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PRESENTATION

"The Jurisprudential Protection of Gender Equality in Angola: between Customary Practices and the Effectiveness of Women's Rights within the Framework of the 20 Years of the Maputo Protocol."

"The legacy of women in the Angolan judicial system is a mosaic in the making, where each piece represents an achievement, a barrier overcome, a just decision. As more women assume leadership roles in the judiciary, the legal profession, and other legal fields, this legacy strengthens and expands".

(Laurinda Prazeres, *in* Lecture "The Legacy of Women in the Legal System").

On behalf and in representation of the Honorable Justice President of the Constitutional Court of Angola, Dr. Laurinda Prazeres, I wish to greet all participants and express our gratitude to the distinguished Chief Justice of the Constitutional Court of South Africa, Mandisa Maya, for the kind invitation extended to our Court to participate in this significant event, as well as for the warm reception and excellent working and hosting conditions provided in this beautiful city of Johannesburg.

Dear Colleagues,

As I take the floor in this forum of singular relevance, I do so not only on behalf of the Constitutional Court of Angola, but also as a woman who, from one of the highest judicial instances of an African State, witnesses—with both legal and human sensitivity—the distance that sometimes still lies between the written norm and daily life.

The theme that gathers us here — **“The Jurisprudential Protection of Gender Equality in Angola: Between Customary Practices and the Effectiveness of Women’s Rights within the Framework of the 20th Anniversary of the Maputo Protocol”** — is not a mere academic reflection.

It is, above all, a matter of constitutional justice.

It is a matter of human dignity.

And it is, most importantly, a question that challenges us directly as women of the African judiciary, placed at the forefront of the interpretation and application of the Law.

In Angola, as in many African States, two normative systems coexist, with varying degrees of tension, claiming to regulate human relations: on one hand, formal State Law, enshrined in the Constitution and ordinary legislation; on the other, Customary Law, rooted in centuries of social practices, usages, and communal values.

This coexistence is, in itself, a source of richness. However, when not adequately mediated by the Rule of Law, it can become a source of structural inequality, which falls with particular severity upon women.

Allow me to share some data from the Angolan experience.

Angola has an estimated population of approximately 37 million inhabitants, of whom 50.52% are women (about 19.1 million). Of these, between 69% and 70% reside in urban areas, while 30% to 31% live in rural areas. It is important to note that, in the urban context, a significant portion of these women live in so-called *musseques* (informal settlements), spaces marked by increased socio-economic vulnerabilities.

Furthermore, 34.5% of households are headed by women, a figure that rises to 46% in peri-urban areas. The general poverty rate stands at 41%—distributed as 57% in rural areas and 30% in urban areas—with women constituting the majority of the poor.

Excellencies,

It is within this context that the paradox of the woman manifests: she is the formal title-holder of assets left by the *de cuius* (the deceased), yet lacks effective access to them.

The Constitution of the Republic of Angola, approved in 2010, expressly and unequivocally enshrines the equality between men and women.

Article 23(1) establishes that all are equal before the law, and no one may be privileged or prejudiced based on, namely, their sex. Articles 23 and 35 ensure equality between spouses and guarantee the right to family and marriage in full equality.

The norm exists. It is clear.

It is binding.

And it occupies the apex of our legal order.

However, social reality demonstrates that, in vast parts of the national territory, many women continue to see these rights turned into a "dead letter" when confronted with the force of discriminatory customary practices.

In the Angolan experience, this paradox manifests in three essential dimensions:

- **First, personal autonomy:** Despite legal protection against forced and child marriage, contexts persist where young women remain subject to matrimonial arrangements decided by councils of elders, without effective regard for their will.

The data is telling: 30% of Angolan women aged 20 to 24 married before age 18, and 8% before age 15. More than 80% of these marriages correspond to informal or customary unions, with only about 10% being formally registered.

Second, the proprietary dimension: A woman who, upon her husband's death, is the legal beneficiary of inheritance rights, often finds herself excluded from the estate due to traditional practices of asset transfer to the deceased's family.

According to data from several Ministries, more than 40% of Angolan men are landowners, while consolidated data on female land ownership is still lacking. In the event of a spouse's death, the law ensures the surviving spouse—whether man or woman—title to 50% of the marital assets (under the community of property regime), additionally placing them fourth in the order of intestate succession under the Civil Code.

Notwithstanding this normative framework, social practice shows that, both in formal marriages and, more acutely, in unrecognized *de facto* unions, the intervention of the deceased's relatives tends to prevail in determining the fate of the estate, often to the detriment of the surviving spouse. On the economic front, only 22% of Angolan women hold a bank account, compared to 36% of men, and only 14% of companies in Angola have female leadership.

- **Third, Property Grabbing violent dispossession.**

When a widow seeks to exercise the rights recognized by law, she frequently faces the physical occupation of the property, the theft of movable assets, and, in the gravest cases, forced eviction from the marital home, alongside intense psychological pressure.

This constitutes a simultaneous violation of the right to property, the right to housing, and human dignity.

Angola remains among the Sub-Saharan African countries where this practice is prevalent.

In rural areas, experience shows that widows face systematically unfavourable customary decisions; in urban areas, even after a favourable court ruling, practical obstacles to recovering assets remain.

Not infrequently, accusations of witchcraft emerge as a mechanism for the social legitimization of the eviction.

The consequences also fall upon the children: loss of access to education, health, and nutrition.

Dear Colleagues, Excellencies,

The issue of literacy is also central. The female literacy rate in Angola is between 62% and 66%, while the male rate fluctuates between 79% and 82%.

A woman who cannot read often cannot access the law that protects her.

But there are signs of hope: more than 50% of those enrolled in Law Faculties are women, revealing an increasing "feminization" of legal education.

Nevertheless, significant deficits in civil registration persist in the hinterland, limiting the full operationality of legal personality for procedural purposes.

However, it is vital to emphasize that the phenomenon of dispossessing widows is not limited to contexts of low schooling or ignorance of legal rights. Indeed, even in circles where individuals possess high levels of academic training and full mastery of the legal norms applicable to property and inheritance, practices resulting in the undue seizure of the widow's assets persist.

In these situations, the actions of the deceased's relatives do not stem from ignorance of the law, but rather from the influence of deeply rooted cultural and social patterns often associated with customary law. This, due to its normative force within communities, ends up overriding positive law, leading to the illegitimate appropriation of the estate to the detriment of the woman who is, by law, the legitimate heir.

Such reality highlights the tension between formal law and social practices, demonstrating that simple knowledge of the law is not, in itself, sufficient to guarantee its effectiveness. The prevalence of behaviour contrary to the legal order reveals the need for a more comprehensive approach, including not only the rigorous application of the law by the courts but also the promotion of cultural and social shifts.

Thus, the protection of widows' rights must be viewed as a priority, requiring a concerted effort between the State, judicial institutions, and society to ensure respect for property rights, human dignity, and the principle of gender equality, regardless of the educational level of those involved.

The Angolan Constitution recognizes, in Article 7, Customary Law, but only within the limits of the Constitution itself.

Here lies the core of the debate.

No customary practice can claim legal validity when it collides with human dignity, equality, and non-discrimination.

The prevalence of fundamental rights over discriminatory custom is not an ideological choice.

It is a constitutional mandate.

But, Excellencies, prevailing in the norm is not the same as prevailing in life.

And it is precisely here that the role of women exercising leadership in the African judiciary becomes decisive.

The Constitutional Court of Angola has been affirming a firm jurisprudence in rejecting custom as an instrument for eroding fundamental rights, including those of women.

But the courts cannot act alone.

The realization of these rights requires articulated action from the State in all its dimensions, and it requires from us—women, especially in leadership positions—historical consciousness and a transformative commitment.

Every judgment that affirms equality;

Every ruling that rejects discrimination; Every decision that restores a woman's effective access to the rights she holds;

All of these are simultaneously judicial acts and acts of historical justice.

Allow me to conclude with three commitments that I humbly propose to this forum:

- First, the commitment to an active constitutional interpretation that subjects customary practices to the scrutiny of fundamental rights.
- Second, the commitment to bring the courts closer to the communities through legal literacy, mobile courts, and mechanisms for free access to justice. (And here, allow me to say that the Constitutional Court of Angola has been a pioneer in reaching the most remote regions of our country, holding community meetings to talk about the Constitution).

- Third, the commitment to an active solidarity among women of the African courts, through the sharing of jurisprudence, experiences, and institutional support networks, such as this High-Level Meeting.

The data I present here are not abstract numbers.

They are concrete lives.

They are widows evicted from their homes.

They are girls kept away from school.

They are women prevented from exercising rights that the Constitution recognizes.

I bring from Luanda to Johannesburg a profound conviction:

Law that does not reach a woman in her concrete life is an incomplete Law.

And a judiciary that tolerates this incompleteness has not yet fully fulfilled its constitutional mission.

To us, the women who lead this African judicial power, belongs the honour—and the duty—not to settle for anything less.

Thank you very much for your kind attention!