl Smit, 2017; Van Zyl Smit, 2017). While diversity can be an objective of commissions, promoting diversity is not necessarily a stated function (Van Zyl Smit, 2017). Indeed, where commissions vary in their composition, structure, and exact functions across jurisdictions, they also vary in the extent to which judicial diversity is a focus (Corder & Van Zyl Smit, 2017).

While diversity may not be a central objective of all commissions, the presumption has been that creating independent commissions will facilitate a fair and transparent process of selecting and appointing judges, which in turn will facilitate diversity on the bench (Van Zyl Smit, 2017). It has been suggested that the move to independent commissions may encourage a more diverse range of candidates to apply because they will have greater “confidence that their application for judicial office will be impartially assessed and considered” (Van Zyl Smit, 2017, p. 77). However, the direct impact of commissions on judicial diversity has received little consideration.⁶⁰

Rather, more consideration has been placed on how commissions improve transparency, of which greater diversity may be a by-product. As part of this review, examples of attempts to improve transparency of the judicial selection and appointments process via the introduction of commissions/bodies were identified. However, the evidence base also yielded examples of jurisdictions in which commissions have not been created, but attempts to improve transparency in other ways have been introduced. Examples of both approaches to improving transparency are reported.

⁵⁹ See: <https://thecommonwealth.org/history-of-the-commonwealth/latimer-principles>

⁶⁰ Analysis of the impact of constitutional change to judicial appointments in the highest courts by Arrington et al. (2021) indicates that it is not so much the introduction of judicial appointments bodies that impacts diversity; rather, any change to the judicial appointment process appears to trigger a change towards improved diversity (referred to as 'institutional disruption'). One argument is that disruption in the constitutional rules for appointing judges opens up opportunities for advocacy groups to encourage appointment of a woman judge (or a judge from a minority background, or a judge with a disability, or a judge from a lower-income background).

Improving transparency: Australia

The Australian judiciary has been criticised for a lack of transparency in its judicial selection and appointments processes across jurisdictions (Handsley & Lynch, 2015; Lynch et al. 2019). In addition, the homogeneity of the Australian bench has been criticised, whereby judges are predominantly white, middle-class men who previously worked as barristers prior to becoming judges (Bartlett & Douglas, 2018; Lynch et al., 2019). In response to these criticisms, then Attorney-General of Australia, Robert McClelland introduced a new approach to Commonwealth judicial appointments in 2008, which aimed to address these concerns (Handsley & Lynch, 2015; Lynch et al., 2019). In particular, the reform involved changes to the process and criteria for appointments to encourage a focus on a transparent process that appoints individuals based on merit and suitability for judicial office (Handsley & Lynch, 2015). Moreover, the new approach was aimed at ensuring all suitably qualified candidates would be considered, the aim being to increase the diversity of appointments while simultaneously ensuring quality of appointments (Handsley & Lynch, 2015). To achieve these aims, the new approach included holding a public call for expressions of interest, having evaluation criteria for candidates, and the introduction of an advisory panel to assess candidates and make recommendations to the Attorney-General (Handsley & Lynch, 2015; Lynch et al., 2019). However, while increasing judicial diversity was an intended outcome of the reform, Handsley and Lynch (2019) note that the stated criteria for appointments did not include diversity. Finally, the reforms to the judicial appointments process in Australia that were initiated by Robert McClelland were not long-lasting: with a new Attorney-General came a return to “the traditional approach” (Handsley & Lynch, 2015, p. 188).

Improving transparency: South Africa

The Judicial Service Commission (JSC) in South Africa was established in 1994 as part of an effort to reform the judicial selection and appointments process post-apartheid (Corder & Van Zyl Smit, 2017). Prior to this reform, the judicial appointments process had been a ‘tap on the shoulder’ approach that served to maintain a predominantly white, male judiciary (Van Zyl Smit, 2017). The introduction of the JSC was part of a move to increase

transparency of the judicial selection and appointments process and improve racial and gender representation on the bench (Masengu, 2020a).⁶¹

To address concerns around a lack of transparency, South Africa introduced a public process for selecting candidates to be considered for judicial appointment (Oxtoby & Masengu, 2017). Judicial vacancies are advertised publicly, along with a call for nominations;⁶² a ‘sifting’ committee then screens and shortlists candidates who “have a real prospect of selection for appointment” (Masengu, 2020a, p. 161).⁶³ The shortlisted candidates are publicly interviewed by the JSC, who make a recommendation to the President for appointment (Masengu, 2020a). While the selection process is carried out in public, decisions around which candidates are appointed to the bench are made in private (Oxtoby & Masengu, 2017).

Although the introduction of the JSC and the new public process of candidate selection was implemented to improve the judicial appointments process, the JSC have faced a number of criticisms. Corder and Van Zyl Smit (2017) observe that criticisms of the JSC have centred on whether the treatment of judicial candidates is fair and equal, as well as whether the questions that form part of the public interviews are relevant and appropriate (Corder & Van Zyl Smit, 2017). For example, there have been instances of homophobic and sexist interview questions directed at candidates (Masengu, 2020a). Moreover, there have been questions around the suitability of the candidates that have been appointed. Further, while the public nature of the process in South Africa aligns with a transparent approach, interviews carried out in public – combined with the possibility of irrelevant and inappropriate questioning – may deter some candidates from applying in the first instance (Van Zyl Smit, 2017).

⁶¹ The JSC is comprised of between 23 and 25 members, 10 of whom are members of parliament (Oxtoby & Masengu, 2017). It follows that there has been some debate around the independence of the JSC (Masengu, 2020b).

⁶² Because a candidate must find a person to nominate them as a candidate, there are limits to the fairness and transparency of this element of the selection and appointments process (e.g. Oxtoby & Masengu, 2017).

⁶³ It is not clear what the criteria for how this is decided are.

Improving transparency: Canada

Although issues around a lack of transparency have been noted across court systems in Canada (e.g. Beg & Sossin, 2017; Levin & Alkoby, 2017; Lyon & Sossin, 2014),⁶⁴ the process for appointing Supreme Court Justices has historically been viewed as particularly secretive (e.g. Beg & Sossin, 2017). Accordingly, changes to the process for selecting and appointing Supreme Court Justices in Canada provides an example of an effort to improve transparency. In 2016, under the new Trudeau government, the Canadian Minister of Justice introduced a more transparent appointments process for Supreme Court Justices, which included the aim of increasing judicial diversity (Cairns Way, 2017; Fric, 2020). The new process includes an independent and non-partisan advisory board, comprised of seven members, that assesses applications and provides a short-list of candidates to the Prime Minister (Beg & Sossin, 2017; Cairns Way, 2017).⁶⁵

As part of increased transparency, the Board is required to produce a report (which is made public) within one month of making an appointment (Cairns Way, 2017). The report provides a 'descriptive commentary' of the selection and appointments process including any consultation or outreach activities undertaken by the Board, a description of the applicant pool (including diversity characteristics), and the assessment process undertaken (Cairns Way, 2017, p. 23-24; see also Beg & Sossin, 2017). Certain sections of the successful nominee's application (referred to as a questionnaire) are also made public.⁶⁶ However, while the process of selecting a pool of candidates is independent and transparent, the decision around judicial appointment remains Executive-based (Van Zyl Smit, 2017).

⁶⁴ However, it is of note that the appointments process followed by Ontario's Judicial Appointments Advisory Committee (JAAC), which was established in 1995 and is responsible for the appointment of provincial judges, has been heralded as an example of a transparent process (Beg & Sossin, 2017). The JAAC process involved the committee members evaluating the applications and conducting interviews before supplying a list of recommended candidates to the Attorney General for the final decision on who will be appointed (*ibid*).

⁶⁵ Candidates can either self-nominate or by the Advisory Board (Beg & Sossin, 2017).

⁶⁶ For example, the Honourable Sheilah Martin's questionnaire can be viewed here: <https://www.fja.gc.ca/scc-csc/2017-SheilahMartin/nominee-candidat-eng.html>

5.2 Creating diverse appointments bodies

There is an assumption that a diverse judicial appointments body will create a more diverse judiciary (Levin & Alkoby, 2017). Evidence from Canada provides a number of examples of efforts to create diverse appointments bodies, with some judicial appointments bodies in Canada being required to have a diverse membership.

The appointments body for provincial courts in Ontario has long been required to have a diverse membership. When appointing judges to the provincial courts in Ontario, applications are considered by the Judicial Appointments Advisory Committee (JAAC; Levin & Alkoby, 2017). Under the Courts of Justice Act (1990, para. 43.3) there is a requirement that the composition of the JAAC membership is informed by “a consideration of ‘Ontario’s linguistic duality and the diversity of its population’” (Levin & Alkoby, 2017, p. 724).

More recently, as part of efforts to improve the diversity of Supreme Court Justices in Canada, members of the Advisory Board must include individuals from the judiciary, academia, the legal profession, and the public (Cairns Way, 2017). In addition, diversity characteristics (such as gender, region, language/s spoken, and ethnicity) are considered when members of the board are selected.

Similarly, for the federal judicial appointments process, applications are assessed by Judicial Advisory Committees, and efforts are made to ensure that committees are diverse in their composition (Levin & Alkoby, 2017). Following steps taken to improve diversity on the advisory committees for federal judicial appointments in Canada, the diversity of committee members representing members of the public appears to have improved in some provinces. For example, Levin and Alkoby (2017) note that in Ontario “on one committee two out of three members are racialized (one woman, one man), and on the second committee two out of the three members are women” (p. 743).

Levin and Alkoby (2017) recognise that more diverse appointments bodies may create a more diverse judiciary via a ‘trickle-down’ effect; however, without clear guidance on how considerations of diversity should be applied to judicial appointments decisions, they remain sceptical that diverse appointments bodies will have a meaningful impact on judicial diversity.

5.3 Policies to encourage consideration of diversity during the judicial selection and appointments process

As part of creating a fairer and transparent judicial selection and appointments process, policies that encourage increased diversity are often included as part of the reform. Across a number of jurisdictions, policies and/or strategic objectives have been developed whereby those who nominate and/or select judicial candidates for recommendation are required to consider diversity as part of their decision-making process. For example, the Judicial Appointments Board (JAB) for Scotland's strategic plan for 2018-2022 includes an objective to "...encourage diversity in the range of individuals available for selection" (Judicial Appointments Board for Scotland, 2018, p.2 / p. 4 / p. 9). While in Canada, the Judicial Advisory Board for the selection of judges to the Supreme Court of Canada must provide a short list of applicants that supports the aim of achieving a Supreme Court that is gender balanced and reflects the diversity of Canadian society (Cairns Way 2017; Nasager, 2020).⁶⁷

As part of efforts to improve racial and gender representation on the bench in South Africa following the end of apartheid, the appointments process in South Africa includes a clause in the Constitution of the Republic of South Africa 1996 (section 174(2)), which states that 'the racial and gender composition of society must be considered when appointing judges' (Masengu, 2020a). While there is no direct evidence of how the reformed appointments process has improved judicial diversity, Masengu (2020a) reported that since the end of apartheid in 1994 the proportion of black judges has increased from 1.4% in 1994 to 67% as of September 2017. The change in female representation has also increased but not by the same degree: 1.2% in 1994 to 37% in 2017. However, Masengu (2020a) noted that in the period 2013-2017, while the JSC appointed more male judges than female judges, the percentage of women who were successful compared to the number interviewed was higher than it was for men. According to Masengu (2020a), of 290 candidates interviewed by the JSC for 135 vacancies, 183 (63%) were men and 107 (37%) were women. One hundred and thirteen (39%) were successful in being appointed to a judicial position, with

⁶⁷ Gender is a key diversity characteristic of focus, but disability, language, ethnicity, gender identity, and sexual identity should be considered (Cairns Way, 2017).

67 (59%) men and 46 (41%) women. Thus, 37% of male and 43% of female candidates were successful.

While there is currently a lack of specific judicial diversity initiatives in New Zealand, the importance of having a judiciary that is representative of the population is recognised.⁶⁸ It follows that diversity appears to be increasingly considered when making a new appointment in New Zealand. For example, an annual report for 2019-2020 from the District Court of New Zealand (2020) states that across 2019-2020, a new intake of 27 judges served to increase the diversity of the judiciary. More than half of the new judges were of Māori or Pasifika heritage, which is more reflective of the communities served, and there has been an increase in the number of judges who speak or are learning Te Reo Māori. Additionally, the report indicates that Chinese, Dutch and Jewish cultures were also represented in the new appointments (see further, District Court of New Zealand, 2020).

In Kenya, appointment to Supreme Court Judge is the result of a decision by the Judicial Service Commission (JSC). While the decision is made primarily on whether the candidate meets the requirements of judicial appointment (i.e. they have the relevant qualifications and experience), the JSC must also take into account "gender, regional, ethnic and other diversities of the people of Kenya" (Murungi, 2018, p. 62). More broadly, the JSC has a formal obligation to promote gender equality (National Gender and Equality Commission and the International Association of Women Judges – Kenya Chapter, 2019). The 2010 Constitution of Kenya also specifies a gender quota whereby no more than two thirds of an elected or appointed body (i.e. judges) should be of one gender (Murungi, 2018; National Gender and Equality Commission and the International Association of Women Judges – Kenya Chapter, 2019; see Section 5.4 for more information on Quotas).

Evidence from India indicates that there have been moves to ensure that appointments to the Supreme Court are based on merit but with consideration of diversity characteristics (Francavilla, 2018). Within the Indian context, diversity traditionally refers to the candidate's geographical origin, their gender, religion (i.e. inclusion of religious

⁶⁸ See for example, page 4 of the Judicial Appointments Protocol for the senior courts: <https://www.crownlaw.govt.nz/assets/Uploads/judicial-protocol-old.pdf> and page 6 of the Information Booklet for Appointments to the District Court (revised June 2019): <https://www.justice.govt.nz/assets/Documents/Publications/Judicial-Appointments-Information-Booklet-June-2019.pdf>

minorities⁶⁹), and caste (i.e. inclusion of candidates from ‘lower’ castes) (Chandrachud, 2014; cited in Francavilla, 2018).⁷⁰ However, Francavilla (2018) notes that it is difficult to draw any conclusions about whether the way that diversity is used as a criterion in the appointment of Supreme Court judges is consistent, while Chandrachud (2014; cited in Francavilla, 2018) has noted that geographical diversity is ascribed more importance than the other aforementioned diversity characteristics.

While a review of the evidence identified examples of policies that encourage consideration of diversity as part of the judicial appointments decision-making process (see below), these examples often included caveats that the principal consideration should be merit, not diversity:

- When appointing provincial court judges in **Ontario, Canada**, the JAAC is required to consider the diversity of Ontario as part of their assessment process before making a recommendation to the Attorney General; however, considerations of diversity must not be at the expense of ‘excellence’ (Levin & Alkoby, 2017, p. 725).
- In the **Republic of Ireland**, while the focus of judicial appointment decisions is on merit, diversity characteristics are also considered; namely, the aim is to cultivate a judiciary that reflects the diversity of the Irish population (Irish Human Rights and Equality Commission, 2021).⁷¹
- Likewise, the **Northern Ireland** Judicial Appointments Commission (NIJAC, 2021) states that their aim is to “seek to promote equality while ensuring that merit remains the guiding principle for appointment (p. 7).

Policy messaging that emphasises that diversity should be considered, but not at the expense of merit, has been criticised for presenting merit and diversity as mutually exclusive (Levin & Alkoby, 2017).

⁶⁹ Referring to Muslim, Christian, and Sikh religions.

⁷⁰ This is discussed in reference to appointments to the Supreme Court.

⁷¹ Where the diversity of society or population is referred to, this tends to centre on diversity characteristics such as (but not limited to): age, disability, family status, gender, ethnicity, language/s spoke, religious beliefs, sexual orientation, and socio-economic status.

Despite a move towards encouraging consideration of diversity in the judicial selection and appointment processes in many common law jurisdictions, the effectiveness of these policies as drivers of change is open to question because they often lack a definition of diversity and/or lack guidance on how to prioritise diversity characteristics. For example, Morrison (2017) notes that while the Attorney-General of New Zealand has a protocol for making judicial appointments to senior courts (see footnote 68), which includes a commitment to promoting diversity in the judiciary, it lacks a definition of how diversity should be represented. Without clearly defining diversity and providing guidance on how diversity should be considered within the selection and appointments process, the impact of policies that encourage diversity cannot be measured (see Section 3.2 on The issue of merit in judicial appointments).

5.4 Quotas

While policies that encourage consideration of diversity when selecting and appointing judges can lack specificity and rigor, the implementation of quotas is a more defined approach to promoting representation of under-represented groups on the bench. A number of countries have introduced gender quotas for some elective and appointed judicial positions as part of efforts to improve public confidence in the judiciary. In Kenya, the 2010 Constitution contains a gender quota specifying that no more than two thirds of an elected or appointed body should be of one gender (e.g. International Development of Law Organization, 2018; National Gender and Equality Commission and the International Association of Women Judges – Kenya Chapter, 2019). In India, some states have specified gender quotas for the lower judiciary; although the quota varies, it is typically required that 30-35% of judges are female (Ghosh et al., 2018).

While quotas (particularly gender quotas) are seen in a number of jurisdictions, the effectiveness of quotas to improve diversity is debated. While jurisdictions that have recorded the largest increases in the number of women judges have generally made gender diversity on the bench a priority, set targets, and actively recruited women (OECD, 2014), there is a lack of evidence that laws or constitutional provisions on gender balance or gender quotas has a significant impact on the appointment of women to top judicial positions (Dawuni & Kang, 2015; International Development of Law Organization, 2018). To this point, Murungi (2018) notes that the Kenyan JSC reported that the gender quota

under the 2010 Constitution has been achieved; however, while the statistics show this to be broadly true (e.g. in 2016, 61% of judges in superior courts were male while 39% were female), the JSC's more recent recommendations have not appeared to follow the two-thirds gender quota (see Section 5.3 for more information on Policies to encourage consideration of diversity during the judicial selection and appointments process). Murungi (2018) observes that the JSC appears to be more effective at achieving the gender quota (i.e. appointing a sufficient number of women to judicial positions) within the lower courts than the Supreme Court.⁷²

5.5 Data, training, and outreach

Diversity training

Diversity training for members of selection and appointments bodies may be a way to improve judicial diversity via the selection and appointments process. However, there was very limited evidence of the implementation of EDI training for members of judicial appointments bodies. Evidence from Canada and Kenya provide some examples.

Writing at the beginning of the Trudeau government's tenure in Canada, Beg and Sossin (2017) reported that members of judicial advisory committees would be required to complete training focused on diversity and inclusion. However, it is not clear if this has been rolled out or the impact such training has had on judicial diversity.

Evidence from the 'Gender Audit' of the Kenyan Judiciary (National Gender and Equality Commission and the International Association of Women Judges – Kenya Chapter, 2019) reports that a judiciary transformation was rolled out under the direction of the first Chief Justice (C.J. Willy Mutunga) who was appointed under the 2010 Constitution. Included under this programme of transformation were judiciary sports days and judiciary transformation training sessions. The training sessions in particular are described as opportunities for judiciary staff to discuss previous issues of inequality and discrimination. The 'Gender Audit' report also notes how training on gender sensitivity, inclusion and equality was a central part of the judicial transformation programme (National Gender and

⁷² In addition to questions around the effectiveness of quotas to improve judicial diversity, there are concerns that quotas may compromise the requirement to appoint judges based on merit (Murungi, 2018). See further, Section 3.2 regarding The issue of merit.

Equality Commission and the International Association of Women Judges – Kenya Chapter, 2019). However, findings from the Audit note that little training has actually occurred and/or been sustained. For example, it is noted that where some training was available during the transformation period, this provision has not continued.

Collection of diversity data

While a gap in diversity data and knowledge has been highlighted across jurisdictions (see Section 3.2 for information on [A data gap](#)), moves towards addressing the diversity data gap have been made. For example, as part of the federal judicial appointments process in Canada (see footnote 58), applicants must complete a questionnaire, and since 2016, the questionnaire has included a section that collects self-identified diversity data (Beg & Sossin, 2017; Levin & Alkoby, 2017; OECD, 2019).^{73, 74} Some top-level diversity data from questionnaires completed between 2016 and 2021 is available online from the Office of the Commissioner for Federal Judicial Affairs Canada (2021). For example, according to the published data, from the end of October 2020 until the end of October 2021, 227 applications for superior court appointment were received; of these, 113 (50%) were from people who self-identified as men and 114 (50%) from people who self-identified as women.⁷⁵ From these applications, 71 (31%) appointments were made: 31 (44%) men and 40 (56%) women. Data on a range of other diversity characteristics is also available. For example, of the 227 applications, 6 (3%) applicants self-identified as 'Indigenous', 40 (18%) as a 'Visible Minority', 54 (24%) as an 'Ethnic/Cultural Group or Other', 6 (3%) as a 'Person with a Disability', and 10 (4%) as 'LGBTQ2'.⁷⁶ Of the 71 appointments, 4 (6%) were made to people who self-identified as 'Indigenous', 7 (10%) to people who self-identified as a 'Visible Minority', 7 (10%) to people who self-identified as 'Ethnic/Cultural Group or Other', 0 (0%) to people who self-identified as a 'Person with a Disability', and 9 (13%) people who identified as 'LGBTQ2' (see further, Office of the Commissioner for

⁷³ There is a section in which applicants are asked to respond to a question about cultural competence; however, Levin and Alkoby (2017) contend that cultural competence should not be a substitute for diversity.

⁷⁴ Data from 2016 to present is available online. For example, from the end of October 2020-end of October 2021, 227 applications for superior court appointment were received, 113 from men and 114 from women. 71 appointments were made, 31 men and 40 women.

⁷⁵ Within this report we have rounded up percentages; however, to be exact, 113 represents 49.78% of the applicants and 114 represents 50.22% of the applications.

⁷⁶ Note that these descriptions are the terminology used by the Office of the Commissioner for Federal Judicial Affairs Canada.

Federal Judicial Affairs Canada, 2021).⁷⁷ Data on individuals who self-identified across more than one diversity characteristic is not provided.

In Scotland, the JAB has implemented a voluntary Diversity Monitoring Questionnaire, which is sent to all judicial applicants (Judicial Appointments Board for Scotland, 2021). As part of this, the JAB monitors diversity data throughout the application process, and is working to collect diversity data on the eligible pool of judicial applicants for publication in the Board's annual reports (Judicial Appointments Board for Scotland, 2020).

While the collection of diversity data is not a direct initiative to improve judicial diversity, its collection is important for gathering a picture of the diversity of the pool of judicial applicants as well as appointed judicial officers. As such, good quality data is needed so that appropriate diversity initiatives can be developed and rolled out (Lyon & Sossin, 2014). Likewise, consistently collected data is required for any meaningful comparative analysis of judicial diversity within or between jurisdictions, both cross-sectionally and longitudinally (Levin & Alkoby, 2017). While collecting diversity data marks a positive step towards understanding judicial diversity, the value of this knowledge and understanding is only worth as much as the accuracy and consistency of the data collection.

Finally, where diversity data is made public, it can contribute to a more transparent judicial appointments process (e.g. Beg & Sossin, 2017), which may in turn facilitate greater judicial diversity.

Training and outreach for early-career judges and potential candidates

In some jurisdictions there is evidence of training or mentoring programmes for aspiring or early career judges. Evidence from South Africa, Ghana, Scotland, and Northern Ireland highlights outreach activities to encourage applications from under-represented groups in the judiciary.

⁷⁷ Data on language proficiency across a range of areas in English and French is also provided but due to space limitations is not provided here.

South Africa

Founded in 2011, the Aspirant Judges Program in South Africa⁷⁸ provides theoretical and practical training as well as mentoring by a judge from the High Court for legal practitioners and/or legal academics with a minimum of 12 years' experience (Masengu, 2016a).

Masengu (2016a) reports that the standard Aspirant Judges Program was replaced by the Advanced Aspirant Judges Program, which is run by the South African Judicial Education Institute.⁷⁹ While the advanced programme is for both aspirant male and female judges, a newsletter published by the South African Judicial Education Institute (2021) reported that the first Judicial Skills programme for Aspirant Women Judges was held in early 2021. It reported that 38 women attended the programme, and presentations covered topics that included judgment writing,⁸⁰ managing civil and criminal trials, managing opposed and unopposed motions, appeals and reviews, assessment and evaluation of expert evidence, case flow management, and judicial ethics. In addition to presentations, attendees completed overnight assignments on judgment writing. While a formal evaluation of the programme has not been carried out, participants provided positive feedback, for example, that the course was informative and engaging (South African Judicial Education Institute, 2021).

Masengu (2020a) also makes reference to judicial skills workshops for attorneys that have been jointly hosted by the National Association of Democratic Lawyers and the Law Society of South Africa since 2017. However, there is a lack of further information on these workshops.

Ghana

The Virtue Foundation's Ghana Jurist-in-Residence Program,⁸¹ launched in 2012, was rolled out as part of the Virtue Foundation's Women Judges in the Pipeline Initiative, which aims to reduce barriers to women's involvement in the judiciary worldwide (Knaul, 2011;

⁷⁸ For further details on the selection criteria and application form for the Aspirant Judges Programme in South Africa, see <https://www.judiciary.org.za/index.php/sajei/aspirant-judges-programme>

⁷⁹ However, the 'basic' Aspirant Judges Program appears to be ongoing, with the last in-take being in 2020. See here: <https://www.judiciary.org.za/index.php/sajei/aspirant-judges-programme>

⁸⁰ Judgment writing refers to the written reasons for a decision provided by a judge.

⁸¹ The Jurist-in-Residence Program page on the Virtue Foundations' website can be found here: <https://virtuefoundation.org/project/ghana-jurist-in-residence-and-clerkship-programs/>

Virtue Foundation, n.d.-a).⁸² The programme was designed to provide training to women judges at the beginning of their judicial career. Five women judges from Ghana were selected to attend a five-week training and shadowing programme with the Virtue Foundation in New York (Virtue Foundation, 2011; Virtue Foundation, n.d.-a). As part of the initiative, the five judges attended training on topics including legal research and writing, case management, fair trial rights, ethical issues, gender and the judiciary, and issues of vulnerable groups in courts. However, it is unclear if the initiative is still running or how successful it was or has been in promoting women's participation in the Ghanaian judiciary.

Scotland

The evidence base contained information on a number of outreach activities that have been implemented in Scotland. The 2019-2020 Annual Report from the JAB (published in 2021) contains some recent examples of these outreach activities:

- An outreach event was hosted by **the Law Society of Scotland** in January 2020 aimed at those interested in the offices for Sheriff and Summary Sheriff.⁸³ The event was attended by 35 members and focused on outlining the importance of increased diversity in the judiciary as well as explaining the assessment criteria used for judicial appointments. It is reported that the event received positive feedback.
- **The Scottish Ethnic Minorities Lawyers Association (SEMLA)** held an event in February 2020 for students and lawyers to hear about two speakers' experiences during their journey to the judiciary. The event highlighted the aim of the JAB to create a more diverse judiciary. The event was also an opportunity to promote the upcoming judicial recruitment rounds.

⁸² The Women Judges in the Pipeline is an international initiative rolled out in collaboration with public and private sector partners. It was developed with the aim of providing opportunities for women in developing countries to become judges (Virtue Foundation, n.d.-b). As part of this, the initiative involved launching pilot projects, one of which was the Jurist-in-Residence Program.

⁸³ In Scotland, sheriffs and summary sheriffs are legally qualified judges who sit in sheriff courts; they deal with most civil and criminal cases. See further: <https://www.judiciary.scot/home/judiciary/judicial-office-holders>

- **Women in Law 100** was an event held in September 2019 to celebrate the journey of women in law since 1919 following the Sex Disqualification (Removal) Act 1919 and to recognise the journey of women in the judiciary.⁸⁴ Guest speakers included individuals who had made an impact for women in the profession.
- A **Diversity Steering Group** has also been established. The Group is comprised of representatives, including members of the JAB, the Faculty of Advocates, the judiciary and the Law Society of Scotland. The aim of the Group is to support the JAB's statutory responsibility to increase judicial diversity in Scotland, for example, by identifying barriers to diversity and providing recommendations for how barriers can be removed.

Northern Ireland

In Northern Ireland, a number of outreach initiatives have been rolled out by the NIJAC:

- The **Judicial Shadowing Scheme** is available to lawyers (both solicitors and barristers) with at least two years of post-qualification experience. The aim of the scheme is to 'demystify' and provide insight into the judicial office, which may help individuals decide if they would like to pursue a judicial career (see further, Northern Ireland Judicial Appointments Commission, 2014).⁸⁵ Applications from individuals with a disability are encouraged.
- The NIJAC also has a '**Programme of Action**', designed to encourage a diverse applicant pool for judicial appointments (Northern Ireland Judicial Appointments Commission, n.d.). Activities include:
 - A Tailored Scheme Outreach Plan for all competitions for judicial office. Outreach plans may include disseminating advertisements via a network of

⁸⁴ See also: Law Society of Scotland (2019). This document provides a toolkit for facilitating roundtable discussions on the topic of women in law, which were undertaken as part of the Women in Law project.

⁸⁵ The programme is also open to doctors in relation to shadowing opportunities in Appeal Tribunals, the Mental Health Review Tribunal, and the Criminal Injuries Compensation Appeals Panel. Likewise, Land Valuers can apply to shadow in the Lands Tribunal (see Northern Ireland Judicial Appointments Commission, 2014).

professional organisations and journals, as well as via newsletters and the press.

- Engaging in outreach activities in order to facilitate understanding of judicial roles and to promote opportunities for judicial appointment.
- Develop a greater understanding of the barriers to achieving judicial diversity as well as what can be done to improve judicial diversity.

6. Conclusion and areas for consideration

The JAC appointed NatCen to carry out this REA to **compile and appraise evidence on measures** used by **common law jurisdictions outside of England and Wales** to **improve judicial diversity and diversity within the legal professions** more broadly. This included **evidence of their effectiveness**. In order to provide context to the evidence on diversity initiatives, **information on barriers to diversity** was also included.

6.1 Summary of the evidence

Although the focus of this REA was initiatives to improve diversity set within the context of barriers to diversity, the **evidence base** was **dominated** by evidence of **barriers, rather than evidence of diversity initiatives and their effectiveness**.

Barriers

Within the context of the **legal professions**, evidence relating to barriers to access and recruitment centred on **cultural background and ethnicity**, and **social class** and **economic poverty**, as well as **their intersection**. However, the **majority of the evidence** identified around progression and retention focused on **barriers related to gender** (i.e. barriers affecting women). Very limited evidence around barriers within the legal professions related to other diversity characteristics was identified.

A **key theme** within the evidence base on **barriers to judicial diversity** related to barriers associated with the **selection and appointments process**, particularly regarding **lack of transparency** and concerns about **favouritism**. **Additional barriers** to judicial diversity identified within the evidence base included **educational and professional elitism**; **negative attitudes towards diversity**; the **lack of diversity data**; and the **limited mentorship and networking opportunities** for those from diverse and/or under-represented backgrounds. However, much of the **evidence base focused on barriers for women** becoming members of the judiciary, with less focus on other diverse or under-represented groups. Gender-specific **barriers affecting women** that were identified as

part of the review included **gender stereotypes and bias**, the **caring role effect**, **patriarchal social structures**, and **limited opportunities for flexible and part-time working**.

Initiatives

As already noted, across the common law jurisdictions that were in scope for the REA, there was **little evidence around specific initiatives to improve diversity**. More specifically, within the evidence reviewed, **there was a paucity of structured, evidence-based programmes designed to improve diversity**, which was **particularly the case for judicial diversity**.

With regard to improving diversity in the **legal professions**, the review identified options for **flexible education and training**, programmes that **promote social mobility**, and options for **financial support** as the key focus of initiatives. Within the context of initiatives to encourage progression and retention of under-represented groups in the legal professions, the evidence was predominantly around **flexible working initiatives**; **maternity, paternity, and adoption leave policies**; **target-based initiatives** (e.g. equitable briefing policies and diversity scoring for law firms); **professional networks and groups**; **policies to tackle sexual harassment**; and the implementation of **unconscious bias training**. There was very **limited evidence** on initiatives to **reduce barriers for LGBT+ legal professionals**.

Much of the evidence identified within the context of improving **judicial diversity** related to **reforms of the selection and appointments process**, which may facilitate improvements in diversity, as well as **policies and recommendations to encourage diversity**. More specifically, some jurisdictions have focused on **increasing the transparency** of the **judicial selection and appointments process** to **improve public confidence** and the **trust** of potential candidates in the **fairness** of the process. Examples include the **introduction of appointments bodies** and making **elements** of the selection and **appointments process public**. In some jurisdictions, those who nominate and/or select judicial candidates for recommendation are required to **consider diversity** as part of their **decision-making** process. However, other countries have introduced **gender quotas** for some elective and appointed judicial positions as part of efforts to **improve public confidence** in the judiciary. Finally, grounded in the assumption that diverse appointments

bodies will create a more diverse judiciary, some **appointments bodies are required to have a diverse membership.**

Some examples of more specific programmes of activity to improve judicial diversity were also identified. We found evidence of **training or mentoring programmes** for aspiring or early career judges, and **outreach activities** to encourage applications from under-represented groups in the judiciary. Finally, to better **understand** the **diversity** of the pool of judicial applicants as well as those appointed as judicial officers, some jurisdictions are making efforts to improve their approach to **collecting diversity data** (i.e. more accurate and consistent data collection).

Evidence of effectiveness

Where diversity initiatives and programmes were identified, the **evidence base regarding effectiveness was very weak**, with a **lack of any formal, rigorous, and structured evaluation**. In order to assess **whether initiatives and programmes are effective** in their aims, they **need to be robustly and independently evaluated**, and the findings **published**.

A focus on gender

The preponderance of the **evidence around barriers and initiatives** was **focused on gender**; namely, the **barriers faced by women** and **initiatives to improve female representation** within the **legal professions** and the **judiciary**. Based on the evidence reviewed, there is a clear **gap in promoting diversity across a range of diversity characteristics**. However, as we noted in Chapter 2, the diversity challenges faced by jurisdictions vary; therefore, views around the need for diversity, the diversity characteristics that are considered important, and the appropriateness and relevance of diversity initiatives will likely vary between jurisdictions. It follows that **caution** should be applied when **assessing** what **diversity looks like in other jurisdictions**, and **cultural differences considered** when **analysing** evidence from jurisdictions **outside of England and Wales**.

6.2 Areas for consideration

This section brings together **areas for consideration to improve diversity** in the **legal professions** and the **judiciary** that are informed by **the evidence base**. We recognise that the JAC and/or partner organisations may already be aware of, or may already be implementing, some of these considerations. However, as England and Wales was not a focus of the present REA, an assessment of whether the areas for consideration are already underway was beyond the scope of the report. As such, the following are informed by the evidence base and provide **general points of consideration** for any organisation or official body looking to improve diversity.

Considerations for improving diversity within the legal professions

- **Focus on a broader range of diversity characteristics.** For example, make the workplace more LGBT+ inclusive; improve accessibility for those with disabilities. Bringing in 'by and for' organisations to assist and advise could be useful in thinking more practically about how to be inclusive and meet diverse needs.
- **Develop more mentoring opportunities,** both for legal students and professionals. It is important to empower and embolden those starting out on a legal career with role models and peers that they identify with. Judicial diversity starts with diversity in the legal profession/s.
- **Implement unconscious bias training in organisations** (e.g. law firms). This may involve workplace seminars and webinars to ensure that messaging around unconscious bias is consistent and regular, avoiding the tick box exercise that in-house training may lead to.
- **Address recruitment approaches** that perpetuate recruitment of those who reflect the existing make-up of the legal workplace.
- **Targeted recruitment of under-represented groups** (e.g. promote vacancies amongst under-represented groups). This may be achieved through a better understanding of the range of places and methods people use to identify employment opportunities, as well as a wider consideration of non-traditional educational journeys.

- Organisations (e.g. law firms and universities) should **collect and report diversity monitoring data**. This would allow for a clear understanding of diversity and the monitoring of progress towards improving diversity.
- **Flexible working opportunities**, including developing family-friendly flexible working policies and promoting a positive attitudinal shift to using flexible working arrangements, which is led from the top.
- Implement and improve initiatives (e.g. policies, training) to **address sexual harassment** and bullying within the legal professions.
- Instigate the use of **target-based initiatives**, especially equitable briefing policies to support diversity at the Bar, and diversity scoring policies to encourage diversity within law firms.

Considerations for improving judicial diversity

- Take steps to create and/or maintain a **transparent** selection and appointments process.
- **Proactively recruit qualified candidates from under-represented groups** (e.g. promote vacancies amongst under-represented groups).
- **Focus on a broader range of diversity characteristics** (e.g. disability, sexual orientation, socio-economic status). This is critical—treating diversity in a hierarchical manner may create greater tensions and decrease opportunity for specific groups (e.g. those who are not perceived as the priority).
- **Formal mentorship programmes and networks for under-represented groups should be initiated**. Using senior judicial officers who have succeeded, or ‘by and for’ organisations would make this more meaningful for those considering the pursuit of a role in the judiciary.
- Provide **accessible and early career training** on the pathways to becoming a judge and the skills judges require (from legal training and early career level).

- Provide **training to potential applicants** on how to apply for judicial selection, and how to prepare for interviews. This could, for example, be integrated into continued professional development plans.
- **Flexible and part-time options should be more available and accepted.** These are accepted in other professions and therefore should not be any different within the judicial system.
- Provide **unconscious bias** training and **equality and diversity training** to decision-makers involved in the judicial selection and appointments process.
- Implement initiatives (e.g. policies, training) to **address sexual harassment** within the judiciary.
- **Monitoring and robust evaluation of initiatives** must be carried out in order to measure effectiveness. Implementing better data collection early on will lead to more useful and applicable research further along.

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Appendix A

Search terms and strings⁹⁰

Appendix table A:1 Original search terms and strings for academic databases	
Component	Search strings
Judiciary	'Judiciary' OR 'judicial' OR 'judge' OR 'magistrate' OR 'justice' OR 'recorder'
Diversity	'BME' OR 'BAME' OR 'race' OR 'ethnicity' OR 'ethnic minority' OR 'faith' OR 'religion' OR 'belief' OR 'gendered' OR 'gender' OR 'sex' OR 'pregnancy' OR 'pregnant' OR 'maternity' OR 'sexuality' OR 'sexual orientation' OR 'transgender' OR 'gender identity' OR 'LGBT' OR 'LGBTQ' OR 'disabled' OR 'disability' OR 'age' OR 'subgroup' OR 'misogyny' OR 'protected characteristic' OR 'protected group' OR 'minority' OR 'prejudice' OR 'discrimination' OR 'bias' OR 'underrepresented' OR 'underrepresentation' OR 'equality' OR 'inclusion'
Initiatives	'Initiative' OR 'programme' OR 'intervention' OR 'evaluation' OR 'strategy' OR 'scheme' OR 'plan' OR 'pilot' OR 'reform'
Barriers	'Barriers' OR 'obstacles' OR 'difficulties' OR 'impediments' OR 'obstructions' OR 'hurdles' OR 'challenges'
Other legal professions	'Lawyer' OR 'barrister' OR 'solicitor' OR 'advocate' OR 'paralegal' OR 'jurist' OR 'separate legal professions' OR 'fused legal professions'

⁹⁰ As noted in Chapter 2, we consulted an expert librarian to provide input and expert opinion on string construction, testing strings and feeding back to the research team on their strength and limitations. As a result, an iterative process of testing search strings and search strategy was followed. Tables A1 and A2 provide examples of these iterations: Table A1 provides the original strings and Table A2 is an amended strategy aimed at expanding the range of diversity characteristics included in the returns; this amendment was in response to initial searches yielding evidence predominantly focused on gender.

Appendix table A:2 Amended search terms and strings for academic databases (example)

Component	Search strings
Judiciary	'Judiciary' OR 'judicial' OR 'judge' OR 'magistrate' OR 'justice' OR 'recorder'
Diversity	'BME' OR 'BAME' OR 'race' OR 'ethnicity' OR 'ethnic minority' OR 'faith' OR 'religion' OR 'belief' OR 'racism' OR 'racist' OR 'racial' OR 'disabled' OR 'disability' OR 'age' OR 'subgroup' OR 'protected characteristic' OR 'protected group' OR 'minority' OR 'prejudice' OR 'discrimination' OR 'bias' OR 'underrepresented' OR 'underrepresentation' OR 'equality' OR 'inclusion' OR 'Identity' OR 'national origin' OR 'cultural' OR 'inequality' OR 'multicultural' OR 'multi-ethnic' OR 'BIPOC'
Initiatives	'Initiative' OR 'programme' OR 'intervention' OR 'evaluation' OR 'strategy' OR 'scheme' OR 'plan' OR 'pilot' OR 'reform' OR 'policy' OR 'guidance' OR 'legislation' OR 'report' OR 'publication' OR 'targets'
Barriers	'Barriers' OR 'obstacles' OR 'difficulties' OR 'impediments' OR 'obstructions' OR 'hurdles' OR 'challenges'
Other legal professions	'Lawyer' OR 'barrister' OR 'solicitor' OR 'advocate' OR 'paralegal' OR 'jurist' OR 'separate legal professions' OR 'fused legal professions'

Appendix table A:3 Summary terms for non-academic databases

Theme	Search term	Further simplified terms
Barriers (judicial)	'Barriers to judicial diversity' 'Obstacles to judicial diversity'	'Judicial diversity' 'Judicial diversity barriers'
Judicial diversity initiatives	'Judicial diversity initiatives' 'Judicial diversity measures' 'Improving judicial diversity' 'Promoting judicial diversity'	'Judicial diversity initiatives' 'Judicial diversity schemes'
Barriers (the legal profession)	'Diversity barriers in the legal profession'	'Diversity barriers legal profession'
Diversity initiatives (the legal professions)	'Legal profession diversity initiatives' 'Improving diversity in the legal profession' 'Diversity initiatives in the legal profession' 'Promoting legal profession diversity'	N/A

Appendix B

Exclusion and inclusion criteria

Appendix table B:1 Exclusion and inclusion criteria	
Language	Published in English language.
Country	Australia Canada Caribbean jurisdictions (specifically Barbados and Trinidad and Tobago) Cyprus Ghana Hong Kong India Israel Kenya Malaysia New Zealand Nigeria Northern Ireland Pakistan Republic of Ireland Scotland Sierra Leone

	Singapore South Africa Uganda
Year	2011 onwards.
Access	Full texts of documents should be accessible to the research team.
Evidence type	Evidence will primarily be from either grey literature or peer-reviewed journal articles. Due to time constraints, books and monographs will not be included.
Methodology	All research methods. Newspaper articles and/or blogs will not be included.

Appendix C

Academic databases

Appendix table C:1 Targeted academic databases

Scopus

Web of Science

Ebsco

Ebsco Discovery

Appendix D

Weight of evidence for REA sources

A weight of evidence (WoE) analysis ensures that the evidence synthesis is based on studies / documents / sources that meet a minimum quality standard (Gough, 2007). Each piece of evidence was assessed against the following three dimensions:

- Quality of the research methodology and reporting
- Appropriateness of the design and analysis to address the research objectives of the paper
- Relevance of the study/evidence for the current REA

Each piece of evidence was then assigned an overall 'weight' (low, medium, or high) based on the scores for each dimension noted above.

The scores for each of the REA sources are listed in the table below.

Appendix table D:1 Weight of evidence score for REA sources		
Author(s)	Year	Overall WoE score
Abbott, I.	2018	Medium
Arrington, N., Bass, L., Glynn, A., Staton, J., Delgado, B., & Lindberg, S.	2021	Medium
Bagust, J.	2012	Medium
Bartlett, F., & Douglas, H.	2018	Medium
Basheer, S., Krishnaprasad, K., Mitra, S., & Mohapatra, P.	2014	Medium
Beg, S. & Sossin, L.	2017	Medium

Bonthuys, E.	2015	Medium
Cahillane, L.	2016	Medium
Cairns Way, R.	2017	Medium
Campbell, I., Charlesworth, S., & Malone, J.	2011	Medium
Canadian Centre for Diversity and Inclusion.	2018	High
Centre for Applied Legal Studies	2014	High
Chandra, A., Hubbard, W. and Kalatry, S.	2019	Low
Chandrashekaran, S., Sanyal, D. and Tripathy, S.	2020	Medium
Chouhan, A.	2019	Medium
Colmar Brunton	2018	Medium
Crandall, E.	2014	Medium
Crandall, E., & Lawlor, A.	2017	Medium
Dawuni, J. & Kang, A.	2015	Medium
Dinovitzer, R. & Dawe, M.	2016	Medium
Doogue, J-M.	2018	Medium
Equal Opportunity Commission	2021	High
Flaherty, M., & Roussy, A.	2015	Medium

Francavilla, D.	2018	Low
Fric, A.	2020	Low
Galligan, Y., Haupfleisch, R., Irvine, L., Korolkova, K., Natter, M., Schultz, U. & Wheeler, S.	2017	Medium
Ghosh, A., Sanyal, D., Khaitan, N. & Reddy, S.	2018	Medium
Handsley, E. and Lynch, A.	2015	Low
Hobbs, H.	2015	Low
Holden, L.	2018	Low
Institute of Judicial Studies	2020	Low
International Development of Law Organization.	2018	Medium
Israel, M., Skead, N., Heath, M., Hewitt, A., Galloway, K. and Steel, A.	2017	Low
Katvan, E.	2012	Low
Knau, G.	2011	Low
Lambert, J. & Ellison, S.	2011	Medium
Law Council of Australia.	2014a	High
Law Council of Australia.	2014b	Medium
Law Council of Australia.	2018	Low
Law Council of Australia.	2020	Low

Law Society of England and Wales.	2019	High
Law Society of Ireland.	2018	Medium
Law Society of Scotland.	2011	Medium
Law Society of Scotland.	2014	Medium
Law Society of Scotland.	2018a	High
Law Society of Scotland.	2020a	Low
Law Society of Scotland.	2020b	Low
Law Society of Singapore.	2020	High
Leith, P. & Morison, J.	2013	Medium
Levin, A. and Alkoby, A.	2017	Medium
Levy Ariel, Y.	2018	Medium
Lynch, A., Opeskin, B., Appleby, G., & Le Mire, S.	2019	Medium
Lyon, S. & Sossin, L.	2014	Medium
Mack, K. & Roach Anleu, S.	2012	Medium
Masengu, T.	2015	Medium
Masengu, T.	2016a	High
Masengu, T.	2016b	Low
Masengu, T.	2020a	Medium
Masengu, T.	2020b	Medium
Morison, J.	2015	Low

Morison, J., & Dickson, B.	2019	Low
Morrison, G.	2017	Medium
Murungi, A. G.	2018	Low
Nasager, A.	2020	Medium
National Gender and Equality Commission and the International Association of Women Judges – Kenya Chapter	2019	Medium
New Zealand Law Society	2018a	Medium
Norton, M.	2017	Low
Nsimbini, N. T. & Matotoka, M. D.	2020	Medium
OECD.	2014	High
OECD.	2019	High
Oxtoby, C. & Masengu, T.	2017	Medium
Paterson, A & Paterson, C.	2012	Low
Pender, K.	2019	High
Phooko, M. R. & Radebe, S. B.	2016	Medium
Ragusa, A. T. & Groves, P.	2012	Medium
South African Judicial Education Institute	2021	Low
Szoke, H.	2021	Medium

Thornton, M.	2014	Low
Virtue Foundation.	2011	Medium
Wilson Smith, E.	2015a	Medium
Wilson Smith, E.	2015b	Medium
Wilson Smith, E.	2015c	Low

Appendix E

Document summaries

Appendix table E:1 Evidence summaries: Academic literature

Relevant Jurisdiction	Author/s	Year	Publication type/methods	Summary
International (general)	Abbott, I.	2018	Review/legal opinion on the value of good quality mentorship and sponsorship, particularly for women and minority lawyers.	<p>Taken/adapted from abstract:</p> <p>As law firms seek ways to increase diversity and inclusion, many are turning to high-quality mentoring. Those that are doing so through sponsorship-focused mentoring programmes are reporting promising results. This article provides a light-touch discussion on the value of good quality mentorship and sponsorship for career progression. However, women and minority lawyers often face challenges to accessing mentors and sponsors. The author notes how law firms are increasingly taking steps to create mentorship and sponsorship programmes that promote diversity at more senior levels.</p>
International (general)	Arrington, N., Bass, L., Glynn, A.,	2021	Quantitative: analysis of data on constitutional changes to the judicial appointment process and when the first	<p>Taken/adapted from abstract:</p> <p>Do the processes states use to select judges for peak courts influence gender diversity? Scholars have debated</p>

	Staton, J., Delgado, B., & Lindberg, S.		women justice was appointed to explore the association between these variables. <ul style="list-style-type: none"> • Uses a matched-pair research design with a global sample of jurisdictions beginning in 1970. • The authors analyse how constitutional change to the judicial appointments process impacts when the first woman justice is appointed to a 'peak' (i.e. high/ superior) court. 	whether concentrating appointment power in a single individual or diffusing appointment power across many individuals best promotes gender diversification. Others have claimed that the precise structure of the process matters less than fundamental changes in the process. The authors clarify these theoretical mechanisms, derive testable implications concerning the appointment of the first woman to a state's highest court, and then develop a matched-pair research design within a Rosenbaum permutation approach to observational studies. Using a global sample beginning in 1970, the authors find that constitutional change to the judicial selection process decreases the time until the appointment of the first woman justice. These results reflect claims that point to institutional disruptions as critical drivers of gender diversity on important political posts.
Australia	Bagust, J.	2012	Qualitative: interview data analysed within the context of Marxian and feminist thought. <ul style="list-style-type: none"> • 50 semi-structured interviews conducted in 2005 and 2006 with corporate lawyers at ten law firms (partners, employer practitioners, practitioners who 	Taken/adapted from abstract: <p>Despite the implementation of policies and procedures to redress the gender imbalance at the higher echelons in Australian corporate law firms, only a paucity of women successfully tread the path to equity partnership. In this article, it is argued that it is the systemic, rather than the overt, barriers that present the major obstacle to sexual equality within the corporate legal workplace. Neo-</p>

			<p>had left the firms) in Melbourne, Australia</p> <ul style="list-style-type: none"> Participants were asked about their experiences and perceptions of work practices and the workplace culture of the firms that they worked at, and the legal profession in general. 	<p>Marxian thought, in particular the work of Charles Derber on the proletarianisation of professional workers, as well as contemporary feminist thought, is utilised to explore why profoundly gendered assumptions in relation to the 'ideal worker' norm remain deeply embedded in the mindsets and attitudes of those organising the legal workplace. It is suggested that fear of change to work practices within firms has not only an ideological but also a material base. It is economically determined. Highly trained women lawyers with family and work responsibilities who take up flexible work arrangements in firms are fulfilling a proletarian role and their under-utilised labour is being extracted to increase profit share at the apex and facilitate the progress of their unencumbered colleagues along the path to partnership.</p>
Australia	Bartlett, F., & Douglas, H.	2018	Review of publicly available information about judges from federal and supreme courts in Australia.	<p>Taken/adapted from abstract:</p> <p>In this article, the authors reflect upon the backgrounds and career trajectories of judicial officers currently presiding over the federal court and supreme courts in Australia. They gathered information through publicly available websites in Australia providing official biographical information, and drew on academic efforts to fill in more details about the judiciary. While patchy, the picture today in the Australian judiciary is of a relatively</p>

				uniform educational and career background – for both male and female judges. The analysis shows that judges are predominantly recruited from a long career at the private Bar. However, given continued professional barriers to women succeeding in the Australian legal profession, the authors argue that it is time to take seriously the stated goals of modern judicial appointment to widen the pool and consider merit that is not solely defined by a benchmark male career.
India	Basheer, S., Krishnaprasad, K., Mitra, S., & Mohapatra, P.	2014	<p>Quantitative: analysis of demographic and academic data from law student surveys, and law firm recruitment data.</p> <ul style="list-style-type: none"> • Surveys of law students at three leading Indian universities regarding background and demographics. • Use of recruitment data from five law firms in India regarding the demographics and academic achievement of students accepted from the 	<p>Taken/adapted from abstract:</p> <p>The National Law Universities (NLUs), often perceived as premier institutions of legal education in India, routinely teach ideals such as social justice and equality; however, the current student composition at many of these elite institutions is bereft of meaningful diversity, comprising students primarily from privileged backgrounds. The numbers from low-income backgrounds, rural areas, small towns and from areas such as the North East and Kashmir are deplorably low.</p> <p>This paper proposes ways of addressing this diversity deficit and fostering what is now coming to be labelled as “inclusive growth”. The paper discusses the issue of diversity and the need to enhance access to education in</p>

			<p>three leading law schools over three years.</p> <ul style="list-style-type: none"> • Analysis of demographic information both within universities and on recruitment to law firms compared to India overall. 	<p>favour of marginalised communities. It then empirically establishes the lack of meaningful diversity (particularly income and geographical diversity) at the leading NLUs and explores the underlying reasons for this. It also examines the recruitment data from leading NLUs to determine if there are any student groups that are consistently unable to gain access to the premier law firms. Finally, the paper advocates solutions for fostering a more inclusive model of legal education and discusses one project in particular (IDIA) that is aimed at enhancing access.</p>
South Africa	Bonthuys, E.	2015	<p>Opinion piece: the paper broadly explores racial and gendered inequalities within the South African judiciary, arguing that the aim of gender equality lags behind that of ethnic representation.</p>	<p>Taken/adapted from abstract:</p> <p>Although the obligation to appoint women as judges originates from the constitutional injunction to consider “the need for the judiciary to reflect broadly the racial and gender composition of South Africa,” gender transformation has lagged behind racial transformation of the bench. During the past four years, however, the lack of women appointees has become a more contested issue. This paper investigates the relationship between gender transformation and racial transformation of the judiciary in public debates around the judiciary. Despite the universally voiced concern about the lack of women judges, the most frequent and acrimonious public</p>

				disputes continue to centre upon racial issues. The imperative to appoint women judges is often articulated as an alternative to appointing black judges, although the statistics show that the greatest need is for the appointment of black African women. Debates on gender transformation of the bench also remain premised on a formal notion of equality that focuses on numbers of women judges rather than on appointing male or female judges who are committed to challenging gender oppression. This means that the entrenched professional cultures, norms and structures that benefit men are left unchallenged.
Republic of Ireland	Cahillane, L.	2016	Discussion piece regarding the diversity of the Irish judiciary.	Taken/adapted from abstract: Judicial diversity is not a subject that is much discussed in the Republic of Ireland. Although the Irish judiciary is still a relatively homogenous group with figures on female judges only recently improving, it seems neither the judges, nor the other two branches of government, see this as an issue which needs to be addressed. This is also in spite of the fact that the current process for appointing judges does not include any incentive or requirement to consider diversity and the recent trend which has seen the appointment of more women to the bench could just as easily be reversed by a future

				<p>regime. Furthermore, while there has been some improvement in terms of gender balance, it seems there has been no consideration of diversity more generally in judicial appointments. In this context, this article examines whether diversity is an issue that needs to be considered in relation to judicial appointments in the Republic of Ireland. First, the current profile of the Irish judiciary is illustrated. Then, in order to determine if and why diversity is necessary, the various rationales that have been put forward in favour of judicial diversity are analysed. Finally, the argument in favour of examining this issue in further detail in the Republic of Ireland is put forward.</p>
Canada	Cairns Way, R.	2017	Discussion piece regarding judicial appointments reform in Canada in 2016, which includes some discussion of diversity.	<p>Taken/adapted from introduction:</p> <p>Within this article the author presents a discussion around judicial appointments reform in Canada in 2016. There are three parts to the discussion. First, the author explains why diversity matters to judging. Second, the author considers how diversity ideals inform the new Supreme Court of Canada appointments process, and examines the conflicting challenges presented by a commitment to diversity measured on axes of region, language and identity. Third, the author briefly examines the ways in which the section 96 reforms (reforms to a</p>

					type of provincial court in Canada) reflect the same public commitment to diversity.
Australia	Campbell, I., Charlesworth, S., & Malone, J.	2011	<p>Qualitative: interview and focus group data.</p> <ul style="list-style-type: none"> • In-depth interviews with a range of people associated with law firms • Results from recent surveys in Victoria, Australia (Aequus Partners, 2005; LIV and VWL, 2006) were used to develop the interview content. • 27 interviews with a range of people associated with law firms: 14 solicitors currently employed in law firms, nine solicitors who had left law firms within the past ten years, and four human resources managers in large law firms. 	<p>Taken/adapted from abstract:</p> <p>This paper examines the quality of part-time employment for solicitors in private practice in Australia. Though full-time jobs based on long hours are dominant in the legal profession, part-time jobs, primarily taken by women, have attracted attention in recent years. The paper seeks to answer fundamental questions about the extent and quality of these jobs and how well they serve the needs of the increasingly diverse workforce. The paper draws on recent surveys and in-depth interviews as well as census and other secondary data to describe the features of the part-time workforce and to explore aspects of poor quality such as limited access, inferior job content, stalled career progression and narrow schedules. It suggests that the major barrier to improving the quality of part-time jobs is the dominant model of full-time work in law firms, centred on heavy workloads, high targets of 'billable hours' and long working hours.</p>	

			<ul style="list-style-type: none"> • One semi-structured focus group with eight solicitors working part-time. • Transcripts were analysed thematically. 	
India	Chouhan, A.	2019	<p>Mixed methods: interviews and administrative data on gender composition of the judiciary from judges' websites.</p> <p>Qualitative:</p> <ul style="list-style-type: none"> • Interviews with 19 retired high court judges from Mumbai and Delhi. Ten were men and nine were women. • Interviews focused on why there is a lack of women in the Indian judiciary, and interviewees' own experiences <p>Quantitative:</p>	<p>Taken/adapted from abstract:</p> <p>Gender bias in appointments at different judicial levels, whether in explicit or implicit forms, has been a prominent cause of the skewed gender ratio in the higher Indian judiciary. By basing this assertion on empirically collected qualitative and quantitative data, the author argues that such bias operates in two forms: Structural bias and discretionary bias.</p> <p>Structural bias encompasses the biases embedded in judicial selection policies: first, the Supreme Court's unwritten "seniority norm," which favours the selection of the senior-most high court judges to the apex court; and second, the "transfer policy" at the subordinate judicial level, which prohibits the appointment of judges at their place of residence or that of their spouse. Both these policies have been found to be implicitly gender biased.</p>

			<ul style="list-style-type: none"> • All data on the gender of judges across supreme and high courts was collected from judges' websites. 	<p>Discretionary bias includes biases exercised by judicial decision-makers based on their conscious or unconscious preferences, contributing to gender bias.</p> <p>The author concludes that the prominent reason for gender-biased appointments is the failure by policymakers and decision-makers to consider women's differential responsibilities of motherhood and marriage, and the lack of responsibility-sharing by their husbands.</p>
Canada	Crandall, E.	2014	<p>Quantitative: a dataset containing information on the name of the judicial appointee, the year of appointment, and the political party making the appointment was created. The relationship between gender of judicial appointee and political party was then examined.</p> <p>Data was collected from the government, Judicial Appointment Advisory Committee, and newspaper websites.</p>	<p>Taken/adapted from abstract:</p> <p>Using an original dataset of appointments to Ontario's provincial and superior courts from 1972 to 2012, this article explores whether the system of judicial appointment affects the representation of women on the bench. In addition to providing a comprehensive review of judicial appointments in Ontario, the article finds that since the introduction of new judicial appointments systems by the federal and Ontario governments in 1989, the provincial system appointed approximately five percent more women judges. The data also reveals that Conservative parties were less likely to appoint women to the bench than the Liberal Party and NDP over this forty-year period. If diversity on the bench is to be a serious policy objective for governments, this research indicates</p>

				that certain approaches may prove more effective than others. In particular, Ontario's provincial nominating committee system has been more successful in appointing women judges—especially in the years it actively recruited women applicants—than the federal government's review committee system.
Canada	Crandall, E., & Lawlor, A.	2017	<p>Quantitative: administrative data of judicial appointments, political party making the decision, and party connection was collected, and associations examined.</p> <ul style="list-style-type: none"> Using an original dataset of judicial appointments from 1972 to 2013. The dataset was comprised of judicial appointments by the federal government to provincial superior courts in all ten provinces and by Ontario's provincial government to its provincial courts. 	<p>Taken/adapted from abstract:</p> <p>The influence of party connection on the selection of judges has long been an issue in Canada. This article considers whether such connections adversely affect the appointment of women judges to federally appointed courts. The answer appears to be yes. Using political donations as a proxy for party connection, the data analysed here suggest that as the number of appointees with connections to the government rises, the number of women appointees falls. However, for appointments to provincial courts by the government of Ontario, the prevalence of political connections among judicial appointees is less prominent, suggesting that different systems of judicial appointment may help to lessen these effects.</p>

			<ul style="list-style-type: none"> For each judicial appointment, the name of the appointee, the year of appointment, the appointee's gender, and the political party making the appointment were collected. Party donations to the appointee were used to measure party connection by proxy. 	
International (African countries)	Dawuni, J. & Kang, A.	2015	<p>Review; qualitative analysis of interviews with female Chief Justices.</p> <ul style="list-style-type: none"> Interviews with six female Chief Justices in African countries between 1990 and 2014 about their career paths and experiences. Review of literature on factors influencing the appointment of a female chief justice. 	<p>Taken/adapted from abstract:</p> <p>In recent years, women have been selected as leaders of African judiciaries. This article identifies where and when women have become chief justices and presidents of constitutional courts from 1990 to 2014. The authors profile women from three civil-law and three common law countries and find that the women selected meet or exceed the requirements for holding the highest position in the judiciary. They then explore why some African countries, but not others, have had female judicial leaders. They initially find that the selection method may be less important than the type of legal system, the commitment of gatekeepers, the end of major armed conflict, and regional diffusion in explaining why some</p>

				countries have seen women rise to leadership positions in the judiciary.
Canada (and the United States) Note: evidence extraction focuses on Canada.	Dinovitzer, R. & Dawe, M.	2016	<p>Secondary analysis of quantitative data regarding demographic information and career details for lawyers</p> <ul style="list-style-type: none"> Used data from the Law and Beyond (LAB) Study (Dinovitzer, 2015). The sample for the LAB study comprises all individuals called to the Bar in 2010 in every jurisdiction in Canada (N=2,530). Paper and web surveys were used simultaneously to collect demographic data and information on practice setting. 	<p>Taken/adapted from abstract:</p> <p>This paper explores early careers by drawing on nationally representative surveys of lawyers' early careers in Canada and the United States. The paper examined the sorting of lawyers in sectors and settings as well as the mechanisms that are key to understanding this process. Prior research has pointed to the importance of law school credentials, race, gender and social class, which continue to be important lines of demarcation. The comparative lens provides the opportunity to better understand the ways in which these factors are contingent on national context, which, in turn, shapes the symbolic and cultural value of the forms of capital that can provide access to more prestigious, powerful and remunerative positions in the legal profession.</p>
Canada	Flaherty, M., & Roussy, A.	2015	Discussion piece / literature review with a small amount of quantitative questionnaire findings about students'	Taken/adapted from abstract:

			<p>reasons for participating in the French LLP, demographic information, and career aspirations.</p> <ul style="list-style-type: none"> • Questionnaire administered to French LPP program candidates in 2014 (N=19); 17 students provided responses. • Questionnaire collected demographic data and information on candidates' current understanding of access to justice issues, the reason for their participation in the French LPP, their career goals, their law school grades, and their language skills. 	<p>In 2014, the Law Practice Program (LPP) was introduced in Ontario, creating an alternative to the traditional articling process. The authors consider the demographic make-up of the first cohort of the French LPP and its access to justice implications. Their survey showed that French LPP candidates were overwhelmingly racialized. Moreover, a high percentage of the candidates were born outside of Canada, older than the average law student, and male. While the statistical pool is small and although these are very early days for the LPP, the survey results suggest that the traditional articling avenue may not be fully accessible to candidates with certain personal characteristics, and that the LPP may play an important role in addressing some of those barriers. At the same time, however, the authors are concerned that unless special care is taken, the LPP could reinforce some of the existing challenges that racialized lawyers face within the legal profession.</p>
India	Francavilla, D.	2018	<p>Opinion piece on the appointment of judges in India.</p>	<p>Taken/adapted from introduction:</p> <p>After a brief introduction to pluralism in Indian society and to the organisation of the higher judiciary, this article analyses formal norms concerning the appointment of judges as provided for in the Constitution and case law. Secondly, it analyses the informal practices that, in fact,</p>

				<p>influence the appointment of judges according to the principle of diversity. Thirdly, the article considers the coherence of this principle with the Indian constitutional framework, the debate about the need to introduce explicitly and formally a reflective judiciary in India, and the issue of its symbolic and substantive value in the Indian experience.</p>
Canada	Fric, A.	2020	<p>Qualitative: exploratory and inductive analysis of judges' answers to responses to the federal judicial selection questionnaire.</p> <ul style="list-style-type: none"> • The research examined 16 judges' responses to two questions (out of a total of 25 questions) in the judicial selection questionnaire • The two questions of focus were: 'What would you regard as your most significant contribution to the law and the pursuit of justice in Canada?' and 'How has your experience provided you with 	<p>Taken/adapted from abstract:</p> <p>Since 2017, the Canadian government has published excerpts from questionnaires that prospective judges completed as part of the judicial selection process, subjecting newly appointed superior and federal court judges to a degree of scrutiny that is unprecedented in Canadian history. Using this novel source material, this article explores what a sample of 16 judges' questionnaires do and do not say about the individuals behind the robes. This review suggests that those appointed to the bench in 2017 generally demonstrate insight into the judicial role in Canada. However, some provide only superficial responses, others parrot back normative values that the government has already prescribed, and many offer substantially similar answers. This suggests, first, that not all successful applications or, for that matter, applicants are created equal and,</p>

			<p>insight into the variety and diversity of Canadians and their unique perspectives?'. </p>	<p>second, that applicants use the questionnaire less as an opportunity to demonstrate free thought and more as a test to prove their fealty to dominant assumptions about the court's role in society. The questionnaire therefore misses an opportunity to show that diversity on the bench is more than skin-deep. Meanwhile, recent trends show that the government has lagged behind on its commitment to make judges' applications public. The article concludes that if the government is serious about introducing greater transparency and accountability to the judicial selection process, then it should revise the questionnaire to elicit more meaningful responses from applicants and table legislation to codify the government's political promise to publish appointees' views on the role of the judiciary in Canadian society.</p>
India	Ghosh, A., Sanyal, D., Khaitan, N. & Reddy, S.	2018	<p>Quantitative: collection and descriptive analysis of demographic data regarding the gender composition of the lower judiciary in India.</p> <ul style="list-style-type: none"> Extracted district-wide names and designations of 15,806 judges in lower judiciary over March-July 2017. 	<p>Taken/adapted from introduction:</p> <p>Compiling basic data on the gender composition of the judiciary is the first step in addressing issues with it, serving as a key indicator of potential problems with judicial appointments and promotions. These statistics in and of themselves cannot yield appropriate reform suggestions but are necessary before other required forms of analysis can be undertaken. The lack of systematic, regularly collected metrics on gender</p>

			<ul style="list-style-type: none"> • 17 districts not included as data not available, 651 included. • 153 individuals were unable to have gender assigned. 	<p>diversity also contributes to the relatively low attention it receives in discourse on issues facing the Indian judiciary.</p> <p>This Briefing aimed to take a step forward in filling this vacuum by providing state and district-wide data on the gender composition of the lower judiciary. Where possible, it also provides data on gender composition at each of the three tiers of lower courts. Through its findings, a stark picture emerges of the abysmal representation of women in the lower judiciary, with a nearly uniform trend of the proportion of women judges decreasing as one moves up levels of lower courts. The Briefing explores preliminary questions raised by these findings, concerning equity between genders in appointments and promotions, and potential factors behind the gender imbalance in the judiciary. It concludes by highlighting the need to collect systematic diversity statistics and change discourse on judicial appointments and reform to accommodate concerns over gender discrimination.</p>
Pakistan	Holden, L.	2018	Mixed methods: interviews and observations, analysis of administrative	<p>Taken/adapted from abstract:</p> <p>Although the first appointment of women judges in Pakistan dates back to 1974, a significant appointment of</p>

			<p>data regarding gender of Pakistani judges and length of time in the role.</p> <ul style="list-style-type: none"> • Three years observing legal proceedings (one week per month, 90 cases per full day). • Interviews with Pakistani women judges (40 hours of interviews in total). • Use of secondary data regarding length of judicial appointments and gender of appointees from the Law and Justice Commission Pakistan. 	<p>female judges from 2009 onward has caused a jump in female representation to more than one third in family courts: a quiet move during the tumultuous years of the so-called Chaudhry Court. The challenge in this scenario was whether this change would only be temporary or whether it would also lead to substantial and accountable inclusion. This paper adopts mixed methods to scrutinize the extent of the adherence to the principle of gender equality in the judiciary as per international treaties to which Pakistan is signatory. It starts by retracing the historical steps of the appointment of female judges in Pakistan and then investigates the everyday interactions and preoccupations of women judges in their daily management of justice. The findings elucidate how the global agenda impacts local expectations and conceptualizations of gender representation within and beyond the state.</p>
Australia	Israel, M., Skead, N., Heath, M., Hewitt, A., Galloway, K. & Steel, A.	2017	<p>Review/legal opinion piece on student-teacher interaction in the Australian legal education and strategies for accommodating and encouraging diversity and inclusion.</p>	<p>Taken/adapted from introduction:</p> <p>There is a body of literature on who and what is being taught in law schools, albeit a literature that is frustratingly dated or incomplete in the Australian context. Yet there is little scholarship on how to shape interaction in the Australian law classroom in a way that quietly includes, particularly in the face of a cohort that</p>

				appears to be increasingly diverse. In this article, the authors address this gap in the literature by attending to student-teacher interaction and explore strategies for creating and maintaining law classrooms that welcome, acknowledge and value diversity, and also respond to the challenges diversity may represent.
Israel	Katvan, E.	2012	<p>Opinion piece on law schools in Israel and the impact on the legal profession.</p> <p>The piece references two surveys conducted in 2010 and 2011:</p> <ul style="list-style-type: none"> • The 2010 survey was completed by 2,000 lawyers in Israel regarding demographics, gender, professional occupation, and professional ethics and reputation. • The 2011 survey involved law students from two law colleges and one university, focusing on demographics. 	<p>Taken/adapted from abstract:</p> <p>The article examines the argument put forward by the leadership of the Israel Bar that new law colleges are causing an overcrowding of the legal profession and an associated decline in prestige. It considers whether this argument presents a new “discovery” or represents a standard tension between professionals and legal education institutions. It explores whether the “overcrowdedness” argument is an attempt to protect the public, an attempt to prevent competition, or whether it functions as part of the professional melting pot, increasing cohesion by unifying new professional bodies with older ones.</p>

Canada	Levin, A. & Alkoby, A.	2017	<p>Quantitative: analysis of demographic data of the Bench in comparison to diversity over the previous 11 years.</p> <ul style="list-style-type: none"> • Collection of demographic data relating to gender, ethnicity, francophone, disability, and LGBTQ+ identity for the general population, legal profession, and current bench at provincial, superior, and appellate levels. • Publicly available information from various sources was used, including official court websites, government websites and social media. Secondary sources were used to cross-reference this information via contact with organisations, including the Canadian Association of Black Lawyers, Canadian Hispanic Lawyers Association. 	<p>Taken/adapted from abstract:</p> <p>This paper assesses the diversity of the judiciary in Canada's most diverse urban centres of Toronto, Vancouver, and Montreal and it measures the gap between the demographic composition of the judiciary and the population that it serves. The paper then considers the factors that contribute to and perpetuate the homogeneity of Canadian courts, and it addresses the arguments that an identity-conscious appointment process could compromise meritocracy, or that it would challenge the presumed objectivity of judicial decision-making. The authors argue that reliable public data on the composition of the bench and a clear government vision and strategy are crucial for the administration of justice in Canadian courts.</p>
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			<ul style="list-style-type: none"> Available data on appointees to the bench was also compared across the previous 11 years to identify any trends. 	
Israel	Levy Ariel, Y.	2018	<p>PhD thesis: analysis of quantitative survey data from law students and lawyers in Israel; quantitative biographic data on judges.</p> <p>Judges:</p> <ul style="list-style-type: none"> Data mining of biographical information (curriculum vitae) of sitting judges from official website of Judicial Authority coded into quantitative data. Judge sample: any serving judge in the general court system, which is the main court system with the largest number of judges and widest jurisdiction in Israel (N=725). <p>Lawyers and law students:</p>	<p>Taken/adapted from abstract:</p> <p>Israel has witnessed both the judicialization of politics and growing criticism that the judiciary does not reflect the diversity of Israeli society. However, no comprehensive analysis of judicial diversity in Israel has existed. In addition, despite substantial changes in legal education and the legal profession in Israel in the past two decades, there has been no research into the demographics of Israeli lawyers and law students who make up the “pool” for future judicial appointments. These factors, along with recent proposals to reform the judicial selection procedure, form the background to this research, the aims of which are:</p> <ul style="list-style-type: none"> To provide the first comprehensive analysis of judicial diversity in Israel. To provide the first study of diversity amongst Israeli lawyers and law students.

			<ul style="list-style-type: none"> Quantitative online surveys with some open text questions. Both surveys comprised a brief introduction followed by four sections: legal education and the legal profession; judicial decision-making, the judiciary and judges; nationality, society and population; personal background. For lawyers, the Israeli Bar distributed the link to the survey to its members in its newsletter and on the website. There were 671 usable responses (384 completed responses) to the lawyer survey. For law students, all law schools in Israel were targeted: four universities and ten 	<ul style="list-style-type: none"> To explore perceptions of Israeli lawyers and law students regarding judicial diversity in Israel. <p>To achieve this, three large-scale quantitative empirical studies were carried out. The first study draws on publicly available information to profile the diversity of all judges in the general court system in Israel (covering over 700 judges). The other two studies surveyed lawyers and law students in Israel, profiling the diversity of each group and examining their views about the Israeli judiciary, judicial diversity in general and in Israel, as well as their interest in a judicial career.</p> <p>The three studies therefore provide a unique insight into judicial diversity in Israel as it currently stands as well as where it may be heading in the immediate and longer-term future. The thesis also places its findings within the continuing debate about judicial diversity in Israel, and it explores how judicial diversity in Israel fits within the wider scholarship on judicial diversity worldwide.</p>
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			<p>colleges: 12 agreed to participate.</p> <ul style="list-style-type: none"> • There were 1,935 completed responses to law student survey. <p>Basic descriptive analysis reported throughout.</p>	
Australia	Lynch, A., Opeskin, B., Appleby, G., & Le Mire, S.	2019	<p>Quantitative: online survey of Australian judges.</p> <ul style="list-style-type: none"> • Survey conducted in 2016 with Australian judges. • 142 judges provided responses to the survey (response rate not provided). • The survey was administered online, although a Word version was available upon request. • Questions were around appointment issues, challenges 	<p>Taken/adapted from abstract:</p> <p>The structures that regulate and support the Australian judiciary reflect and serve the traditional judicial values of independence, impartiality and the rule of law. Yet modern society places emphasis on an additional range of values that are expected of government and public institutions. These contemporary values include diversity, transparency, accountability and efficiency. Reforms to introduce regulatory and support structures that prioritise and facilitate these values in the judicial arm has proved challenging, sometimes contentious.</p> <p>This article reports on a survey of Australian judicial officers (N=142) from across different jurisdictions. Participants were asked what they considered to be the most pressing challenges that face the various levels of</p>

			<p>throughout the working life of a judge (such as education, ethical support, workload, remuneration, and staffing and support), and matters relating to discipline and removal.</p>	<p>the Australian judiciary, and whether the current regulatory and support environment achieves international best practice. The responses provide a nuanced picture of the state of the modern Australian judiciary as it appears to those within it. The study facilitates an understanding of the degree to which judicial officers are satisfied with the current legal and regulatory framework, and, where they are dissatisfied, the nature of their disquiet.</p> <p>While not seeking to offer complete resolutions to the many issues canvassed, the data and analysis presented in this article serve as an interruption to regulatory and academic studies of the Australia judiciary, with the potential to illuminate and re-orientate the reform conversation in light of the judicial perspective on these various issues.</p>
Canada	Lyon, S. & Sossin, L.	2014	<p>Review piece exploring how quantitative and qualitative data is collected and used when developing diversity and inclusion policies within the Canadian judiciary and legal profession.</p>	<p>Taken/adapted from abstract:</p> <p>This study explores the importance of quantitative and qualitative data in the development of more inclusive policies of recruitment and appointment in the justice community. The authors focus on the apparent resistance on the part of governments (in the case of judicial appointments) and private as well as public legal</p>

			<p>employers (in the case of legal recruitment) to keep, track and publish demographic data on who seeks these opportunities and who is selected for them.</p> <p>While the rhetoric around diversity and inclusion is now pretty much universally in favour of a judicial and legal community that reflects the society and communities they serve, opinions continue to differ sharply on the means of achieving this goal. Many view the focus on numbers and data alone as myopic, and as likely to obscure as reveal the reality of diversity in the judiciary and legal profession. Others are simply worried about efforts to manipulate such data, the impact of ranking, identifying “good” and “bad” firms and organizations in simplistic ways, and so forth. In other words, some fear the focus on data may in fact undermine the goal of a more inclusive justice community.</p> <p>The authors’ view is that, while better practices with respect to collecting and publishing data on diversity will not in and of themselves make the justice community more inclusive, these data represent a necessary first step. The authors also explore blending quantitative and qualitative data together to provide a basis for a better</p>
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				understanding of the progress towards a more inclusive justice community in Canada.
Australia	Mack, K. & Roach Anleu, S.	2012	<p>Literature review; secondary analysis</p> <p>of survey data of judges and magistrates in Australia. Survey findings are discussed within the context of relevant research / literature from Australia and other countries (e.g. the United States and the United Kingdom).</p> <p>This article draws on data from two national surveys of the Australian judiciary conducted in 2007:</p> <ul style="list-style-type: none"> • National Survey of Australian Judges: sent to all 566 judges, 309 returned (54.5% response rate). • National Survey of Australian Magistrates: sent to 457 magistrates, 242 returned (52.9% response rate). 	<p>Taken/adapted from abstract:</p> <p>There is considerable attention to increasing judicial diversity along a range of dimensions, in particular, gender. Women remain under-represented in many courts, especially at the higher levels of the judiciary. A comprehensive socio-legal study of the Australian judiciary compares experiences and attitudes of women who have become judicial officers at different levels of the court hierarchy. Understanding their personal and professional backgrounds and the features that attracted them to the judiciary has important implications for addressing gender disparity. Effective recruitment and selection must focus on the expectations and experiences of women in relation to particular judicial contexts.</p>

			<ul style="list-style-type: none"> • 29% of respondents overall were women. • Overall, respondents were representative of the judiciary. • The surveys asked about demographic information and why respondents entered the judiciary. 	
South Africa	Masengu, T.	2015	<p>Review/legal opinion piece on barriers women face when accessing, and are in, positions of leadership in the judiciary.</p>	<p>Taken/adapted from introduction:</p> <p>This note seeks to dispel the notion that there is a lack of women capable of leading in the judiciary by arguing the lack of women in leadership is a result of the attitudes of the Judicial Service Commission and not because women are absent from the list of leadership aspirants. The numerous opportunities provided to judicial leaders to determine the future of the courts, drive a transformative vision and implement changes, can only result from ascension in position. The absence of women in leadership is not an uncommon phenomenon, as there are few women leaders in other areas of governance and in the private sector. Nevertheless, in the judiciary this absence prompts an enquiry into whether the existing</p>

				vacuum has been created because there are no women candidates coming forward for the positions or because women candidates find themselves facing a discriminatory system.
South Africa	Masengu, T.	2016b	Review/legal opinion piece regarding gender transformation on the South African Bench.	Taken/adapted from introduction: This note discusses the slow pace of gender transformation in the South African Judiciary. It argues that the judiciary is more likely to be perceived as impartial if it is representative of different sections of society, with gender being the particular focus. It commences the discussion with an examination of the current challenges facing gender transformation in relation to judicial appointments. This is followed by a brief consideration of the arguments for judicial diversity and representation. Thereafter, it analyses the difference between impartiality and perceptions of impartiality, coupled with the reasons why the latter needs to be considered as an additional aspect of public confidence and institutional legitimacy. Finally, it concludes that perceptions of impartiality are as important for the Judicial Service Commission as a body as they are for the courts.

South Africa (and Zambia)	Masengu, T.	2020a	PhD dissertation: interviews and observations. <ul style="list-style-type: none"> • A case study approach was adopted using South Africa and Zambia. • Interviews were conducted with women judges, members of the Judicial Service Commission, legal professionals (advocates and attorneys), members of Civil Society Organisations (CSOs), and journalists who report on the process. • 43 participants were interviewed across both case study countries. • Interviews asked about various aspects of the appointments process and how the process interacts with gender imbalance on the Bench. 	Taken/adapted from abstract: <p>Using a socio-legal framework, this thesis addresses the present dearth of research on gender and judging in Africa, by examining the judicial appointment processes in Zambia and South Africa. This study is grounded in the argument that judges, and those who appoint them, are operating in environments where multiple factors can and do have an impact on whether a country is able to successfully create a gender-diverse judiciary. Using a feminist lens, this thesis describes women in terms of gender and explores various facets of the appointment system, in order to respond to the research question 'How do aspects of the judicial appointment process inform equal representation of women and men on the bench?'</p> <p>Drawing from existing literature on gender and judging, this thesis interrogates particular formal and informal aspects of the appointment process. It highlights the various subtleties that exist within or around these aspects and how they affect women candidates, while appreciating the difficult balance that is involved in selecting judges. In doing so, this thesis affirms the</p>
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			<ul style="list-style-type: none"> Some South African Judicial Service Commission interviews were observed. Interviews were analysed thematically. Notes from observations and general notes were also used to supplement the analysis. 	<p>importance of context when studying judicial appointments and seeking solutions for judicial diversity. This thesis additionally reveals various elements of the process affected by bias, discrimination, exclusion, and a traditional definition of merit, that invariably devalues women's contributions and attributes. This study makes the case for gender diversity not just in the courts but on the judicial appointment bodies that appoint judges. While arguing that one benefit of this diversity would be the presence of more representative perspectives, it acknowledges that a feminist perspective can and should also be held by male judicial appointers. This study makes suggestions for improving the appointment systems in both jurisdictions and emphasises the need for a multi-sector response.</p>
South Africa	Masengu, T.	2020b	<p>Qualitative: interviews and observations.</p> <ul style="list-style-type: none"> 20 interviews with women judges of various levels of seniority, legal professionals (advocates), Judicial Service Commission members, 	<p>Taken/adapted from abstract:</p> <p>The Judicial Service Commission in South Africa was established in response to a pre-democratic era appointment system, rich in patronage, opaqueness, and invariably, inequality. The use of judicial appointment bodies has been recommended by the Commonwealth Latimer House Principles, as a method of preserving judicial independence. However, not much research has</p>

			<p>members of Civil Society Organisations, and journalists.</p> <ul style="list-style-type: none"> Interviews focused on individuals' experiences of the appointments process. <p>Participant observations of the judicial interview process.</p>	<p>been conducted into whether there is an absence of patronage and power dynamics when judicial appointment bodies replace the executive type of appointments. This paper suggests that the introduction of appointment bodies does not eradicate privilege and power dynamics as some might believe. Rather, it creates a different type of dynamic that can be harmful for women.</p>
Northern Ireland	Morison, J.	2015	<p>Review/legal opinion piece on the role of “merit” in judicial appointments.</p> <p>Uses data monitoring undertaken by the Northern Ireland Judicial Appointments Committee (NIJAC) and their first research report published in 2008 on merit and equality, which used an online survey with vignettes and a series of interviews and focus groups that explored merit.</p>	<p>Taken/adapted from introduction:</p> <p>The post-Agreement constitutional architecture has produced a new legal space in Northern Ireland. While the court structure has largely endured in a recognisable format there are perhaps now new expectations of how it will function in the next stage of Northern Ireland’s transition from a society in conflict.</p> <p>This chapter looks at some of the expectations that might arise for the judiciary. It focuses both on some ideas about what might be the role of a judge in a transitional context, and the debate about how judges generally should be appointed across the United Kingdom where the idea of “merit” emerges as a governing concept. Next, consideration is given to how this idea of merit plays out in the Northern Ireland context and how it</p>

				impacts on the appointment of women to senior judicial roles which has emerged as the central concern in the new dispensation. Here the chapter draws on two pieces of research: the first looking at the issues surrounding judicial appointments and attitudes towards seeking such posts in the Northern Ireland context, and a second project where the idea of “merit” as a governing factor in judicial appointment was further explored (Leith et al, 2008; Leith and Morison, 2013). Finally, the chapter looks ahead at the challenges around judicial appointment that remain and suggests that notion of ‘merit’ has not provided the robust foundation which its proponents imagined it would.
Northern Ireland	Morison, J., & Dickson, B.	2019	Qualitative: interviews and focus groups. • Interviews with a range of legal professionals including barristers, solicitors, lawyers working in the public sector, and currently serving and retired county court and high court judges.	Taken/adapted from abstract: The research for this report was commissioned by the Northern Ireland Judicial Appointments Commission (NIJAC) in December 2018 and the report was finalised by the researchers in May 2019. The Commission was prompted by the fact that in recent competitions for high court appointments NIJAC had been disappointed that more applicants did not apply and that not all of the advertised posts could be filled. The authors were tasked with looking for and providing evidence relating to the

			<ul style="list-style-type: none"> • A total of 50 lawyers (male and female) engaged with the fieldwork, 25 through one-to-one interviews and 25 through participation in group discussions. 	real and perceived barriers to potential and actual applicants.
New Zealand	Morrison, G.	2017	<p>Law (LLB) dissertation: discussion piece regarding the current appointments process in New Zealand and potential reforms to the process.</p>	<p>Taken/adapted from abstract:</p> <p>The current mechanism for judicial appointments in New Zealand is non-transparent and lacks sufficient accountability mechanisms. Consequently, there is ample scope for an Attorney-General to make appointments based on political or personal preference. In order to promote actual and perceived judicial independence, and due to New Zealand's historically conservative approach to constitutional change, the author proposes a two-stepped incremental approach to reform which would gradually erode the individual executive discretion of the Attorney-General.</p> <p>First, they argue that the criteria for appointment and a mandatory list of persons to be consulted should be expressly stated in statutory form. As part of this discussion, they assess why and how merit and diversity criteria should be legislated. This formalised approach is</p>

				<p>required to anchor the Attorney-General's discretion to a prescribed process, which in turn would lead to increased public accessibility and accountability.</p> <p>Secondly, the author proposes the establishment of a Judicial Appointments Commission in New Zealand to act as an independent advisory body to the Attorney-General. Importantly, by retaining an executive official as decision-maker, the accountability pathway of ministerial responsibility is also retained. Ultimately, these steps are necessary to prevent judicial appointments from being made on a "tap on the shoulder" basis.</p>
Kenya	Murungi, A. G.	2018	Master's dissertation: review of literature, case law and legislation in relation to gender equality in the judiciary - both Kenyan and international.	<p>Taken/adapted from abstract:</p> <p>The promulgation of the 2010 Constitution of Kenya (CoK) brought with it a new realm of governance. Amongst the changes that the CoK introduced to enhance the role of women in leadership was not only the entrenchment and recognition of gender equality as a fundamental consideration in the political, social and economic spheres of life, but the introduction of the gender quota system. Article 27(8) of the CoK requires that not more than two thirds of members of the</p>

				<p>appointive and elective bodies should be of the same gender.</p> <p>Following the promulgation of the CoK, the judiciary embarked on judicial reforms and one of them was to ensure that women's representation in the judiciary was enhanced. So far, the judiciary has to a large extent ensured that not more than two-thirds of the judicial officers in the courts are of the same gender in Kenya. However, in the past two recruitments of the judges of the Supreme Court of Kenya (SCOK), concerns have been raised that the Judicial Service Commission (JSC) failed to comply with the two-third gender principle in appointing the judges of the SCOK leading to legal contestations. This study is based on these legal contestations in regard to the use of the gender quotas in the appointment of the judges of the highest courts. It seeks to answer the question whether gender quotas should be adopted during the appointment of judges of the SCOK by analysing the arguments for and against.</p>
South Africa	Norton, M.	2017	Review/legal opinion piece regarding the gender composition of the South African Bar and women's experiences in the workplace.	<p>Taken/adapted from introduction:</p> <p>In this article the author argues that when women's biological capacity for childbearing, and the disproportionate responsibility which they bear in respect</p>

				of parenting, are set against some of the immutable requirements of advocates' practice, it is readily apparent that the numbers game may indeed not be won. But a preoccupation with parity of numbers (as valuable as numbers may be in triggering and measuring change) diverts attention from an important qualitative and substantive objective: identifying means of ensuring that women who join the Bar are afforded the opportunities and support that they require to establish and sustain strong practices across the spectrum of practice areas.
South Africa	Nsimbini, N. T. & Matotoka, M. D.	2020	Review/legal opinion piece; analysis of legal cases regarding discrimination against disabled people in South Africa. Analysis of legal cases brought to various courts in South Africa regarding discrimination against disabled people including lack of infrastructures and structures to support disabled individuals joining the judiciary, lack of reasonable accommodation for disabled applicants, and the absence of disability regarding equality in the Constitution, alongside race and gender.	Taken/adapted from abstract: The South African judiciary has been in the spotlight in recent years due to its slow pace to reflect broadly the racial and gender composition of South Africa as required by section 174(2) of the Constitution of the Republic of South Africa, 1996. While the paucity of women in the judiciary is critical with regard to women's emancipation, issues of disability have taken a backseat. A restrictive interpretation of section 174(2) of the Constitution has the effect of excluding persons with disabilities from representation within the judiciary. Notwithstanding this interpretation, the failure to understand how the Constitution and conventions place a duty to promote and advance persons with disabilities is

				a serious injustice and contrary to the spirit of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA). It is vital that persons with disabilities are properly represented in the judiciary so that their unique perspectives can be properly articulated.
South Africa	Oxtoby, C. & Masengu, T.	2017	<p>Mixed methods: quantitative analysis of candidate application forms regarding who nominated the candidate, qualitative analysis regarding reasons for nomination.</p> <p>Quantitative:</p> <ul style="list-style-type: none"> Analysis of 379 application forms of candidates interviewed for positions on the high court, labour court, labour appeal court, competition appeal court, and Supreme Court of Appeal by the Judicial Service Commission between October 2010 and October 2016. 	<p>Taken/adapted from summary:</p> <p>The South African system of judicial appointments includes an important, but easily overlooked, feature whereby prospective judges must be nominated for appointment. This article examines the nomination procedure to assess the impact of nominations on the appointment process.</p> <p>The article deals with three central issues: whether the identity of the nominator impacts on a candidate's chances of appointment; the attention given by nominating organisations to the need for demographic transformation of the judiciary when making nominations, and what other factors influence a decision to nominate; and the gendered nature of nominations and judicial appointment in general.</p>

			<ul style="list-style-type: none"> • Data was analysed regarding who nominated the candidates (individuals or organisations), and whether the identity of the nominator is associated with the likelihood of appointment. <p>Qualitative:</p> <ul style="list-style-type: none"> • Qualitative analysis of the reasons provided by the Black Lawyers' Association and the South African Chapter of the International Association of Women Judges for their nominations. 	<p>It is argued that in terms of numbers, the identity of a nominator does not appear to make a significant difference to a candidate's prospects of appointment. Contrary to what might have been expected, the "success rates" of judges and advocates who nominate candidates is collectively relatively low. However, it is argued that the identity of a nominator is nevertheless important in other respects, such as the perceived prestige of the nominator. Furthermore, candidates who are not involved in significant legal professional organisations may be disadvantaged.</p> <p>The article further surveys the reasons for nominations given by leading nominators, as well as the process followed in making nominations, and assesses these in light of transformative goals. The article concludes with a discussion of the challenges facing the quest for gender equality in the judiciary, such as perceptions of lack of competence and a lack of quality work that often bedevil women lawyers, which impact on the likelihood of female candidates being nominated for judicial appointment. The importance of acting as a judge, and the relative lack of opportunities provided for women to do so, is also discussed.</p>
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<p>International</p> <p>Note: the paper focuses on England and Wales but also includes some international examples of relevance to the present REA. Evidence extraction focuses on these examples.</p>	<p>Paterson, A & Paterson, C.</p>	<p>2012</p>	<p>Legal argument/literature review of research and evidence relating to judicial appointment and judicial diversity, including international examples.</p>	<p>Taken/adapted from executive summary and conclusion:</p> <p>This paper reviews the current system for senior judicial appointments in England and Wales. The authors argue that the current system for senior judicial appointments is not fit for purpose. The authors further contend that an appropriate process requires a rebalancing between three guiding constitutional principles for judicial appointments: independence, accountability and diversity. Establishing such a process will enhance not only the democratic legitimacy of the system as a whole but also – importantly – the authority of the judges themselves and the crucial role they perform.</p> <p>Specifically, the paper examines: the factors contributing to the expanded constitutional role of the judiciary; the current appointments process; the significant diversity deficit in the senior judiciary; how diversity also impacts directly on the substantive delivery of justice; and, international perspectives on improving judicial diversity. The paper concludes by outlining proposals to address the democratic deficit in senior judicial appointments, as well as the diversity deficit in senior judicial appointments</p>
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South Africa	Phooko, M. R. & Radebe, S. B.	2016	<p>Review/legal opinion piece about barriers to women being appointed to the constitutional court.</p>	<p>Taken/adapted from introduction:</p> <p>The challenge of transformation permeates all areas of life in South Africa, and the legal profession and the judiciary are no exceptions. Throughout its existence, there have been fewer women justices than male justices on the constitutional court ('the court'). This is something that has been raised on several occasions by gender groups and civil society whenever a position becomes vacant at the court. The purpose of this paper is to investigate why women have not been sufficiently represented on the constitutional court bench since the advent of democracy.</p> <p>The authors investigate the challenges and impediments that are faced by women during law school and after law school, in the legal profession (attorneys' profession, advocates' profession and academia), and the judiciary (lower courts), that prevent women from being appointed to the court. Furthermore, the paper considers how these challenges and impediments may be addressed over time so that there may be a gradual increase of the pool of suitably qualified women available for appointment to the court.</p>
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Australia	Ragusa, A. T. & Groves, P.	2012	<p>Qualitative: interviews and field observations.</p> <p>Interviews:</p> <ul style="list-style-type: none"> • All women appointed to Senior Counsel in the Australian legal profession were contacted (N=39). • 12 individuals completed the interview (six from New South Wales, four from Victoria, one from Western Australia, one from Queensland; aged 40-60). • The interview was via email and had 19 questions about meritocracy and workplace stereotypes regarding success. <p>Observations:</p> <ul style="list-style-type: none"> • Field observations to explore visible manifestations of meritocracy after analysis of 	<p>Taken/adapted from abstract:</p> <p>Workplace gender inequality is an ongoing and systemic social problem. Despite women's entry into professional occupations, the "glass ceiling" effect persists. With Australia's legal profession traditionally exhibiting a masculine workplace culture, championing meritocratic values, Women Senior Counsels represent an elite social group which has apparently "smashed the glass ceiling" by achieving career success.</p> <p>Informed by Marxist-feminist theory and Symbolic Interaction theory, this article uses qualitative email interviews and courtroom field observations to explore professional norms about meritocratic ideals and workplace stereotypes regarding success. The findings reveal that female Senior Counsels have, in keeping with broader social trends, rejected masculine "successful barrister" stereotypes, and are substituting meritocracy for traditional "masculine" competency measures. This substitution may illustrate semantic reallocation more than genuine social change. However, as the findings reveal, Australia's legal profession upholds standards of meritocratic competency grounded in masculinity,</p>
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			interviews, 32 court matters randomly selected, 17 advocates observed in detail.	whereby barriers to true workplace gender equality remain largely invisible.
Australia (and the UK) Note: evidence extraction focused on Australia.	Thornton, M.	2014	Review/legal opinion piece regarding the culture in legal firms, the prioritisation of competitiveness, and the influence of this culture on how flexible working patterns are perceived.	Taken/adapted from introduction: In this paper, the author contrasts the reporting of flexible work initiatives with that of the amalgamations effected between Australian corporate law firms and UK-based super-élite firms. The language used in respect of the latter is far stronger and more compelling than in the comparatively lukewarm reporting of the former, which leads the author to suggest that the ethic of implementing a work/life balance is effectively trumped by hypercompetition.

Appendix table E:2 Evidence summaries: Grey literature

Relevant Jurisdiction	Author/s	Year	Publication type/methods	Summary
Canada	Beg, S. & Sossin, L.	2017	Literature review focused on barriers to a diverse judiciary in Canada.	Taken/adapted from introduction: This paper provides a high-level overview of some of the issues and stumbling blocks Canada has encountered in building a diverse judiciary. Part One of the paper begins

				by providing a brief overview of the heterogeneous makeup of Canadian society against the homogenous makeup of the judiciary. This provides a helpful backdrop from which to explore conceptual questions related to the question of why a diverse judiciary matters. Part Two examines some of the historical questions and milestones in the judiciary related to diversity. Part Three summarizes the judicial appointments processes and explores Canada's recent history related to judicial appointments and judicial diversity – specifically judicial appointments under Prime Minister Stephen Harper's Conservative government and recent moves by the new Liberal government led by Prime Minister Justin Trudeau. The paper wraps up with the authors' thoughts on reforms that might signal greater commitment to diversity and inclusion as essential elements of an effective and independent judiciary.
Canada	Canadian Bar Association	n.d.-a	Webpage about an award from the Canadian Bar Association recognising an individual or organisation who has promoted equality within the legal profession.	<p>Taken/adapted from webpage:</p> <p>This page outlines the Touchstone Award, an award that celebrates the accomplishments of an individual or organisation who has excelled in promoting equality in the legal profession, the judiciary, or the legal community</p>

				in Canada. It states the criteria, nomination procedure, and previous award winners.
Canada	Canadian Bar Association	n.d.-b	Webpage about anti-bias hiring practices for law firms.	This page shares suggestions for how to improve hiring practices and recruitment strategies to be more inclusive of Indigenous peoples.
Canada	Canadian Bar Association	n.d.-c	Webpage listing questions for firms to consider around promoting diversity.	This page lists a number of questions around diversity for law firms to consider in different aspects of their practice, including leadership, recruitment, and retention.
Canada	Canadian Bar Association	n.d.-d	Webpage providing guidance to firms and the Canadian Bar Association's member organisations seeking to promote inclusion and diversity.	This page provides advice to firms and the Canadian Bar Association's member organisations on how to promote inclusion and diversity, including recognising issues, planning actions, and ongoing procedures to maintain this commitment to equality and diversity.
Canada	Canadian Centre for Diversity and Inclusion	2018	<p>Mixed methods: demographic data, interviews and focus groups.</p> <p>Demographic data:</p> <ul style="list-style-type: none"> Demographic data across private practice firms in Canada over four years. <p>Focus groups and interviews:</p>	<p>Content taken/adapted from the report:</p> <p>This report presents the findings from four years of demographic data collection carried out for the Diversity by the Numbers: The Legal Profession project.</p> <p>The research focuses on the perspectives of women and racialized lawyers regarding the culture of private law firms and how it shapes their experiences. It considers systemic beliefs that create barriers for certain groups in</p>

			<ul style="list-style-type: none"> Two focus groups and four interviews with 12 women and racialised lawyers with experience of private practice. Purposive sampling, two focus groups, four semi-structured interviews. 	<p>the legal profession due to the association of masculinity with legal practice norms.</p> <p>Collecting demographic data from private practice firms across Canada, the authors have consistently found that the strongest barriers to leadership are experienced by women and racialized lawyers. Women who are also racialized have significantly more barriers, with their representation in leadership being minuscule. The authors provide an outline of the obstacles that private practice culture creates for lawyers who are not men and not Caucasian through qualitative research.</p>
New Zealand	Colmar Brunton	2018	<p>Document presenting survey findings:</p> <ul style="list-style-type: none"> National online survey of lawyers, with a focus on bullying, sexual harassment, and the safety of lawyers in the workplace. The survey was conducted from 05 April to 01 May 2018. <p>Emails were sent to 13,662 lawyers inviting them to complete the survey. The</p>	<p>Taken from document:</p> <p>The New Zealand Law Society commissioned Colmar Brunton to undertake a national survey of lawyers to assess the current workplace environment for legal practice. The survey explored safety of lawyers in the workplace with a specific focus on bullying and sexual harassment.</p> <p>The three objectives of the research were to provide a measure of general workplace wellbeing in the legal workplace; to establish the prevalence and</p>

			<p>survey was completed by 3,516 lawyers, which is a response rate of 26%.</p>	<p>characteristics of sexual harassment in the legal workplace; and, to establish the prevalence and characteristics of bullying in the legal workplace.</p> <p>The report presents the findings based on the nature and prevalence of general stress and wellbeing, sexual harassment and bullying in the legal workplace. Where relevant, subgroup analysis and variation was also included.</p>
New Zealand	District Court of New Zealand	2020	Annual report 2020 of the District Court of New Zealand.	This annual report by the District Court of New Zealand focuses on the changes in the New Zealand district court in the year 2019-2020. This includes outlining the shared vision for the district court and any actions supporting this, the diverse make-up of the 27 newly appointed district court judges, and judicial performance measures.
International Note: Canada, US, UK. Extraction focused on Canada.	Diversity Lab	n.d.	Webpage about the Mansfield Rule accreditation.	<p>Taken/adapted from webpage:</p> <p>Now in its third iteration, the Mansfield Rule Certification measures whether law firms have affirmatively considered at least 30 percent women, attorneys of colour, LGBTQ+ and lawyers with disabilities for leadership and governance roles, equity partner promotions, formal client pitch opportunities, and senior lateral positions.</p>

				The goal of the Mansfield Rule is to boost the representation of diverse lawyers in law firm leadership by broadening the pool of candidates considered for these opportunities. Firms are audited bi-annually and certified annually as they follow, comply, and achieve the requirements of the certification.
New Zealand	Doogue, J-M.	2018	Quantitative: analysis of survey of district court judges. Survey of all women district court judges in New Zealand (N=50) (almost one-third of entire district court bench), 98% response rate.	Taken/adapted from document: An article by Chief District Court Judge Jan-Marie Doogue exploring the importance of improving judicial diversity if the district court is to remain relevant to the diverse communities it serves.
Canada	Federation of Law Societies of Canada	2016	Submission to Department of Justice for Consultation regarding Judicial Appointments.	This paper outlines the views of the Federation of Law Societies of Canada regarding the judicial appointments process to superior courts to the Department of Justice in response to their public consultation. It outlines a number of recommendations regarding Judicial Advisory Committees to enhance the appointment process.
International Note: Europe, specifically: Scotland,	Galligan, Y., Haupfleisch, R., Irvine, L., Korolkova,	2017	Mixed methods: secondary quantitative data analysis, qualitative and quantitative analysis of surveys provided to stakeholders and notary organisations.	Taken/adapted from introduction: The aim of this study, commissioned by the European Parliament's Committee on Legal Affairs, was to map the representation of women and men in legal professions

<p>Northern Ireland, Republic of Ireland, Cyrus.</p>	<p>K., Natter, M., Schultz, U. & Wheeler, S.</p>	<p>Secondary data collection:</p> <ul style="list-style-type: none"> Quantitative data on gender composition of judiciary from European Commission for the Efficiency of Justice. Quantitative data on gender composition of Law Societies and Bars from Council of Bars and Law Societies of Europe using data from 2010, 2012, and 2014. <p>Consultation with stakeholders:</p> <ul style="list-style-type: none"> Qualitative and quantitative survey with closed and open questions. Modular questionnaire tailored to each organisation. Eight organisations approached, three returned questionnaire, an additional two 	<p>across all 28 Member States, and to provide a picture of the existing gender situation in various legal professions throughout the European Union. The reasons for an under-representation of women or men in certain legal professions was examined.</p> <p>Today, professional judge positions are quite evenly distributed, on average, between women and men in the European Union, though females are consistently in a slight majority. This hides however some considerable variations since a consistent majority (over 60%) of males occupy professional judge posts in Common Law Countries. While there is an average female majority among judges and prosecutors at first instance courts, this is reversed at higher court levels and at supreme courts the average gender distribution is consistently two-thirds male and one-third female.</p> <p>Overall, the findings of this study suggest that there is much to do in terms of gender equality in the judicial professions across Europe. The survey findings conducted for this study reinforce other qualitative research findings that the barriers to women's full and equal participation with men in the judicial professions centre around the persistence of gender stereotypes,</p>
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			<p>provided comments and relevant documents.</p> <p>Consultation with notary stakeholders:</p> <ul style="list-style-type: none"> • Survey among national notary associations in European Union member states. • 22 contacted, 19 responded (two to say they could not provide data). 	<p>difficulties in reconciling work and non-work responsibilities, a lack of transparency in appointment and promotion processes, a dearth of mentoring practices and supportive networks, a lack of visibility of female role models in the most senior judicial positions, and gaps in data collection.</p>
<p>Australia (and the UK)</p> <p>Note: extraction focused on Australia</p>	<p>Handsley, E. & Lynch, A.</p>	<p>2015</p>	<p>Review/opinion piece on the McClelland Reforms of the Commonwealth Judicial Appointments 2008-2013.</p>	<p>Taken/adapted from abstract:</p> <p>In this article, the authors describe and consider the impetus for the reforms to federal judicial appointments that were initiated by Attorney-General Robert McClelland in 2008 and applied during the life of the Labor Government until 2013. The authors then evaluate those reforms by reference to the central idea of transparency. Looking first at the role of the express criteria in identifying a candidate and then at the way in which particular appointments were publicly justified by the Attorney-General, they assess how adequately all the factors leading to an individual's selection were</p>

				acknowledged under the reformed process. This takes the authors to a fairly familiar controversy – the relationship between 'merit' (whether expressed as a one-word concept or through elaborate criteria) and diversity. The authors' discussion of this relationship draws on the experience of judicial appointments reform in the United Kingdom over the last decade. McClelland was candid about his interest in promoting diversity but refrained from its direct inclusion in the design of the appointments model. Nevertheless, the authors argue that diversity considerations found a way into the appointments process and suggest this was both inevitable and defensible. However, the failure to acknowledge the role of those considerations meant that the model did not ultimately deliver the degree of transparency that was proclaimed as its central rationale.
Australia	Hobbs, H.	2015	Opinion piece on the principle of fair reflection, the principle in practice, and criteria for appointment in the judiciary of Australia and other jurisdictions.	<p>Taken/adapted from paper:</p> <p>In this article the author examines the principle of fair reflection and argues that it is not at odds with the fundamental principle of judicial impartiality. The author explores how the principle is applied in other countries, and even implicitly adopted with respect to geographic diversity in Australia. Finally, the author notes how the</p>

				extremely limited criteria for appointment for High Court Justices is increasingly at odds with developments in comparable jurisdictions. In particular, Brandis' decision to jettison former Attorney-General Robert McClelland's broad consultative approach has amplified his prerogative powers, and is a step that should be reversed.
India	IDIA Charitable Trust		Impact report about the work of IDIA Charitable Trust in the 2020-21 financial year.	This impact report from IDIA Charitable Trust outlines their work in 2020-21, including Covid-19 and cyclone relief activities, raising awareness of the legal profession among marginalised communities, supporting trainees in preparing for entrance exams, and mentoring law school students.
New Zealand	Institute of Judicial Studies	2020	Document outlining judicial education in New Zealand.	Taken/adapted from document: The Institute of Judicial Studies (IJS) Prospectus 2020 outlines the curriculum of judicial education which spans four areas: the role of the judge; the context of the judicial function; skills and judge craft; and renewal and resilience. This curriculum is provided to judges throughout their careers through programmes and seminars.

International Note: extraction focused on Ghana, Kenya, South Africa, Canada.	International Development of Law Organization	2018	Review of academic literature and International Development of Law Organization's own research and programming.	Taken/adapted from executive summary: <p>This report details the importance of women's professional participation in decision-making bodies as a human right and crucial component of good governance, particularly in the justice sector.</p>
Republic of Ireland	Irish Human Rights and Equality Commission	2021	Submission to Minister of Justice on the new General Scheme for Judicial Appointments.	<p>The Irish Human Rights and Equality Commission submitted this document to the Minister for Justice, containing its initial observations on the General Scheme of the <i>Judicial Appointments Commission Bill 2020</i>. It includes consideration of issues of judicial independence and equality with respect to membership of the Judicial Appointments Commission, selection procedures and processes, receipt of Judicial Appointments Commission recommendations by government, and gender balance and diversity.</p>
Scotland	Judicial Appointments Board for Scotland	2018	Strategic plan for 2018-2022 for the Judicial Appointments Board for Scotland.	Taken/adapted from foreword: <p>This document sets out the Judicial Appointments Board for Scotland's strategic plan for the next five years, 2018-2022. It documents in detail how the Judicial Appointments Board for Scotland will continue to</p>

				contribute to justice in Scotland and provides a 'road map' of how they aim to deliver their priorities.
Scotland	Judicial Appointments Board for Scotland	2020	Policy regarding improving equality and diversity in the Scottish judiciary.	The Judicial Appointments Board for Scotland's equality and diversity policy outlines their strategic aim in relation to further equality and diversity in the judiciary. The policy details what the Board's main priorities are and how their objectives will be achieved.
Scotland	Judicial Appointments Board for Scotland	2021	Annual report 2019-2020 for the Judicial Appointments Board for Scotland.	The Judicial Appointments Board for Scotland's annual report 2019-2020 outlines objectives of the five-year strategic plan 2018-2022 and actions against these objectives. Recommendations for judicial appointment during the year 2019-2020 broken down by diversity statistics, events held between 2019-2020 and the progress of the Diversity Steering Group were also outlined.
International Note: extraction focused on Australia, Malaysia, South Africa.	United Nations General Assembly	2011	Report by Gabriela Knaul, UN Special Rapporteur on the Independence of Judges and Lawyers. Review of literature/evidence regarding gender and the administration of justice and gender in the criminal justice system, including	Taken/adapted from summary: The report, submitted in accordance with Human Rights Council resolution 17/2, addresses the need to consider and integrate a gender perspective in the criminal justice system as a fundamental step towards allowing equal access to justice for women and men and in respect of the role to be played by judges and lawyers.

			<p>barriers women face in accessing the judiciary.</p>	<p>While the meaning, scope and impact of gender encompasses more than women's rights, this report focuses on the interlinkages of the independence and impartiality of judges, prosecutors and lawyers and the criminal justice system when dealing with women as victims, witnesses and offenders. The Special Rapporteur underlines the negative impacts of gender stereotypes and the importance of integrating a strong gender perspective in all aspects of the criminal justice system and its procedures.</p>
Scotland	Lambert, J. & Ellison, S.	2011	<p>Qualitative: interviews and focus groups.</p> <p>Research carried out on behalf of the Law Society of Scotland.</p> <p>Interviews and focus groups:</p> <ul style="list-style-type: none"> With those from minority ethnic backgrounds including solicitors, trainees, and law students from public and private sector legal services. 27 respondents in total (six men, 21 women). 	<p>Taken/adapted from executive summary:</p> <p>The Society commissioned Blake Stevenson Ltd. to undertake qualitative research to enable the Society to better understand the experiences of ethnic minority solicitors and to continue to learn from its members to ensure all elements of equality and diversity are meaningfully considered in all aspects of its work.</p> <p>The findings of this report are based on in-depth, qualitative interviews and focus groups with respondents from ethnic minority backgrounds, including solicitors, trainees and law students from private and public sector legal services, as well as a small sample of white solicitors from the public and private sector. The report</p>

			<ul style="list-style-type: none"> • 19 in-depth face-to-face and telephone interviews. • Two focus groups with ethnic minority law students in Edinburgh and Glasgow. • Small sample of white solicitors: in-depth telephone interviews with small focus groups (ten solicitors: three men, seven women). 	<p>explores respondents' experiences of studying law, entering the legal profession, working as a trainee or solicitor, advancing within the profession, and their experiences of work-related socialising. Respondents' experiences of bullying, harassment and discrimination at all stages of their career are also explored, as well as how these incidents were handled by employers.</p> <p>Although the research identifies minimal incidences of overt racism within the profession, a third of ethnic minority respondents felt their ethnicity had affected their professional progress to date, and many felt it was possible their ethnicity may affect future progress because of prevailing attitudes in the profession towards diversity.</p> <p>The report makes a series of recommendations to support the Society in continuing its work to develop and promote best practice in meeting the needs of a diverse workforce.</p>
Australia	Law Council of Australia	2014a	Mixed methods: survey and interviews about women's experiences of working in the legal profession and barriers to doing so.	<p>Adapted from report:</p> <p>The Law Council of Australia presents the research objectives of the National Attrition and Re-engagement Study (NARS), which is part of a wider initiative on the</p>

			See Law Council of Australia (2014b) for details.	recruitment and retention of women lawyers. Using an online survey and in-depth interviews, the paper outlines the overarching research findings, including barriers to women working in the legal profession.
Australia	Law Council of Australia	2014b	<p>Discussion paper outlining areas of focus in order to improve the recruitment and retention of women lawyers, based on survey and interview data.</p> <p>Methodology included:</p> <p>Survey:</p> <ul style="list-style-type: none"> • Online survey administered to 3,960 practising lawyers, lawyers who have left the profession, and those who completed legal studies. <p>Interviews:</p> <ul style="list-style-type: none"> • 82 survey respondents also completed telephone interviews. 	<p>Adapted from report:</p> <p>The Law Council of Australia presents the research objectives of the National Attrition and Re-engagement Study (NARS), which is part of a wider initiative on the recruitment and retention of women lawyers. Using data from an online survey and in-depth interviews, the report outlines the overarching findings from the research, including barriers to women working in the legal profession. The paper presents recommendations in relation to five key areas of need: career path transformation, leadership and role modelling, relationships and support, workplace safety, and transparency and measures of success.</p>

			Interviews explored experiences and motivating factors for women in the legal profession.	
Australia	Law Council of Australia	2016a	Webpage about the Law Council of Australia's Equitable Briefing Policy for the legal profession.	This webpage outlines the Equitable Briefing Policy adopted by the Law Council for Australia, which is aimed at driving cultural change in the profession, including supporting the progression of women barristers and addressing under-representation at a senior level.
Australia	Law Council of Australia	2016b	Webpage about Diversity and Equality Charter initiative in the Australian legal profession.	This webpage describes the Diversity and Equality Charter initiative which has been adopted by the Law Council of Australia and other legal professionals, which is a public commitment to diversity and equality and the principles of the Charter.
Australia	Law Council of Australia	2016c	Policy setting out diversity objectives and practices for the Australian Legal Profession.	The Diversity Policy outlines the Law Council of Australia's Mission Statement, Vision and Values in relation to diversity. The document also highlights the practices that will be implemented in order to meet the objectives of the Diversity Policy.
Australia	Law Council of Australia	2016d	Diversity and Equality Charter of the Law Council of Australia for the legal profession.	This document outlines the aims of the Diversity and Equality Charter, which is a Law Council of Australia Initiative.

Australia	Law Council of Australia	2017a	Webpage about flexible working arrangements in the Australian legal profession.	This Law Council of Australia webpage focuses on flexible workplaces in the legal profession, the importance of implementing flexible workplace arrangements / practices, and provides some examples of this being achieved across various different organisations.
Australia	Law Council of Australia	2017b	Webpage on resources for preventing bullying and harassment in the workplace for the Australian legal profession.	This webpage outlines bullying and harassment in the workplace, including definitions, examples and the law surrounding both. Resources to address harassment and bullying in legal practice from different organisations are also covered.
Australia	Law Council of Australia	2017c	Webpage about an initiative encouraging unconscious bias training in Australia law firms.	This webpage outlines a diversity initiative by the Law Council of Australia, which entails unconscious bias training being rolled out to all law firms in Australia. The potential benefits of this initiative are also discussed.
Australia	Law Council of Australia	2017d	Webpage about initiatives led by the Law Council of Australia aiming to improve gender equality in the legal profession.	Taken/adapted from webpage: This webpage outlines initiatives led by the Law Council of Australia, aimed at driving cultural change in the legal profession, supporting the progression / retention of women barristers, and addressing the under-representation of women in senior positions, and the significant pay gap between men and women in the

				profession. The initiatives discussed are unconscious bias training for legal professionals, and the National Model Gender Equitable Briefing Policy.
Australia	Law Council of Australia	2017e	Webpage making recommendations / suggestions for creating an LGBTI+ inclusive workplace for Australian legal organisations.	This webpage refers to the importance of creating an LGBTI+ inclusive workplace and the Law Council of Australia outlines key actions / recommendations for how this can be achieved.
Australia	Law Council of Australia	2018	Equitable Briefing Policy Annual Report 2017-2018 for the Law Council of Australia.	The Law Council of Australia's annual report focuses on the financial year of 2017-2018. The report presents findings from the Equitable Briefings Policy adopters, including both individual barristers and briefing entities. The report then compares the findings from the 2016-2017 financial year with the 2017-2018 financial year, to identify any changes. Finally, the data is reviewed against the Policy's interim targets.
Australia	Law Council of Australia	2019	Webpage about an initiative to collect data on ethnic and cultural diversity in the legal profession.	This webpage describes the initiative implemented by the Law Council's Equality Opportunity Committee: The National Collection of Ethnic and Cultural Diversity Data. The initiative aims to collect and present data on ethnic and cultural diversity of the legal profession by extending existing questions asked by Constituent Bodies into a nationally consistent programme.

Australia	Law Council of Australia	2020	<p>Review of existing research on sexual harassment in the Australian legal profession and action plan with recommendations.</p>	<p>Taken/adapted from executive summary:</p> <p>The National Action Plan to Reduce Sexual Harassment in the Australian legal profession (NAP) brings together the determination of the Law Council's state and territory Constituent Bodies to address sexual harassment in the legal profession across the nation. This NAP is designed to map a path forward that addresses the regulatory and cultural change factors necessary to facilitate better experiences for legal professionals. It is important to note that this a living document, setting out a framework for change, the specifics of which will continue to evolve as each measure is developed. The NAP includes specific law reform proposals as policy positions of the Law Council. It also includes measures to be implemented within the legal profession to drive cultural change.</p>
Australia	Law Council of Australia	n.d.	<p>Webpage on sexual harassment in the workplace for those working in the Australian legal profession.</p>	<p>This webpage outlines the Law Society of Australia's approach to sexual harassment in the workplace and how this can be a barrier to progression and retention for women. The page also highlights some key resources and policies available from the Law Council's Constituent Bodies and other legal and non-legal organisations.</p>

International	Law Society of England and Wales	2019	<p>Qualitative: roundtable discussions in 18 jurisdictions.</p> <ul style="list-style-type: none"> 34 roundtable discussions in 21 cities and 18 jurisdictions, with 724 female lawyers (barristers and solicitors) participating in total. <p>Discussions focused on barriers that prevent women progressing within the legal profession.</p>	<p>Taken/adapted from executive summary:</p> <p>Overcoming the barriers that prevent women from entering and progressing in law is an imperative for the future of the legal professions. However, the legal sector will not be able to provide suitable responses to gender inequality without first having a deep understanding of the global barriers that limit the career progression of female lawyers. Political will and strong commitment from all relevant stakeholders, including firms, businesses, clients, bar associations and law societies, are also essential components to success.</p> <p>To begin with, obtaining the necessary quantitative and qualitative research is critical. This report aims to complement the largest quantitative global survey on women in the law undertaken by the Law Society between November 2017 and January 2018. The information from the International Women in Law (IWIL) roundtables was gathered between July 2018 and April 2019 from 34 international roundtables held in 21 cities, across 18 jurisdictions, and with the participation of 712 female lawyers. The IWIL roundtable participants were at different stages in their careers, showcasing the wide range of experiences of female lawyers worldwide. Despite a few contextual differences, this report</p>
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				demonstrates that the challenges and experiences of female lawyers are very similar across the globe, including traditional gender roles and stereotypes, the gender pay gap, and flexible working.
Republic of Ireland	Law Society of Ireland	2018	Review of solicitor education in the Republic of Ireland submitted to the Legal Services Regulatory Authority.	A paper developed by the Law Society of Ireland reviewing Solicitor Education in the Republic of Ireland, which was submitted to the Legal Services Regulatory Authority as part of a public consultation regarding education and training for legal practitioners. It explores the context of solicitor education training, the current system of education and admission to the roll of solicitors, and proposals for improvement.
Republic of Ireland	Law Society of Ireland	2020	Annual report 2019-2020 for the Law Society of Ireland.	The Annual Report 2019-2020 for the Law Society of Ireland, including sections which outline their work to improve accessibility to the profession through education and their commitment to gender equality.
Republic of Ireland	Law Society of Ireland	n.d.	Webpage on the Law Society of Ireland's mentoring programme for women solicitors who are members of the Law Society.	Taken/adapted from webpage: This webpage provides information about the Women in Leadership Mentoring Programme offered by the Law Society of Ireland. The programme aims to support women who have been qualified for a minimum of five

				years who wish to advance their careers to a senior level.
Scotland	Law Society of Scotland	2011	<p>Mixed methods: quantitative analysis of data from the 2007 Profile of the Profession survey and qualitative data from interviews.</p> <p>Secondary data analysis:</p> <ul style="list-style-type: none"> Quantitative data from the 2007 Profile of the Profession survey was used to analyse prevalence of bullying and harassment and whether any specific groups were particularly affected. <p>Interviews:</p> <ul style="list-style-type: none"> 15 face-to-face or telephone interviews with Scottish solicitors. 	<p>Taken/adapted from executive summary:</p> <p>The Law Society of Scotland seeks to promote the interests of the solicitors' profession, provide support to address the needs of all its represented members, and promote the interests of the public in relation to the profession. The Society, in its Equality and Diversity Strategy 2008-2011, identified as a key objective to "tackle and reduce bullying and harassment" within the legal profession.</p> <p>This research report provides: background information about bullying and harassment; a synthesis and analysis of current quantitative data from the Society on bullying and harassment; anonymised case studies obtained from individual experiences of those in the Scottish legal profession; analyses of the themes from the research; and, conclusions and recommendations based on the research information.</p> <p>Analysis of the research data identified key themes discussed in detail in this report. The themes include:</p>

			<ul style="list-style-type: none">• Bullying as a form of performance management and training by humiliation.• Repeat, patterned and/or unaddressed bullying, especially by senior people.• Under-reporting of incidents due to fear of losing job or traineeship.• High stress and health issues as a result of bullying and harassment. <p>Based on the results, the researchers made the following recommendations:</p> <ul style="list-style-type: none">• Raise awareness and knowledge of bullying and harassment across the profession.• Develop model policies, guidance and best practices for individuals and firms.• Increase trainee support.• Support firms on building management skills.• Develop ongoing monitoring and intervention.
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Scotland	Law Society of Scotland	2013	Guide to equality and diversity for Scottish solicitors.	Taken/adapted from the introduction: This guide was commissioned by the Law Society of Scotland in order to provide a practical dimension to the high value that the Society places on equality and diversity, and to demonstrate the Society's proactive determination to lead and support the profession in this area. The guide is designed to support all solicitors, working in firms of all sizes, engaged in all kinds of practice, to be top class performers in this area. It fits well with the Society's adoption of best practice in equality and diversity work, taking inspiration mostly from the public sector, where activities such as the development of equality objectives, consultation, monitoring and equality analyses (or equality impact assessments) are now normal practice.
Scotland	Law Society of Scotland	2014	Review of evidence around accessing the legal profession, specifically becoming a solicitor, through higher education and professional training.	Taken/adapted from background section of the paper: In this paper, the Law Society of Scotland explores whether, and to what extent, existing education and training practices constitute initial and continuing barriers

				to access and are hence a potential constraint on fair access to the legal profession.
Scotland	Law Society of Scotland	2015a	Advice and information document for Scottish law firms on equality and diversity standards.	<p>Taken/adapted from document:</p> <p>These equality and diversity standards aim to support the Law Society's aspirations to provide their services to the widest pool of clients, retain talent, and reflect the public they service by supporting firms and employers with their existing legal responsibilities regarding equality and diversity.</p> <p>The ten Equality Standards were published as Advice and Information. They are entirely voluntary however employers are encouraged to consider implementing them in a way proportional to the size of the employer.</p>
Scotland	Law Society of Scotland	2015b	Toolkit for gender pay gap audits for Scottish law firms.	<p>Taken/adapted from toolkit:</p> <p>A recent survey carried out by the Law Society of Scotland indicated that the average pay gap between the earnings of male and female solicitors in Scotland is 42%. Of those respondents who believed that they had suffered discrimination, the most common reason was in respect of promotion or salary related to gender or working patterns.</p>

				<p>This Equal Pay Audit Toolkit aims to assist firms to identify inequality in pay among both legally qualified and support staff who are doing equal work. In particular, it aims to encourage firms to take action to address the causes of the pay gap and to work towards achieving equal pay in their workplace.</p> <p>This toolkit includes guidance which is sector specific and should be helpful to all firms and in-house teams. It is however primarily for small to medium sized firms, which form the majority of law firms in Scotland, to identify where pay gaps might exist and how they might be tackled. Larger firms and teams will find it a helpful starting point for recognising and addressing pay inequality.</p>
Scotland	Law Society of Scotland	2015c	Response to a 2015 report about a conference held by the Judicial Appointments Board for Scotland Diversity Steering Group on merit and diversity in judicial appointments.	<p>Taken/adapted from document:</p> <p>The Society as a member of the Diversity Steering Group considered the report and took views from a number of the Society's members and others on issues arising. The Society was pleased to see the changes the Board had undertaken since the conference. Those consulted considered that changes are needed. There is a lack of diversity in the judiciary which is not representative of the legal profession or of the population</p>

				at large. Whilst the Law Society noted the strides the Board has made since its inception in improving transparency in the appointment process and that the Conference in 2014 and subsequent report have built on this work, the Society recommended that further work is needed to improve judicial diversity.
Scotland	Law Society of Scotland	2017	Webpage providing information for individuals and firms on preventing workplace bullying in law firms.	<p>Taken/adapted from webpage:</p> <p>Workplace bullying and the consequences of that for individuals and businesses in the UK can be severe. Legal excellence requires a well-motivated and fairly treated workforce.</p> <p>This guidance serves the needs of Society members by providing practical and relevant advice, and sources of support to individual and employers, so that they can prevent bullying and harassment occurring, and deal effectively with any instances which do occur.</p>
Scotland	Law Society of Scotland	2018a	Quantitative: survey of legal professionals, including solicitors, trainees, paralegals, and non-practising members was carried out. The Law Society of Scotland's Profile of	<p>Taken/adapted from executive summary:</p> <p>Document presents findings from the Law Society of Scotland's Profile of the Profession 2018 survey.</p> <p>Key messages from analysis of the data:</p>

		<p>the Profession 2018 survey was open from May to June 2018.</p> <ul style="list-style-type: none">• The survey asked about respondent demographics and earnings, their career aspirations, work patterns, experiences of discrimination and harassment, and their views on future actions by the Law Society of Scotland.• 2,746 individuals provided a complete response.	<ul style="list-style-type: none">• The majority of respondents have considered leaving the profession in the last five years.• Work-life balance in the profession for those who responded to the survey could be improved.• There continues to be progression issues related to gender and ethnicity.• Respondents report a perception that discrimination, bullying, harassment and sexual harassment occur frequently in the profession.• A third of LGBT+ respondents were not, or would not be, entirely comfortable being out at work.• The majority of respondents think there have been improvements in gender equality.• Many respondents with disabilities who required an adjustment had either not been provided with a reasonable adjustment or were too apprehensive about the response to request an adjustment.
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Scotland	Law Society of Scotland	2018b	<p>Response to 2018 'Profile of the Profession' report outlining the Society's planned action to improve diversity and fairness for solicitors in law firms.</p>	<p>Taken/adapted from document:</p> <p>In response to the Profile of the Profession report, the Law Society have identified a number of themes that they believe require continued attention over the next few years:</p> <ul style="list-style-type: none"> • Retaining talented people. • Ensuring fairness around pay and progression. • Ending bullying and harassment in the profession. • Members being able to be their whole selves at work. • Reflecting Scotland's population now and in the future. <p>The Law Society explores each of these in-depth in this response. In doing so, they look at some of the headline statistics from the report; the state of play in other industries (and are fully aware that just because there are issues in other industries that cannot allow us to be complacent nor stop us from acting); what has been done in the past to make progress; and they outline their</p>
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				initial plans for future action. They also consider what success would look like in five years' time.
Scotland	Law Society of Scotland	2019	Toolkit for improving gender equality for individual solicitors and organisations in Scotland.	<p>Taken/adapted from document:</p> <p>In this document the Law Society of Scotland states that they want organisations – firms, in-house legal teams, local faculties, or other groups of solicitors – to host roundtables to discuss equality, diversity and inclusion, and make public commitments about what they will do to support the Society's journey to full gender equality. The purpose of the toolkit is to provide all roundtable attendees with the background to the project to further its reach and collective impact.</p>
Scotland	Law Society of Scotland	2020a	<p>Qualitative: analysis of roundtable discussions.</p> <p>Roundtables were carried out with women solicitors to supplement data from the Profile of the Profession quantitative research.</p>	<p>Taken/adapted from document:</p> <p>This document synthesises the findings from roundtable discussions with women solicitors about their experiences of bias in the workplace, including bullying, harassment, and sexual harassment.</p> <p>The Society provided toolkits and guidance for the discussions as well as some suggested questions for those attending to answer. For bias these were:</p>

				<ul style="list-style-type: none"> • Do you feel you have experienced bias in your career? • Has your organisation implemented any specific action to tackle bias – unconscious, conscious or structural? • Are there any visible results? • Is there anything you think the profession or Society should do in this area?
Scotland	Law Society of Scotland	2020b	<p>Qualitative: analysis of roundtable discussions.</p> <p>Roundtables were carried out with women solicitors to supplement data from the Profile of the Profession quantitative research.</p>	<p>Taken/adapted from document:</p> <p>This document synthesises the findings from roundtable discussions with women solicitors about flexible working patterns in the legal profession.</p> <p>The Society asked the roundtables to consider the following questions:</p> <ul style="list-style-type: none"> • Do you agree that flexible working is critical to improving diversity? • Has your organisation implemented flexible working?

				<ul style="list-style-type: none"> • If so, are you facing any challenges? • If it hasn't implemented flexible working, why not? • How can men be encouraged to work flexibly? <p>A general theme across all the roundtables that considered flexible working was a view that 'law is not a nine-to-five profession'. Yet, there was a strong desire from the roundtables to better accommodate flexible working (in its numerous forms) across the profession.</p>
Scotland	Law Society of Scotland	2020c	Webpage outlining the Street Law programme.	<p>Taken/adapted from webpage:</p> <p>This webpage outlines the Law Society of Scotland's Street Law programme, which is an initiative aiming to provide legal education in schools in a way that pupils are able to engage with. It was set up in 2014 and includes lessons on what the law is, what the law ought to be, and examination of legal policy and the constitution.</p>

Scotland	Law Society of Scotland	n.d.-a	Document outlining the curriculum of the Law Society of Scotland's Street Law programme.	Taken/adapted from document: The Law Society of Scotland's Street Law programme is an initiative aiming to provide legal education in schools in a way that pupils are able to engage with. This document outlines the programme, details about partnerships with schools, teaching methodology, programme goals, and lesson plans.
Scotland	Law Society of Scotland	n.d.-b	Webpage outlining what contextualised recruitment is and its benefits.	Taken/adapted from webpage: This Law Society of Scotland webpage outlines the concept of contextualised recruitment and how it can promote social mobility in the legal profession. It also details the Law Society of Scotland's partnership with a diversity company to support social mobility when selecting trainees.
Scotland	Law Society of Scotland	n.d.-c	Webpage providing resources for parents in the legal professions (solicitors and other legal service professionals).	Taken/adapted from webpage: As part of their equality and diversity work, the Law Society of Scotland produced 12 guides for solicitors and others working in legal services. The guides are aimed at those about to embark on or return from a period of maternity, shared parental or adoption leave, and their line managers. They feature

				real-life case studies from men and women working across the profession.
Scotland	Law Society of Scotland	n.d.-d	Webpage about how to build a more inclusive legal profession, focusing on solicitors, in Scotland.	Taken/adapted from webpage: A webpage detailing the Law Society of Scotland's plan for improving the inclusivity of the legal profession in light of their 2018 Profile of the Profession report. These actions are split into five themes: retaining talented people, ensuring fairness around pay and progression, ending bullying and harassment in the profession, members being able to be their whole selves at work, reflecting Scotland's population now and in the future.
Scotland	Law Society of Scotland	n.d.-e	Webpage about the Law Society's Racial Inclusion Group.	Taken/adapted from webpage: A webpage about the Law Society of Scotland's Racial Inclusion Group explaining its work on understanding professional experiences of members. The group seeks to better understand the lived and professional experiences of Black, Asian and Minority Ethnic (BAME) members and will report to the Law Society Council with recommendations at the end of 2021.

Scotland	Law Society of Scotland	n.d.-f	<p>Webpage about the Law Society of Scotland's Women's Access Network for women solicitors and trainees.</p>	<p>Taken/adapted from webpage:</p> <p>The Law Society published summaries of their gender equality roundtable discussions in 2020 and, having analysed the feedback from many members across Scotland, the Society designed a gender equality action plan to be enacted over the next two years.</p> <p>One area of work to promote gender equality is to take targeted action to develop the next generation of female leaders. This was an area that was consistently raised in the roundtables: that there was a lack of a support network or lack of access to senior figures for those in the earlier stages of their career. The Women's Access Network aims to address these concerns directly.</p>
Scotland	Law Society of Scotland	n.d.-g	<p>Webpage detailing the Law Society of Scotland's Lawscot Foundation initiative.</p>	<p>Taken/adapted from webpage:</p> <p>A webpage outlining the Law Society of Scotland's Lawscot Foundation initiative, which was established in 2016. The charity aims to support less advantaged academically talented students through their legal career, by providing mentoring opportunities, financial assistance and other support required.</p>

Scotland	Law Society of Scotland	n.d.-h	<p>Webpage about menopause support in workplaces for solicitors and organisations.</p>	<p>Taken/adapted from webpage:</p> <p>The Law Society produced menopause guidance with Peppy to help individuals and firms access the support they need.</p> <p>It's important that organisations and their leaders understand the impact of the menopause on their employees and are able to offer support and adapt their environments to be more accommodating.</p> <p>It's equally as important that individuals feel empowered to talk about the menopause and are informed on the symptoms, both for those that will experience the menopause first-hand, and those that will be supporting family members and colleagues through it.</p>
Singapore	Law Society of Singapore	2020	<p>Mixed methods: survey, roundtable sessions.</p> <p>Survey:</p> <ul style="list-style-type: none"> Survey of female members of the Singapore legal profession. More than 500 responses received (approximately 20% of 	<p>Taken/adapted from introduction:</p> <p>In March 2018, the Law Society of Singapore established the Women in Practice (WIP) Taskforce and charged it with addressing issues faced by female legal practitioners in Singapore, with a view to improving their representation in legal practice.</p> <p>One of the key steps taken by the Taskforce was to conduct a survey of female members of the Singapore</p>

			<p>women called to the Singapore Bar).</p> <p>Roundtable discussions:</p> <ul style="list-style-type: none"> • Hosted by Women in Practice Committee. <p>Participants from junior, middle, and senior categories of female lawyers; managing partners, hiring managers, and recruiting partners (male and female); male lawyers.</p>	<p>legal profession. The goal was to gather information to facilitate a better understanding of the needs and experiences of women lawyers in active practice today. The survey was released on 6 July 2018 and remained open for completion until the end of September 2018. The Taskforce received over 500 responses, which (at approximately 20% of women called to the Singapore Bar) amounted to a very healthy participation rate. To supplement the data gathered from the survey, the Women in Practice Committee hosted a series of roundtable sessions in 2019, with participants from: (a) the junior, middle and senior categories of female lawyers; (b) managing partners, hiring managers, and recruiting partners (both male and female); and (c) male lawyers.</p> <p>This report sets out the findings based on data gathered. It also sets out the WIP Committee's recommendations on how the profession can continue to attract, retain and promote women in a fair and supportive manner.</p>
Scotland	Lawscot Foundation	n.d.-a	<p>Webpage outlining the work of Lawscot Foundation, set up by the Law Society of Scotland.</p>	<p>Taken/adapted from webpage:</p> <p>A webpage outlining the work of the Lawscot Foundation, including setting up mentoring relationships and offering work shadowing opportunities for pupils</p>

				from less-advantaged backgrounds who are academically talented.
Scotland	Lawscot Foundation	n.d.-b	Webpage outlining what the Lawscot Foundation does and calling for applications.	Taken/adapted from webpage: This webpage calls for applications to the Law Society of Scotland's Lawscot Foundation for the academic year, and outlines the purpose of the charity and what has been achieved in the five years since its inception.
Northern Ireland	Leith, P. & Morison, J.	2013	Mixed methods: online survey and focus groups considering 'merit' in the judicial appointments process. Survey: <ul style="list-style-type: none"> • The survey asked respondents to assess six scenarios involving imaginary individuals considering applying to judicial office. • 212 respondents who had a professional legal qualification began the questionnaire (101 female respondents, 89 male respondents) with 186 useable 	Taken/adapted from executive summary: This research was interested in exploring how the idea of "merit" as a governing factor in judicial appointment is seen as working in practice, and whether it is perceived as being most likely to be found within particular career profiles. The authors also investigated issues such as the possible development of formal and informal pathways to a judicial career and practical problems such as how an applicant might become known to the senior judiciary, and the importance of this. Overall, the authors' interest was primarily in developing an understanding of how gender is perceived to operate in the appointments process and how any barriers to recruiting women, particularly to the senior judiciary, could be further broken down.

			<p>responses (answered questions on at least one scenario).</p> <p>Focus groups:</p> <ul style="list-style-type: none"> • Included experienced and relatively junior solicitors and barristers, less than 20 people in total. • Focused on merit in the judicial appointments process, and formal and informal pathways to appointment. 	
South Africa	Masengu, T.	2016a	<p>Qualitative analysis of minutes from meetings regarding barriers to gender transformation in the judiciary.</p> <p>Legal sector meetings in five provincial hubs with 140 participants overall (judges, magistrates, advocates, attorneys, academics).</p>	<p>Taken/adapted from abstract:</p> <p>The aim of this article was to analyse two specific challenges faced by women advocates and attorneys that were identified over three years through legal sector meetings. These are the unequal distribution of work and discriminatory perceptions of women's abilities. The author argues that the two factors are directly related to the inadequate representation of women on the bench. The argument is informed by dialogues from legal sector meetings, observations of the judicial appointments</p>

				process, and desktop research. The author concludes that failing to engage with the identified obstacles will negate any efforts to further increase the number of women judges.
Canada	Nasager, A.	2020	Literature review on the Canadian judicial appointment process, particularly regarding the requirement for functional bilingualism.	<p>Taken/adapted from introduction:</p> <p>The recent reforms to the Supreme Court of Canada appointment process have created potential barriers to Indigenous candidates. This article reviews the appointment process and its two objectives of functional bilingualism and increased diversity. Given the lack of progress on diversity, particularly with respect to Indigenous representation, a rebalancing of appointment criteria is required. Reconciliation, in both the legal and evolving public policy sense, requires Indigenous participation in legal institutions. Furthermore, arguments in favour of functional bilingualism, such as specific legal expertise and incorporation of distinct cultural viewpoints, transfer seamlessly to Indigenous and other minority representation at the Supreme Court. The author concludes that the functional bilingualism requirement should remain, but accommodation for Indigenous candidates is integral to reconciliation</p>

Kenya	National Gender and Equality Commission; the International Association of Judges – Kenya Chapter	2019	<p>Report presenting findings from an audit of the Kenyan Judiciary on the principles of gender and inclusion.</p> <p>Mixed methods: in-depth interviews, focus groups, self-administered questionnaires, a desk review and a case review. Purposive sampling was used to identify the four geographical regions to be included in the audit: Turkana, Kisumu, Mombasa and Nairobi.</p> <p>In-depth interviews:</p> <ul style="list-style-type: none"> • 68 in-depth interviews were conducted with Judiciary employees between February and July 2018. <p>Focus groups:</p> <ul style="list-style-type: none"> • Focus groups were carried out between February and May 2018. 	<p>Taken/adapted from report</p> <p>This report presents the findings from an assessment of the Kenyan judiciary's performance against constitutional obligations on gender equality, in line with the commitments outlined in Article 27 of the Constitution's Bill of Rights.</p> <p>The assessment was carried out by consultants who were commissioned by the National Gender and Equality Commission (NGEC), the International Association of Women Judges-Kenya Chapter, and the International Development Law Organization (IDLO).</p> <p>The report outlines the areas that were found to be supportive of gender equality, any key issues of concern identified, and recommendations to improve gender equality following the audit.</p>
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			<ul style="list-style-type: none">• The encounters were with 4 Court User Committees (CUCs) and 38 CUC members. <p>Self-administered questionnaires:</p> <ul style="list-style-type: none">• Judiciary employees received the questionnaire between April and August 2018.• 385 judiciary employees completed the questionnaire. <p>Desk review of Judiciary documents:</p> <ul style="list-style-type: none">• The desk review was completed at the inception of the project, in January and February 2018.• Any new documents that became available during the audit were also included in the desk review.• Relevant documents were identified using a purposive sampling method, including Judiciary reports and policies.	
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			<p>Case review:</p> <ul style="list-style-type: none"> • A purposive sampling method was used, whereby judicial experts (including some interview participants) were asked to suggest cases showing positive or negative treatment of gender equality. • 40 cases were initially selected, and of those, 20 were identified for inclusion in the jurisprudence thematic area findings section of the report. <p>Measures were undertaken to ensure that there was no overlap between the interview, focus group and questionnaire participants.</p>	
New Zealand	New Zealand Law Society	2017	Policy to promote equitable engagement for women lawyers in New Zealand.	<p>Taken/adapted from policy document:</p> <p>The document describes a policy promoted by the Law Society and New Zealand Bar Association that requires lawyers and their clients to commit to increasing the</p>

				<p>proportion of women lawyers leading court proceedings and other contentious matters.</p> <p>The policy is one of a number of initiatives that are underway to improve the retention and advancement of women within the legal professions. It aims to encourage lead lawyers to give women juniors greater opportunities to develop their skills and experience and drive cultural change in the legal professions.</p>
New Zealand	New Zealand Law Society	2018a	<p>Qualitative report and review of literature</p> <ul style="list-style-type: none"> • A literature review of sexual violence, harassment, bullying and discrimination in the legal profession. • An assessment of the policies and procedures of the New Zealand Law Society. • An assessment of issues raised in the Bazley Report, incidents and concerns raised in media reports 	<p>Taken/adapted from document</p> <p>A Working Group was appointed by the New Zealand Law Society to bring together different expertise and perspectives from within and external to the legal profession.</p> <p>The Working Group examined the history, prevalence and nature of unacceptable conduct in the legal profession in New Zealand. It reviewed comparative regulatory regimes in overseas jurisdictions and other New Zealand regulated professions to identify effective approaches to tackling sexual violence, harassment, bullying and discrimination. The Working Group consulted with a range of organisations and individuals with expertise and interests in this area. Feedback and suggestions for change were received through</p>

			<p>in 2018, and posts written on Zoë Lawton's blog.</p>	<p>consultation and from members of the wider legal community.</p> <p>The report presents the findings of the work carried out by the Working Group. It outlines the actions that have already been taken by the legal profession and the recommendations for enabling better reporting, prevention, detection, and support in respect of sexual harassment, bullying, discrimination and other inappropriate workplace behaviour within the New Zealand legal profession.</p>
New Zealand	New Zealand Law Society	2018b	Guidelines for the Gender Equality Charter of the New Zealand Law Society.	<p>Taken/adapted from charter:</p> <p>The guidelines for the Gender Equality Charter developed by the New Zealand Law Society, explaining why the legal profession (specifically the solicitors' profession) needs a Gender Equality Charter, the benefits of signing up, and how to meet Charter commitments.</p>
New Zealand	New Zealand Law Society	2020	Webpage on harassment and bullying in the workplace for those working in the New Zealand legal profession.	This webpage outlines the New Zealand Law Society's commitment to tackling the culture of harassment and bullying in the legal profession, and signposts to the following pages:

				<ul style="list-style-type: none"> • What is bullying and harassment? • Information for employers • Information for employees; assistance and support • Report and complain
New Zealand	New Zealand Law Society	2021	Webpage on the new rules governing behaviour regarding bullying and harassment in the New Zealand legal profession.	This webpage addresses the new rules governing the behaviour of lawyers regarding bullying and harassment introduced in July 2021 in New Zealand. The new rules are outlined, including mandatory reporting obligations, and some initiatives implemented, such as free webinars on designing anti-harassment and bullying policies.
New Zealand	New Zealand Law Society	n.d.	Webpage about initiatives for women solicitors in the New Zealand legal profession.	A webpage explaining how the New Zealand Law Society is working to improve gender equality in the legal profession.
Northern Ireland	Northern Ireland Judicial Appointments Commission	2014	Leaflet about the Judicial Shadowing Scheme in Northern Ireland.	A leaflet providing information about the Judicial Shadowing Scheme organised by the Northern Ireland Judicial Appointments Commission, the Lord Chief Justice's Office, the Bar Council, the Law Society of Northern Ireland, and the Northern Ireland Courts and

				Tribunals Service. It includes details of what the scheme is, who is eligible, and what it involves.
Northern Ireland	Northern Ireland Judicial Appointments Commission	2017	Document detailing the Northern Ireland Judicial Appointments Commission's policy on reasonable adjustments for potential judicial members.	<p>Taken/adapted from document:</p> <p>This policy sets out the principles which govern the provision of Reasonable Adjustments for applicants to judicial office. Additionally, this policy sets out the framework for the provision of equality of opportunity for applicants with a disability who require reasonable adjustments to assist them to participate fairly in the recruitment, selection and assessment process.</p>
Northern Ireland	Northern Ireland Judicial Appointments Commission	n.d.	Webpage about Judicial Appointments Commission's work to encourage diverse applicants in Northern Ireland.	A webpage explaining how the Northern Ireland Judicial Appointment Commission works to encourage diverse applicants for judicial appointments through advertising and outreach schemes.
International	OECD	2014	<p>Mixed methods: surveys and interviews.</p> <p>Surveys:</p> <p>Two surveys used as sources of data:</p>	<p>Taken/adapted from foreword:</p> <p>This report provides a comprehensive, evidence-driven assessment of how governments can play a more effective role in leading the equality agenda.</p> <p>Governments play a crucial role in promoting equal rights, responsibilities and access to opportunities for</p>

		<ul style="list-style-type: none"> • The 2011 Survey on National Gender Frameworks, Gender Public Policies and Leadership; 22 countries responded. • The 2011 Survey on Gender in Public Employment; 22 countries responded. The survey asked about mechanisms for gender mainstreaming and institutions for the advancement of women in OECD countries. <p>Interviews:</p> <ul style="list-style-type: none"> • Over 25 interviews with parliamentarians, judges, and legal experts from OECD countries. • Interviews aimed to identify main barriers, opportunities, success factors and possible options for actions to close 	<p>men and women. The study gives an overview of where OECD countries stand with regard to gender policies, drawing valuable policy recommendations. The report argues that a more systematic and whole-of-government approach to promoting gender equality should include embedding gender perspectives in all stages of government decision-making, from design to implementation and evaluation of laws and policies. It also requires clear channels to express voices of both women and men, effective and gender-diverse institutions for implementing a gender equality agenda, sound tools for gender-aware decision-making and robust evidence to measure progress in gender equality.</p> <p>The report examines the barriers to women's access to decision-making positions, provides a cross-country comparison of instruments used to close gender gaps and highlights policies and measures needed to promote gender equality across the wide spectrum of public leadership roles. Its recommendations provide solid ground for developing a forward-looking OECD agenda on gender equality, which would promote a comprehensive approach to embedding equality considerations into policy making, as well as enabling women's empowerment in public life.</p>
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			identified gaps regarding gender equality.	
International Note: the paper focuses on a number of OECD countries, of which some are not relevant to the present REA. Evidence extraction focuses on countries of relevance and the section on the legal professions.	OECD	2019	<p>Mixed methods: analysis of surveys about gender equality frameworks and policies and gender composition of the judiciary, as well as roundtable discussions regarding governance to improve gender equality.</p> <p>Surveys:</p> <ul style="list-style-type: none"> Survey respondents included government officials, judicial councils, parliamentary secretariats, and national gender equality institutions in more than 20 countries. <p>Two surveys were used in sections relevant to extraction:</p> <ul style="list-style-type: none"> 2017 OECD Survey on National Gender Equality Frameworks and Public Policies: 17 respondent countries, the survey focused on legal 	<p>Taken/adapted from foreword:</p> <p>Recognising the importance of improving gender equality, governments from Organisation for Economic Co-operation and Development (OECD) member countries are putting in place strategies to narrow the remaining gender gaps. Sound public governance will be essential to effectively implement these strategies and deliver results. A co-ordinated, whole-of-government commitment is crucial, as well as clear and effective mechanisms for translating public policies, services and budgets into concrete benefits for men and women from diverse backgrounds. It is also important that government policy decisions take gender equality into account. Strengthening the gender-sensitivity of public institutions - including political parties, judicial councils and election management bodies - as both rule-makers and employers will be critical to enabling equal access to the top.</p> <p>This report takes stock of where countries stand vis-à-vis the 2015 OECD Recommendation on Gender Equality in Public Life, with a view to monitoring the progress made</p>

		<p>frameworks and whole-of-government strategic planning for gender equality, and approaches to implement policy.</p> <ul style="list-style-type: none"> • 2016 OECD Survey on Gender-Sensitive Practices in the Judiciary: 19 respondent countries, the survey focused on the gender composition of the judiciary and barriers to gender equality. <p>Roundtable discussions and meetings:</p> <ul style="list-style-type: none"> • Roundtables on Better Governance for Gender Equality. • Meetings of OECD Gender Budgeting Experts. • Discussions at policy forums including Women Political Leaders Global Summits, 	<p>over time. The Recommendation provides governments with governance tools, institutional mechanisms, and accountability frameworks to help further close gender gaps.</p>
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			OECD Equal Access to Justice Roundtables, and OECD events.	
Canada	Office of the Commissioner for Federal Judicial Affairs Canada	2021	Webpage outlining demographic statistics regarding judicial applicants and appointees in Canada, between October 2020 and October 2021.	This webpage presents the demographic statistics collected by the Office of the Commissioner for Judicial Affairs in Canada, for judicial applicants and appointees between 29 October 2020 and 28 October 2021. The collection and publication of these demographic statistics are part of the reforms to the superior courts' judicial appointments process, introduced in October 2016.
International	Pender, K.	2019	Mixed methods: online quantitative survey with some qualitative open questions. Survey: <ul style="list-style-type: none">International survey of legal professionals across a wide range of workplace settings (solicitors, barristers, judiciary). The survey was available in six languages.	Taken/adapted from executive summary: In 2018, the International Bar Association (IBA) and market research company Acritas conducted the largest-ever global survey on bullying and sexual harassment in the profession. Nearly 7,000 individuals from 135 countries responded to the survey, from across the spectrum of legal workplaces: law firms, in-house, barristers' chambers, government and the judiciary. The results provide empirical confirmation that bullying and sexual harassment are rife in the legal profession. Approximately one in two female respondents and one in

			<ul style="list-style-type: none"> • 6,980 respondents from the legal profession (4,651 were female) across 135 countries. • The survey asked about demographic information, characteristics of lawyers' firms, policies and training regarding bullying and sexual harassment, their own experiences of bullying and harassment. • Survey did not ask questions about personal characteristics including ethnicity, physical ability, or sexual orientation. 	three male respondents had been bullied in connection with their employment. One in three female respondents had been sexually harassed in a workplace context, as had one in 14 male respondents. This report provides a succinct analysis of that data, to raise awareness about the nature, extent and impact of the problem and inform the development of solutions.
South Africa	South African Judicial Education Institute (SAJEI)	2021	Newsletter including judicial news and updates on the work of the SAJEI.	This newsletter contains information about the activities of the SAJEI, as well as legal news for members of the judiciary. It includes an outline of the first Judicial Skills programme for Aspirant Women Judges, held by SAJEI from 29 March to 01 April 2021.

Cyprus	Supreme Court of Cyprus	n.d.	Webpage about the Cyprus Judicial Appointments process.	A webpage describing the Cyprus Judiciary's appointments process.
International	Virtue Foundation	2011	<p>Mixed methods: roundtable discussions and survey about barriers women face when entering and progressing within the judiciary.</p> <p>Roundtable discussions:</p> <ul style="list-style-type: none"> • Approximately 50 senior women judges from 13 countries. <p>Survey:</p> <ul style="list-style-type: none"> • Developed in collaboration with Cornell Law School's Avon Global Center for Women and Justice and International Human Rights Clinic. • Sent to the participants in the roundtable event prior to the event. 	<p>Taken/adapted from executive summary:</p> <p>This conference report summarises the discussions held during the 2011 roundtable sessions and the recommendations put forward by the participants. By highlighting the barriers that prevent women from entering or advancing within the judiciary and the solutions to those barriers that were identified, the report seeks to serve as a resource for the Roundtable participants and others in implementing measures to increase women's participation in judiciaries throughout the world.</p>

			<ul style="list-style-type: none"> • Comprised 26 questions about barriers to entry and participation in the judiciary for the women respondents. • 35 judges responded but only 25 provided completed surveys. Half of respondents were from African countries. 	
Ghana (and the United States)	Virtue Foundation	2012	Webpage detailing the Ghana Supreme Court Clerkship Workshop, organised by the Virtue Foundation.	<p>Taken/adapted from webpage:</p> <p>This webpage outlines the Ghana Supreme Court Clerkship Workshop. The training was part of the Virtue Foundation's Institute for Innovation and Philanthropy in Ghana's Supreme Court Clerkship programme to support the Ghanaian judiciary and enhance the state of legal education and experience for women in Ghana by sponsoring exceptional young female attorneys to work as clerks in the Supreme Court.</p>
Ghana	Virtue Foundation	n.d.-a	Webpage about their residence programme.	A webpage detailing the Ghana Jurist in Residence Program in New York and the Ghana Clerkship Program in Accra, Ghana.

International	Virtue Foundation	n.d.-b	Webpage about initiatives to improve female representation in the judiciary.	A webpage explaining the initiative 'Women Judges in the Pipeline', which provides opportunities for women in the developing world to become judges.
Kenya	Virtue Foundation	n.d.-c	Webpage about a training initiative.	A webpage describing the Kenya Judicial and Trial Advocacy Training Project.
Ghana (and the United States)	Virtue Foundation	n.d.-d	Webpage outlining a dinner event held by the National Association of Women Judges, and Virtue Foundation's Jurist in Residence programme.	Taken/adapted from webpage: This webpage details a dinner event that was held by the National Association of Women Judges (NAWJ) for 30 judges. The event was held in honour of five Ghanaian women judges who are participating in the Virtue Foundation Institute for Innovation and Philanthropy in Ghana's Jurist in Residence Programme. The format and purpose of the Jurist in Residence Programme is also outlined.
Scotland	Wilson Smith, E.	2015a	Qualitative: group interviews about experiences of Scottish solicitors with significant experience in practice. <ul style="list-style-type: none"> Participants were recruited through the 2013 Profile of the Profession Survey where they had provided contact details. 	Taken/adapted from introduction: This report, commissioned by the Law Society of Scotland presents the findings from the age-related research undertaken in light of the results of the quantitative 2013 Profile of the Profession survey, and considers the experiences of those that are more established and experienced in their careers. Topics explored by this research included: motivations and

			<ul style="list-style-type: none"> • Mini-group interviews: three mini-group interviews were carried out (experienced solicitors in Edinburgh; experienced solicitors in Glasgow; control group of more recently qualified solicitors) with three/four participants in each (eight experienced solicitors, five in control group). • Additionally, telephone interviews undertaken for the control group (five individuals). • Telephone interviews were also carried out with 11 experienced solicitors from outside Edinburgh/ Glasgow. 	aspirations; attitudes towards experienced professionals; consideration of other careers, both within and outside of the legal profession; succession and/or exit planning; and experiences of the Society and its services. In addition to including more established solicitors within this research, a control group of younger and more recently qualified solicitors were also included to provide a comparison between the responses.
Scotland	Wilson Smith, E.	2015b	<p>Qualitative: interviews and group interviews.</p> <p>Interviews and group interviews:</p> <ul style="list-style-type: none"> • Participants were recruited from individuals who provided 	<p>Taken/adapted from executive summary:</p> <p>The Law Society of Scotland commissioned qualitative research in 2014 to provide more detailed follow-up work from the 2013 Profile of the Profession Survey. This research considered the experiences of both men and</p>

		<p>contact details in the 2013 Profile of the Profession Survey.</p> <ul style="list-style-type: none"> • Two mini-group interviews with solicitors within Edinburgh and Glasgow. • A number (not specified) of telephone interviews with respondents in Edinburgh and Glasgow. • 11 interviews with solicitors living in rural/remote areas of Scotland. • 35 participants overall (16 men, 19 women). 	<p>women that are full-time, part-time, working condensed hours and/or have an element of home working, as well as partners, directors and managers with responsibility for managing teams and business interests. Topics for discussion included:</p> <ul style="list-style-type: none"> • Working patterns within the profession and the impact of technology. • Experiences and perceptions of flexible working. • The gender-based pay gap (as evidenced in the 2013 survey). • Experiences of discrimination. • Experiences of the Society and its services. <p>The research allowed the identification of a number of issues/problems that have developed around working patterns, as well as the emergence of some new ways of working that could provide wider benefits, and the identification of some best practice examples for tackling the issues.</p>
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Scotland	Wilson Smith, E.	2015c	<p>Qualitative: one interview carried out with a transgender legal professional (a solicitor).</p>	<p>Taken/adapted from document:</p> <p>Previous surveys of the legal profession in Scotland (in 2013, 2009 and 2006) showed that transgender people are prevalent in very small but fairly consistent numbers (less than 1% of the total legal profession) over the past eight years.</p> <p>Due to the very small numbers of transgender individuals prevalent within the legal profession as suggested by the previous surveys, it was considered appropriate to target transgender professionals using qualitative methods.</p> <p>This research was commissioned by the Law Society of Scotland.</p> <p>The interview focused on experiences of being transgender within the profession, and what could be done to improve the experiences of transgender legal practitioners both by the Law Society and by individual firms. The individual noted a number of challenges regarding their experience of the legal profession, including that they felt they had to adapt their gender expression to be treated professionally, a lack of understanding and awareness from others about the impact of their behaviour, discomfort and anxiety when joining a firm, and worries that they would not feel</p>
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				comfortable making a complaint if they did experience discrimination in the workplace.
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Appendix table E:3 Evidence review: Stakeholder evidence

Relevant Jurisdiction	Author/s	Year	Publication type/methods	Summary
South Africa	Centre for Applied Legal Studies	2014	<p>Mixed methods: literature review, group meeting, interviews, discussion groups, surveys.</p> <p>Qualitative:</p> <ul style="list-style-type: none"> Expert reference group meeting: included experts on transformation, representatives from the legal profession, government representatives. 15 interviews with legal practitioners, focusing on experiences of and barriers within the profession. Five semi-structured discussion groups: grouped on base of stage of career, race, gender, 	<p>Taken/adapted from introduction, research question and preliminary findings:</p> <p>The South African legal profession continues to face the challenge of meaningful transformation. The top positions in the profession, from senior partners of law firms, to senior counsel at the Bar and senior members of the judiciary, remain largely homogenous. These positions are dominated by white men, with a marked absence of diversity on the basis of race, gender and other marginalising characteristics. The judiciary represents similar trends, at least in respect of gender. Although the racial diversity of the constitutional court in the 20 years of democracy has gone from seven white judges and four black judges to the current bench, where the majority of the judges are black and two are white, the same is not true of gender. In the same period, the</p>

		<p>age, and some randomly constructed groups, between three and ten participants in attendance at each.</p> <ul style="list-style-type: none"> • All types of qualitative data collection included attorneys and advocates. <p>Quantitative:</p> <ul style="list-style-type: none"> • Six separate surveys tailored to specific organisations distributed to ten organisations including civil society organisations, an attorney network, and law firms. • 95 responses from legal practitioners were received, with 73 complete and 62 used in the final sample based on 'variables of interest' (not specified). 	<p>number of women on the constitutional court has remained unchanged: two in 1994 and two in 2014. The key research question for the project participants was "why has there been so little change at the senior level of the legal profession, especially in respect of the intersection between race and gender?"</p> <p>The study found that black women face a number of barriers throughout their legal careers, including:</p> <ul style="list-style-type: none"> • A shortage of jobs and few connections to established members of the profession. • Offers from the corporate sector which are more appealing than those from the legal profession. • Cultural alienation during informal socialising such as weekend events and sports. • Bias and racism based on stereotypes and the historic roles of black women. • Sexual harassment. • Briefing patterns leading to black women receiving less work.
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				<ul style="list-style-type: none"> • Lack of childcare facilities. • The trailblazer phenomenon, resulting in black women having to achieve a level of excellence to progress which is not expected of white men.
India	Chandra, A., Hubbard, W. & Kalatry, S.	2019	<p>Quantitative: data was collected from the Supreme Court of India website and the websites of the high courts of India to create two datasets for analysis.</p> <ul style="list-style-type: none"> • The first dataset included biographical information on all judges appointed to the Supreme Court of India from its founding until March 2018. • The second included biographical information on all chief justices of the high courts since 1993 as individuals from this group are most likely to be selected by the collegium for appointment to the Supreme Court. 	<p>Taken/adapted from abstract:</p> <p>In this article, the authors compare the biographical characteristics of judges appointed by the executive-appointments system (prior to 1993) and the judges appointed by the collegium (1993 onwards) to the Supreme Court of India.</p> <p>The authors find that both the pre-collegium and the collegium system maintain the geographical and religious diversity of India in the candidates that are appointed. However, both have failed to account for gender diversity. In addition, the path to the Supreme Court appears to have narrowed – typically those who are appointed as judges by the collegium spend longer periods in private practice and on the bench than pre-collegium judges.</p>

India	Chandrashekaran, S., Sanyal, D. & Tripathy, S.	2020	<p>Quantitative: data on the sex, social status, and religious background of those invited to join the judiciary as a civil judge (junior division) or district judge in 17 high courts and state law departments was compiled and analysed.</p> <p>Data was collected through requests under the Right to Information to 24 high courts and 30 state law departments.</p> <p>Information was received from 17 of these and mainly included data on selection lists of candidates (those invited to join) rather than both these and appointment lists (those who do join).</p>	<p>Taken/adapted from conclusion:</p> <p>This article presents information on the evolution of the representation of women in India's lower judiciary in recent years. It also adds to the limited but emerging literature on the impact of diversity on judicial institutions. The authors find that between 2007 and 2017, while the number of women entering as judges in the civil judge (junior division) cadre in most states has increased, the number of women entering the cadre of district judges via direct recruitment from the bar has remained low and relatively stagnant. They note that while law is a discipline where the gender gap in enrolment between men and women remains high, the increase in the entry of women into the civil judge (junior division) cadre signifies that more women are seeing careers as judges as viable options over other legal services. The authors suggest this increase may be somewhat attributable to the recruitment method, which attracts fresh law graduates to write the examination, as well as related to the larger context of the improvement of socio-economic indicators for women's empowerment.</p>

Australia	Equal Opportunity Commission	2021	<p>Mixed methods: review, survey, interviews, written submissions.</p> <p>Review:</p> <ul style="list-style-type: none"> • Literature review of reports considering harassment in the legal profession within Australia and internationally. • Review of legislative and regulatory framework regarding discrimination and harassment. <p>Survey:</p> <ul style="list-style-type: none"> • Online survey asking about personal experience of discrimination, whether experiences were reported, and views on establishing an independent complaints body. • 733 responses from those who currently were or previously had worked in the legal profession, 	<p>Taken/adapted from executive summary:</p> <p>The Review was requested by the South Australian Legislative Council on 14 October 2020, to investigate the prevalence of harassment, including sexual harassment, in the legal profession. The Legislative Council asked the Commission to consider the adequacy of the laws and processes for making complaints about harassment, including sexual harassment, in the profession. The Commission was also tasked with making recommendations about improvements to the existing regimes for dealing with complaints relating to harassment and with considering whether the establishment of an independent complaints body was warranted.</p> <p>In recognition of the diverse range of people engaged across the legal profession, the Review sought responses from anyone whose work involved some participation in the administration of justice – from court staff and clerks to members of the judiciary. Without intending to homogenise them, the myriad work groups were collectively referred to as the ‘legal profession workplace’. The Review’s methodology included a survey of those currently working, or who had previously worked, in a legal profession workplace. The Commission received over 600 responses to the survey,</p>
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		<p>with 622 responses considered in-scope.</p> <p>Interviews:</p> <ul style="list-style-type: none"> • 16 interviews (14 with victims/ survivors of harassment) with those who were working or had worked in the legal profession and experienced harassment. • ‘Spoke to’ several stakeholders seen as having relevant expertise. <p>Written submissions:</p> <ul style="list-style-type: none"> • 14 submissions received from stakeholders regarding the Review’s terms of reference and other relevant issues. • Five written submissions from victims and witnesses. 	<p>interviewed 16 participants and received 18 written submissions.</p> <p>The Commission found that a number of features of the legal profession workplace operate as drivers of harassment, in particular:</p> <ul style="list-style-type: none"> • A patriarchal and hierarchical culture characterised by intense competition. • A lack of cultural diversity, particularly in relation to people identifying as Aboriginal and / or Torres Strait Islander. • Deeply entrenched gender bias that underpins discriminatory behaviour. • A ‘culture of silence’ whereby instances of harassment are minimised, normalised and kept quiet. <p>The Commission made 16 recommendations aimed at continuing to improve the culture in the profession, including through education before admission and as part of internal continuing professional development (CPD) programs.</p>
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Northern Ireland	Northern Ireland Judicial Appointments Commission	2021	Annual report 2019-2020 for the Northern Ireland Judicial Appointments Commission.	The 2019-2020 annual report and accounts for the Northern Ireland Judicial Appointments Commission, including diversity statistics.
Australia	Szoke, H.	2021	<p>Qualitative: interviews, roundtable discussions.</p> <p>Interviews:</p> <ul style="list-style-type: none"> • 36 individuals shared experiences of sexual harassment in the Victorian courts through online submissions or interviews. • More than 50 interviews with judicial officers, Victorian Civil and Administrative Tribunal (VCAT) members, academics, experts, and key personnel at the Victorian Bar, the Law Institute of Victoria, and regulatory bodies. <p>Roundtable discussions:</p>	<p>Taken/adapted from foreword:</p> <p>The Review of Sexual Harassment in Victorian courts was commissioned at a time when the legal profession was shocked by the revelations of sexual harassment perpetrated by a now retired judge of the High Court of Australia and at a global turning point on workplace sexual harassment. The then Attorney-General, the Hon Jill Hennessy, and the Chief Justice of Victoria, the Hon Anne Ferguson, initiated this review into sexual harassment. During the review, many women and some men told their stories of the 'open secret' of sexual harassment. Many of these stories related to the wider legal profession; some to experiences of working in the courts of Victorian Civil and Administrative Tribunal (VCAT). The review's recommendations focus on the operation of the courts and VCAT and the systems in place for judicial officers, VCAT members and Court Services Victoria staff. The need for reform in the broader legal profession, however, remains pressing.</p>

			<ul style="list-style-type: none">• 26 roundtable discussions with approximately 175 solicitors and barristers, judicial officers, VCAT members, court services staff, regional lawyers, police, academic experts, regulators, and Koori staff and services.• 15 written submissions from organisations that work in, or engage with, the Victorians courts.	
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Appendix F

Organisations: Grey literature search

Appendix table: F1 Organisations and websites included in the grey literature search	
Relevant Jurisdiction	Organisation
Australia	Australian Judicial Officers' Association
Australia	Judicial Commission of New South Wales
Australia	Law Council of Australia
Barbados	Barbados Bar Association
Barbados	Judiciary of Barbados
Canada	Canadian Bar Association
Canada	Canadian Judicial Council
Canada	Federation of Law Societies of Canada
Canada	Office of the Commissioner for Federal Judicial Affairs Canada
Canada	Ontario Court of Justice
Commonwealth	Commonwealth Judicial Education Institute
Cyprus	Cyprus Bar Association
Cyprus	Cyprus Judiciary
Cyprus	Supreme Court
Ghana	Bar Association of Ghana
Ghana	General Legal Council
Ghana	Republic of Ghana Judiciary
Hong Kong	Hong Kong Bar Association
Hong Kong	Judiciary of the Hong Kong Special Administrative Region of the People's Republic of China

India	Bar Council of India
India	Ministry of Law and Justice
International	Bingham Centre
International	Global Judicial Integrity Network
International	International Commission of Jurists, Centre for the Independence of Judges and Lawyers
International	Judicial Diversity Initiative
International	Organisation for Economic Co-operation and Development
International	Pluri Courts
International	UCL Institute of Judicial Research
International	United Nations Special Rapporteur on the Independence of Judges and Lawyers
International	World Justice Project
Israel	Israel Bar Association
Kenya	Judiciary of Kenya
Kenya	Law Society of Kenya
Kenya	National Gender and Equality Commission
Malaysia	Judicial Appointments Commission
Malaysia	Malaysian Bar Council
New Zealand	Courts of New Zealand
New Zealand	New Zealand Law Society
Nigeria	National Judicial Council of Nigeria
Nigeria	Nigerian Bar Association
Northern Ireland	Law Society of Northern Ireland
Northern Ireland	Northern Ireland Judicial Appointments Commission

Pakistan	Pakistan Bar Council
Republic of Ireland	Law Society of Ireland
Scotland	Judicial Appointments Board for Scotland
Scotland	Law Society of Scotland
Sierra Leone	Judiciary of Sierra Leone
Sierra Leone	The General Legal Council
Singapore	Law Society of Singapore
Singapore	Supreme Court
South Africa	Judicial Service Commission
South Africa	Legal Practice Council
Trinidad and Tobago	Judiciary of Trinidad and Tobago
Trinidad and Tobago	Law Association of Trinidad and Tobago
Uganda	Judicial Service Commission
Uganda	Uganda Law Society

Appendix G

Flow chart of screening process

