

INTRODUCTION TO SYMPOSIUM ON NIENKE GROSSMAN,  
“ACHIEVING SEX-REPRESENTATIVE INTERNATIONAL COURT BENCHES”

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In “Achieving Sex-Representative International Court Benches,” Nienke Grossman begins with embarrassing statistics.<sup>1</sup> Despite decades of progress on gender equality, women are still quite scarce on international benches. Grossman reframes the debate on gender equity in a powerful way. Most promisingly, she suggests that greater meritocracy and greater gender equity go hand in hand. As she argues, “international judgeships are often used to reward political loyalty” and “political horse-trading among states” abounds.<sup>2</sup> For these reasons, reforms to broaden the pool of candidates and to increase the transparency of the selection process would also result in the appointment of more women, in all likelihood. In addition, Grossman puts forth a provocative legal claim—she argues that “states are legally required to take steps to understand and remedy the paucity of women judges on most international court benches.”<sup>3</sup>

Responses from two prominent academics and a sitting international tribunal judge largely welcome and build on Grossman’s insights. While both Cecily Rose and Neus Torbisco-Casals critique Grossman’s argument that states have positive obligations to place more women on international benches, they hail Grossman’s aims, and present additional rationales for the increased representation of women on international benches. Rose’s essay is noteworthy for highlighting some particular ways in which the UN Charter is more conservative than previously believed, and for identifying the limitations of using Article 8 of the Charter to require states to take additional steps to appoint female judges.<sup>4</sup> Torbisco-Casals presents four intriguing rationales for the increased appointment of female judges.<sup>5</sup> She develops in particularly helpful detail the claim that to improve the integrity of judging, persons sensitive to the experiences of subordinated groups must be elevated to the bench.

Judge Memooda Ebrahim-Carstens closes with a note of optimism, to tell us that some international tribunals have indeed achieved sex-representative benches, and to explain the key steps in the process.<sup>6</sup> Ebrahim-Carstens has an insider’s perspective on the United Nations’ internal dispute resolution system—she has served on the United Nations Dispute Tribunal (UNDT) since 2009, and has been twice appointed its Presi-

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<sup>1</sup> Nienke Grossman, *Achieving Sex-Representative International Court Benches*, 110 AJIL 82 (2016).

<sup>2</sup> *Id.* at 86.

<sup>3</sup> *Id.* at 87.

<sup>4</sup> Cecily Rose, *Justifying Arguments About Selection Procedures for Judges at International Courts and Tribunals: A Response to Nienke Grossman*, 110 AJIL UNBOUND 86 (2016).

<sup>5</sup> Neus Torbisco-Casals, *Why Fighting Structural Inequalities Requires Institutionalizing Difference: A Response to Nienke Grossman*, 110 AJIL UNBOUND 92 (2016).

<sup>6</sup> Memooda Ebrahim-Carstens, *Gender Representation on the Tribunals of the United Nations Internal Justice System: A Response to Nienke Grossman*, 110 AJIL UNBOUND 98 (2016).

dent. Prior to joining the UNDT, Ebrahim-Carstens was the presiding judge of the High Court of Botswana. She explains that key steps in the advertisement of judgeships—namely very broad advertisement—and transparency in the selection process, have contributed to many excellent applications. She also warns against the imposition of unduly restrictive subject-matter expertise requirements, which could function to exclude excellent judges.

In short, there is much work to be done to increase gender representation on international benches, as Nienke Grossman's statistics amply demonstrate. But this symposium offers both diverse normative rationales, and concrete procedural steps that could lead to improved outcomes.