

INCORPORATING WOMEN INTO PEACEBUILDING AND DEMOCRATIC REFORM

Working Paper



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Foreword

DPI aims to foster an environment in which different parties share information, ideas, knowledge and concerns connected to the development of democratic solutions and outcomes. Our work supports the development of a pluralistic political arena capable of generating consensus and ownership over work on key issues surrounding democratic solutions at political and local levels.

We focus on providing expertise and practical frameworks to encourage stronger public debates and involvements in promoting peace and democracy building internationally. Within this context DPI aims to contribute to the establishment of a structured public dialogue on peace and democratic advancement, as well as to create new and widen existing platforms for discussions on peace and democracy building. In order to achieve this we seek to encourage an environment of inclusive, frank, structured discussions whereby different parties are in the position to openly share knowledge, concerns and suggestions for democracy building and strengthening across multiple levels. DPI's objective throughout this process is to identify common priorities and develop innovative approaches to participate in and influence the process of finding democratic solutions. DPI also aims to support and strengthen collaboration between academics, civil society and policy-makers through its projects and output. Comparative studies of relevant situations are seen as an effective tool for ensuring that the mistakes of others are not repeated or perpetuated. Therefore we see comparative analysis of models of peace and democracy building to be central to the achievement of our aims and objectives.

Women are crucial stakeholders in peacebuilding and democratic reform and yet they are too often sidelined because of entrenched gender biases. This working paper examines women's past exclusion from peacebuilding processes in various countries and posits some methods available to states to ensure women's effective and adequate participation within negotiations and constitution drafting, as well as women's increased topical representation within constitutions, parliamentary politics, and within all levels of state.

This working paper was prepared with the kind assistance of Chesea Rice, Eleanor Johnson and Catriona Vine.

Kerim Yildiz

Director

DPI

September 2012

“We can no longer afford to minimize or ignore the contributions of women and girls to all stages of conflict resolution, peacemaking, peace-building, peacekeeping and reconstruction processes. Sustainable peace will not be achieved without the full and equal participation of women and men.”

UN Secretary General, Kofi Annan¹

Introduction

The persistence of obstacles that women face in participating in the peaceful resolution of conflicts and in post-conflict public life is deeply troubling. It is the responsibility of each state and the international community as a whole to ensure women’s participation in reform processes, women’s representation within state institutions and women’s protection enshrined in state legislation. These three areas of concern correlate with the three pillars identified in Security Council Resolution 1325 for addressing women’s issues within peacebuilding and democratic reform: (1) participation of women in decision-making at all levels in conflict resolution and peace process; (2) representation of women in national, regional and international institutions and mechanisms for prevention, management, and resolution of conflict; and (3) protection of, and respect for human rights of women and girls.² Each of these pillars is crucial for building a stable democracy and a peaceful state. ‘Recognizing the ability of women to contribute to sustainable peace and the obstacles they face in attempting to do so requires an approach to peacebuilding that goes beyond restoring the status quo ante’.³ While progress has been made by many states ‘in implementing these provisions, particularly at international strategic and policy levels, worldwide testimonies show that translating the goals of Resolution 1325 into reality in conflict-affected countries remains a

¹ United Nations Association in Canada (2002), ‘Gender, Peacekeeping and Peacebuilding’, retrieved on 22/4/12 at: <http://www.unac.org/peacekeeping/en/un-peacekeeping/fact-sheets/gender-peacekeeping-peacebuilding/>

² United Nations Security Council Resolution 1325: S/Res/1325 (2000), retrieved on 25/1/12 at <http://www.unfpa.org/women/1325.html>

³ United Nations Security General (2010), ‘Women’s Participation in Peacebuilding.’ A/65/354-S/2010/466, retrieved on 18/3/2012 at: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/WPS%20S%202010%20466.pdf>

challenge.⁴ As such, this report will explore each of these three pillars and posit methods available to states to ensure the actualization of their goals.

Utilising Case Studies

This report will rely on multiple case studies to examine successful state practices for the promotion of women's numerical participation and topical representation within these decision-making processes. Towards that end, successful practices will be given in the context of peacebuilding processes in the following countries: South Africa (SA), Northern Ireland (NI), East Timor, Cambodia, Kosovo, Liberia, Guatemala, and Indonesia. Admittedly, there is no singular proven method for incorporating women into peace processes and introducing gender mainstreaming on all levels of statecraft. States recovering from episodes of conflict are faced with unique sets of challenges and not all methods discussed are applicable in those settings. Case studies can be useful, however, in establishing one's own chosen method for better incorporating women in negotiations, constitution writing and statecraft.

Structure and Objectives

Chapter 1 will focus on the first of three pillars as presented in the United Nations Security Council Resolution (UNSCR) 1325—'the participation of women in decision-making at all levels in conflict resolution and peace processes'—through an examination of women's past and potential roles within negotiations and peace talks.⁵ Women have been historically excluded from attending negotiations for a variety of structural and cultural reasons that will be examined. Using South Africa and Northern Ireland as examples, it will be suggested that to increase women's representation in future negotiations and constitution-writing processes, states should (a) implement gender quotas for all participating political parties; as well as to (b) offer logistical assistance so that women can more easily attend.

⁴ Falch, Ashild (2010), 'Women's Political Participation and Influence in Post-Conflict Burundi and Nepal', *Peace Research Institute of Oslo*, retrieved on 22/4/12 at: <http://www.prio.no/sptrans/-/803632624/Womens-Political-Participation.pdf>

⁵ United Nations Security Council Resolution 1325: S/Res/1325 (2000), retrieved on 25/1/12 at <http://www.unfpa.org/women/1325.html>

An increase in women's participation does not necessarily correlate with gender issues becoming a priority within the negotiations, however. This is where the second of three pillars presented in UNSCR 1325—'representation of women in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict'—becomes relevant.⁶ Chapter 2 will focus on the ways in which states can ensure that women's issues are adequately addressed within negotiations and constitution-writing sessions. It will be suggested that an all-female negotiating party be established; and that either a parallel caucus be held so that civil society members and women's groups can voice their concerns; or a nation-wide consultation process be undertaken in collaboration with civil society groups to elicit women's expectations and demands.

Chapter 3 will focus on the last of the three pillars: 'protection of, and respect for human rights of women and girls'—with an emphasis on the key constitutional, judicial and legislative reforms within South Africa and Guatemala.⁷ Utilising these case studies, this chapter will discuss women's right to gender equality, rights against domestic and gender-based violence, as well women's marital and reproductive rights as key issues to be addressed in the context of democratic advancement.

The process of promoting gender equality does not stop once the negotiations have finished and the constitution has been signed, however. As such, Chapter 4 and 5 will discuss how to ensure women's participation within the operations and functions of the existing state. Methods for increasing women's representation in parliamentary politics will be discussed in Chapter 4. It will be suggested that quotas be implemented so that the gender disparity between men and women parliamentarians can be reduced. It will also be suggested that the state host political and technical training workshops and programmes so that women are well prepared for embarking on a career in politics. Moreover, Chapter 4 will identify methods in which to increase voter turnout, with a specific focus on rural women who have, in the past, refrained from participating in electoral politics.

⁶ United Nations Security Council Resolution 1325: S/Res/1325 (2000), retrieved on 25/1/12 at <http://www.unfpa.org/women/1325.html>

⁷ United Nations Security Council Resolution 1325: S/Res/1325 (2000), retrieved on 25/1/12 at <http://www.unfpa.org/women/1325.html>

Lastly, Chapter 5 will elucidate the importance of gender mainstreaming on the executive, parliamentary, and provincial level. An assessment of the successes and downfalls of South Africa's gender mainstreaming programme will be referred to in creating a set of recommendations that would include implementing gender audits before and at regular intervals during gender mainstreaming, creating universal indicators for monitoring gender mainstreaming programmes, and initiating a national budget for gender mainstreaming.

Peacebuilding and Democratic Reform

A majority of the states referred to in this report are undergoing a process of international peacebuilding. These states that are recovering from conflict find themselves compelled to complete a whole-scale restructuring of its state institutions. Existing state institutions may have collapsed under the pressure of prolonged internal fighting. The state institution, moreover, may have lost its legitimacy as the result of the fighting and, in some cases, could have been the cause of the conflict. In cases of failed states and state building, international intervention is often deemed prudent or necessary. The United States Agency for International Development defines this type of post-conflict recovery as the 'immediate intervention to build momentum in support of the peace process including supporting peace negotiations; building citizen's security; promoting reconciliation; and expanding democratic political process.'⁸ Sympathetic states, non-governmental organisations, and intergovernmental organisations, such as the United Nations (UN) and North Atlantic Trade Organisation (NATO), often give both formative and financial assistance towards these goals. It is during these missions that women's issues are most likely to be addressed. The Democratic Republic of Timor-L'este (commonly known as East Timor), Kosovo and Liberia all serve as good examples in which a state, with outside support, has incorporated women into the democratizing process and has safeguarded women's rights in the newly-formed state institutions.

Not all conflicts end with a whole-scale restructuring of the state, however. Even in the absence of whole-scale restructuring, a state may regard this transitional period as an

⁸ Barnett, Michael, Hunjoon Kim, Madalene O'Donnell, and Laura Sitea. 'Peacebuilding: What Is in a Name?' *Global Governance* Vol 13, no. 1 (2007): 38-39

opportunity to pursue democratic reform. In the United Nations *Agenda for Development*, it is indeed recognized that these political openings ‘offer the chance [for a state] to establish new institutions, social, political, and judicial, that can give impetus to development’.⁹ South Africa and Northern Ireland are both apt examples of state-initiated, broad-based reform rather than whole-scale state-building. The question that this report aims to answer is how a state that is presented with an opportunity for peace-building and democratic reform can better incorporate women into the peacebuilding process and enhance women’s rights within the newly reformed state.

⁹ United Nations Secretary General, ‘*An Agenda for Development*’ A/48/935. (1994) Retrieved on 3/4/12 at <http://www.un.org/Docs/SG/agdev.html>

Chapter One: Women's Roles in Negotiations

Women's Historical Exclusion in Negotiations

Women have been consistently underrepresented in formal peace processes.¹⁰ In Bosnia, for instance, not a single woman was invited to attend the negotiations in Dayton in 1995. Only one woman was involved in the Kosovo Rambouillet negotiations in 1999.¹¹ The twenty-six person National Reconciliation Commission in Tajikistan invited only one woman representative.¹² Furthermore, the single female government delegate in attendance during the Columbian negotiations was later removed from the talks due to unfavourable media reports.¹³ As a result of women being absent from negotiations, women's concerns are rarely voiced and are left out entirely from many peace agreements. Only 16 per cent of the 585 peace agreements signed since 1990 have included any reference to women.¹⁴

Reasons for Women's Past Exclusion

There are several principle reasons for women's exclusion within negotiations. Firstly, it is historically rare for women to be involved in the military apparatus participating in the conflict.¹⁵ While in some instances a significant number of women did become combatants within wars, very few have risen in the ranks of the military or political leadership to be in a position to aid in the decision making during conflict and in peace processes.¹⁶ As a result, women are rarely invited to attend ceasefires or peace negotiations.¹⁷ Secondly, because of a lack of opportunities available to them prior to the conflict, women can often lack the experience in politics and diplomacy to be

¹⁰ Statement by the President of the Security Council S/PRST/2005/52 (2005), retrieved on 19/4/12 at <http://www.un.org/womenwatch/ods/S-PRST-2005-52-E.pdf>.

¹¹ Porter, Elisabeth J. (2007), *Peacebuilding: Women in International Perspective* .p. 37.

¹² Porter, Elisabeth J. (2007), *Peacebuilding: Women in International Perspective* .p. 37.

¹³ Porter, Elisabeth J. (2007), *Peacebuilding: Women in International Perspective* .p. 37.

¹⁴ United Nations Women (2011), 'Progress of the World's Women: in Pursuit of Justice', retrieved on 10/4/12 at: <http://progress.unwomen.org>

¹⁵ In recent wars there has been a marked increase in women participating in both auxiliary and combatant roles. Historically, however, the expectations were that men, not women, should participant in combat.

¹⁶ Mansaray, Binta (2000), 'Women against Weapons: a Leading Role for Women in Disarmament' in Anatole Ayissi and Robin-Edward Poulton (eds), *Bound to Cooperate: Conflict, Peace and People in Sierra Leone* (Geneva: United Nations Institute for Disarmament Research), pp. 139-162.

¹⁷ Statement by the President of the Security Council S/PRST/2005/52 (2005), retrieved on 19/4/12 at <http://www.un.org/womenwatch/ods/S-PRST-2005-52-E.pdf>.

considered an appropriate representative for their communities. In places where women's public roles are only beginning to be developed, it can be hard for women to access the positions of power and influence needed to be given an invitation to peace talks.¹⁸ Lastly, it can be individually difficult for rural women to find the opportunity as well as the resources necessary to travel to the cities where the negotiations are being held. In some traditional societies, for instance, where women are viewed as the primary caretakers within the home, it is frowned upon for women to absent their home and their children for any extended period of time. Moreover, in traditional societies it can be rare for women to have control over the family finances. In cases where this holds true, the male head of the household can choose to deny the woman the finances necessary to attend the peace negotiations.

Each of these justifications has at its foundation a structural and cultural bias against women acting in politics and in the public sphere. In many traditional societies, it can be expected that women's roles are to be limited to the private sphere, as wives, mothers and homemakers. In these societies, it can be thus deemed improper for women to participate in politics and in the public arena. These gender roles often become polarized during conflict, moreover. According to UN Report, *Women, Peace, and Security* 'there may be a corresponding increase in patriarchal values with intensification of nationalism that identifies men as the protectors of the nation and women as the bearers of the culture of the nation.'¹⁹ It is important to recognise that polarised gender roles continue even after the conflict has ended. Discrimination 'can persist or deepen during the period after conflict, thereby limiting the opportunities women and adolescent have to play significant roles in the design and implementation of peace and reconstruction processes.'²⁰ In fact, there are many cases where women have been criticized, harassed and threatened when they attempted to participate in the peace process. In Cyprus, for example, women activists were told to 'stay home and care

¹⁸ Wollack, Kenneth (2010), 'Women as Agents of Change: Advancing the Role of Women in Politics and Civil Society' National Democratic Institute: presentation to the House Committee on Foreign Affairs.

¹⁹ United Nations, *Women, Peace and Security*, retrieved on 31 January 2012 at <http://www.un.org/womenwatch/daw/public/eWPS.pdf> ¶ #181

²⁰ United Nations, *Women, Peace and Security*, retrieved on 31 January 2012 at <http://www.un.org/womenwatch/daw/public/eWPS.pdf> ¶ #338

for their children.’²¹ Women peace activists in Northern Ireland, moreover, were told to ‘leave politics and leadership alone’ by the current First Minister of Northern Ireland, Peter Robinson.²² Similarly, Seamus Mallon, who has held the post of Deputy First Minister of Northern Ireland, stated that the Northern Ireland Women’s Coalition (NWIC) “must be a cult so they will grow into each other and disappear.”²³

South African Negotiations

It is in part because women did not initially know how to overcome these logistical and cultural obstacles that few South African women were included in the first round of negotiations. The formal negotiations between the African National Congress (ANC) and the de Klerk government began in December, 1991, with the establishment of the Convention for a Democratic South Africa (CODESA). In these first formal sessions, working groups were implemented to focus on specific areas of interest, including formulating electoral laws, a new constitution and an interim government. The next formal session, known as CODESA II, took place six months later in May 1992. In these first sessions, women were sorely under-represented. Out of the 400 delegates invited to the negotiations, only 23 were women.²⁴

Modalities for Women’s Participation

There are several different modalities for women’s participation in negotiations. States have utilized women in the following capacities during peace talks and negotiations:²⁵

- (1) Mediators
- (2) Delegates of Negotiating Parties
- (3) All-Female Negotiating Parties Representing a Woman’s Agenda
- (4) Witnesses

²¹ United Nations, *Women, Peace and Security*, retrieved on 31 January 2012 at <http://www.un.org/womenwatch/daw/public/eWPS.pdf> ¶ #338

²² Kilmurray, Avila & Monica McWilliams (2011), ‘Struggling for Peace: How Women in Northern Ireland Challenged the Status Quo’ *Solutions for a Sustainable and Desirable Future*. Vol. 2 retrieved on 4/2/12 at: <http://www.thesolutionsjournal.com/node/893>

²³ Kilmurray, Avila & Monica McWilliams (2011), ‘Struggling for Peace: How Women in Northern Ireland Challenged the Status Quo’ *Solutions for a Sustainable and Desirable Future*. Vol. 2 retrieved on 4/2/12 at: <http://www.thesolutionsjournal.com/node/893>

²⁴ Goetz, Anne Marie (1998), ‘Women in Politics & Gender Equity in Policy: South Africa & Uganda.’ *Review of African Political Economy*. Volume 25. Retrieved on 31/3/12 at: <http://www.tandfonline.com/doi/abs/10.1080/03056249808704312>

²⁵ Diaz, Pablo Castillo. ‘Women’s Participation in Peace Negotiations: Connections Between Presence and Influence. United Nations International Fund for Women. August 2010. pp. 5-8. Retrieved on 8/4/12 at: http://www.unifem.org/attachments/products/0302_WomensParticipationInPeaceNegotiations_en.pdf

- (5) Observer Roles
- (6) Signatories
- (7) Gender Advisors
- (8) In a Parallel Forum

This section will now go on to identify methods for increasing women's numerical representation within negotiations through the various modalities presented above, including as mediators, delegates of negotiating parties and signatories. The first method to be suggested is the implementation of quotas.

Quotas

If a state decides to include women as mediators or delegates of negotiating parties, it can be useful to institute legal quotas to ensure their equal representation. The invitations that are given to conflict parties, mediators and other such groups, to attend the peace talks can include a requirement or request that at least one-third of its negotiation team be women.²⁶ Incentives can also be used to help increase women's participation. One such incentive would be to offer negotiating teams additional seats at the table if they are filled by women.²⁷

South Africa

South Africa adopted a quota system for its Multi-Party Negotiations from 1993 onwards after the Women's National Coalition denounced their exclusion during prior negotiating sessions. Under the quota system, each delegation had to be 50 per cent women and if a delegation did not have enough women representatives, those seats could not be replaced by a male and would instead be forfeited. This second caveat, that of a forfeiture of seats if not filled by women, is an effective way to ensure that negotiating parties include women in their delegations. No party would be willing to

²⁶The Institute for Inclusive Security, 'Strategies for Policymakers: 'Bringing Women into Peace Negotiations.' Hunt Alternatives Fund. March 2009. P. 4. Retrieved on 18/2/12 at: http://www.huntalternatives.org/download/1648_bringing_women_into_government_mar_09_final.pdf

²⁷ The Institute for Inclusive Security, 'Strategies for Policymakers: 'Bringing Women into Peace Negotiations.' Hunt Alternatives Fund. March 2009. P. 4. Retrieved on 18/2/12 at: http://www.huntalternatives.org/download/1648_bringing_women_into_government_mar_09_final.pdf

forfeit any delegate seats and would therefore fulfill their quotas for women representatives.

Providing Logistical Assistance

Beyond quotas, it is important to ensure that women have the resources and ability to attend the negotiations once invited. Women as primary caretakers within the home often cannot leave for days at a time. Moreover, women rarely have the money or the know-how to travel long distances to the negotiations. It is for these reasons that it is recommended that the following measures are taken to assist women in attending negotiations:

- (a) Provide funding for both men and women for travel expenses, accommodation, meals and incidental expenses incurred during the peace conference.²⁸
- (b) To fund or provide for child care for women attending the conference or negotiations.²⁹

Conclusion

As this chapter has illuminated, women can face several logistical and cultural obstacles when attending peace talks. With this in mind, it is important that the state assist women in overcoming these obstacles. This chapter suggests that implementing quota restrictions as well as offering logistical assistance to women can help ensure that an increased number of women are invited to and are present at negotiations and peace talks. What the next chapter will highlight, however, is that numerical representation does not necessarily equate to topical representation.

²⁸ The Institute for Inclusive Security, 'Strategies for Policymakers: 'Bringing Women into Peace Negotiations.' Hunt Alternatives Fund. March 2009. P. 4. Retrieved on 18/2/12 at: http://www.huntalternatives.org/download/1648_bringing_women_into_government_mar_09_final.pdf

²⁹ The Institute for Inclusive Security, 'Strategies for Policymakers: 'Bringing Women into Peace Negotiations.' Hunt Alternatives Fund. March 2009. P. 4. Retrieved on 18/2/12 at: http://www.huntalternatives.org/download/1648_bringing_women_into_government_mar_09_final.pdf

Chapter Two: Incorporating Women's Concerns During The Drafting Of Peace Agreements And Constitutions

Problems Arising from Gendered Constituencies

Increased women's attendance within negotiations does not necessarily translate into increased attention towards women's issues, however. If only delegates from political parties and legal advisors are permitted to attend the negotiations, as was the case in South Africa, civil society groups have no method to voice their own concerns. If women are only represented as delegates of political parties rather than civil society groups, it becomes difficult for women to voice gendered issues. The reasons for this are twofold: (1) women attendees are answerable to their political party and might be restricted from moving away from core party issues; and (2) women delegates chosen because of quotas may not have the political experience needed to lobby effectively for the incorporation of gender issues.

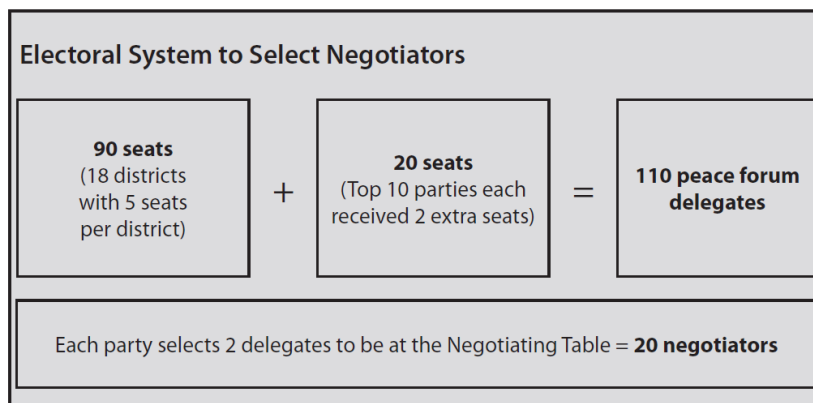
South Africa's Women Delegates

In the case of South Africa, women delegates were accountable first and foremost to their political constituency rather than their gender constituency. As such, they often found themselves unable to press for further elucidation of often-controversial women's rights issues. The Women's National Coalition, which advocated for inclusion of gender rights within the peace agreements and constitution, attempted to overcome this obstacle by facilitating greater communication between the various women's civil society groups and the female negotiators representing political parties. However, the WNC found it 'extremely difficult to establish a sense of political clout or common interests behind the individual women negotiators compelled to toe party lines.' It is for this reason that inviting women delegates will not be sufficient to adequately incorporate women's interests and concerns within peace agreements and constitutions. It is recommended that in addition to implementing quotas that either (a) an all-female negotiation party is included in the negotiations that would solely represent women's issues; or (b) that a state communicates with civil society groups

and in particular, women’s groups to ensure that women’s concerns and ideas are incorporated into newly drafted legislation and state functions. Both of these options will now be further discussed.

All-Female Negotiating Party Representing Women’s Concerns

An easy and proven method for ensuring that women’s concerns are addressed is by inviting an all-female negotiating party. Their sole function would be to represent women’s issues and, as such, their only constituency would be to women. Northern Ireland serves as a unique case in which women ultimately represented their own constituency during the 1997 peace talks between British and Irish governments, which ultimately led to the signing of the Good Friday (or Belfast) agreement on 10 April 1998. In preparation for the peace talks, forum elections were held on 20 May 1996. Within the forum elections, each of Ireland’s eighteen districts chose five delegates from closed party lists, for a total of ninety constituent delegates. In addition to the ninety district representatives, the ten parties or civil society groups that received the highest number of votes across all of Northern Ireland could also choose two representatives to attend the peace talks. The delegate distribution is shown below:



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Protestant and Catholic women worked together to collect the 10,000 signatures necessary to create the cross-community Northern Ireland Women’s Coalition (NIWC), which could be included on the ballot. The NIWC received enough votes in the election

³⁰ The Institute for Inclusive Security, ‘Strategies for Policymakers: ‘Bringing Women into Peace Negotiations.’ Hunt Alternatives Fund. March 2009. P. 4. Retrieved on 18/2/12 at: http://www.huntalternatives.org/download/1648_bringing_women_into_government_mar_09_final.pdf

to gain two of the at-large seats in the peace forum. The NWIC, 'while numerically small and politically untested, their impact on the negotiation process and its outcomes was to be substantive.'³¹ The women delegates brought attention to specific health and social issues and expanded their interests to all marginalized groups and victims of violence, not just women. The NWIC was central to the process of incorporating clauses that ensured the protection of human rights, equality of the sexes, the decommissioning of weapons and the provision of a civil forum, among others.³² The overwhelming success of the NWIC was evinced by its female representative being the only female standing alongside the other seven party leaders and two Prime Ministers as signatories to the agreement.³³ Moreover, according to the founder of NWIC, Monica McWilliams, the NWIC's success is clearly evinced in the fact that it had more of its issues and proposals included in the final outcome document than any other delegate party.³⁴

Working with Civil Society

When women are not afforded their own delegation, a state could collaborate with civil society to ensure that women and women's issues are incorporated into the negotiations. States that realize the need to elicit the ideas, demands and concerns of women during the negotiating and constitution writing process, usually does so in one of two ways:

- (a) Often working with civil society groups, initiating a broad-based and nationwide consultation process that includes hosting group-interviews and roundtable discussions so that women can openly discuss their experiences, hopes and fears.
- (b) Hosting a women's caucus parallel to the negotiation and constitution-writing sessions. This allows for women to respond in real time to the

³¹ Ward, Margaret (2010), *'From Negotiation of the Peace to Implementation of the Peace Agreement: a Gender Analysis of the Northern Ireland Experience'*, retrieved on 14/4/12 at: <http://www.osce.org/gender/36863>

³² Kilmurray, Avila & Monica McWilliams (2011), 'Struggling for Peace: How Women in Northern Ireland Challenged the Status Quo' *Solutions for a Sustainable and Desirable Future*. Vol. 2 retrieved on 4/2/12 at: <http://www.thesolutionsjournal.com/node/893>

³³ Kilmurray, Avila & Monica McWilliams (2011), 'Struggling for Peace: How Women in Northern Ireland Challenged the Status Quo' *Solutions for a Sustainable and Desirable Future*. Vol. 2 retrieved on 4/2/12 at: <http://www.thesolutionsjournal.com/node/893>

³⁴ The Institute for Inclusive Security, 'Strategies for Policymakers: 'Bringing Women into Peace Negotiations.' Hunt Alternatives Fund. March 2009, retrieved on 18/2/12 at: http://www.huntalternatives.org/download/1648_bringing_women_into_government_mar_09_final.pdf

proposed articles within both the documents and bring attention to the gender issues that have been forgotten.

Three case studies will now be offered in which one or both of these methods were implemented for the advancement of women's issues during the negotiating and constitution-writing processes: South Africa, Cambodia, and Indonesia. The first of these case studies—South Africa—involved the serious efforts of the WNC, which undertook both of these efforts without assistance of the government.

Implementing a Consultation Process: South Africa

In 1990, the African National Congress Women's League (ANCWL) invited women's civil society groups to the Malibongwe Conference in Amsterdam to discuss their future position in a democratic, South Africa. The women in attendance recognised that national liberation did 'not automatically guarantee the emancipation of women,' and in order to secure their rights as women, they would need to insert themselves in the negotiating and state-building process.³⁵ The result of the conference would be the establishment of an influential and widely representative women's lobby group, the WNC, which would insert themselves into the negotiations and the constitution-writing process and bring women's issues to the fore.

The first priority for the WNC coming out of the Malibongwe Conference was to draft a Women's Charter that could be included in the negotiating and constitution-writing processes. To do so, the women's coalition implemented a programme that would both educate women on the ongoing negotiating process and elicit women's demands for the Women's Charter. The process took nearly two years and included interviews with over three million women. The published report highlighted the problems confronting South Africa women, including poverty, violence and unequal access to resources (financial, educational, health and unemployment).³⁶ The WNC embarked on an extensive publicity programme to ensure that the gender issues identified in their report remained at the

³⁵ African National Congress (1990), 'Malibongwe Conference: Programme of Action', retrieved on 2/4/12 at: <http://www.anc.org.za/show.php?id=4673>

³⁶ Myakaya-Manzini, Mavivi (2002), 'Women Empowered: Women in Parliament in South Africa', retrieved on 8/2/12 at: http://www.idea.int/publications/wip/upload/CS_South-Africa.pdf

forefront of political discussion during the negotiations. As a result, one of the seven sub-councils created during the negotiations was solely dedicated to gender issues. 'Its mandate was to monitor the policies emerging from the other councils to ensure that all matters being addressed (e.g. national security issues, elections, etc.) were gender-sensitive.'³⁷

Implementing a Consultation Process: Cambodia

As part of the peacebuilding programme in Cambodia, the UN and state actors undertook a consultative process before drafting a new constitution. Women from all socio-economic backgrounds were included in this process and as a result, women were given significant guarantees within the constitution. Women were guaranteed the right to participate in political advocacy and to vote in local and presidential election. Furthermore, they were able to secure the creation of the Ministry of Women and Veteran's affairs. The United Nations Transitional Authority of Cambodia (UNTAC) held a Women's Summit, which brought women from all regions and sectors of Cambodia together to 'identify and prioritize women's issues in order to lobby political parties contesting the election.'³⁸

Implementing a Consultation Process: Indonesia

Indonesia also serves as a positive example wherein civil society groups embarked on a women's issues consultation process. Nearly 500 women convened the first All Acehese Women's Congress during Indonesia's negotiations in 2000. During the congress, women articulated their concerns and distributed a list of 22 recommendations to the parties attending the conference. Then again in 2005, with assistance of the UNIFEM, the second All Acehese Women's Congress was held. It was during this second conference that over 400 women were given the opportunity to

³⁷ Anderlini, Sanam Naraghi (2009), *Peace Negotiations and Agreements*, retrieved on 25/1/12 at: http://www.huntalternatives.org/download/37_peace_negotiations.pdf p. 23.

³⁸ Whitworth, Sandra (2001), *The Practice, and Praxis, of Feminist Research in International Relations*, retrieved on 16/4/12 at: <http://www.yorku.ca/sandraw/Whitworth%20in%20Wyn%20Jones%202001.pdf>

speak about their concerns, with the issues of relocation, land ownership and relief distribution coming to the fore.³⁹

Implementing a Parallel Civil Society Caucus: Guatemala

The latter of the two options presented in the beginning of this section was for the state to host a women's caucus parallel to the negotiation and constitution-writing sessions. The use of a parallel caucus as was used by Guatemala is preferable because the mechanisms for communicating civil society concerns to the delegates could be more readily identified and maintained as it was part of preconceived rather than ad-hoc state initiative. In Guatemala, the multilateral peace talks purposefully included a Civil Society Assembly, which invited representatives from every sector in civil society, including trade union representatives, members of the religious community, leaders of the women's movement, and members of indigenous groups to attend. The Guatemalan Civil Society Assembly was able to discuss the ongoing negotiations and make recommendations to the negotiating parties. 'Although the Assembly did not have decision-making power, its presence and involvement ensured that agreements reached at the political level were endorsed by civil society.'⁴⁰

Conclusion

In each of the other cases—South Africa, Northern Ireland, Cambodia, and Indonesia—the influence of women within the negotiations and civil society groups helped to ensure that women's rights were maintained and accentuated in the reforming of the constitution and state legislation. The next chapter will highlight several constitutional and legislative safeguards that these states, as a result, have implemented for the advancement of women.

³⁹ Diaz, Pablo Castillo. 'Women's Participation in Peace Negotiations: Connections Between Presence and Influence, retrieved on 8/4/12 at:

http://www.unifem.org/attachments/products/0302_WomensParticipationInPeaceNegotiations_en.pdf

⁴⁰ Anderlini, Sanam Naraghi (2009), 'Peace Negotiations and Agreements', retrieved on 25/1/12 at: http://www.huntalternatives.org/download/37_peace_negotiations.pdf p. 23.

Chapter Three: Protecting Women's Rights In Constitutions And State Legislation

According to the UN Report, *Women, Peace and Security*, "Legislation to address specific areas, such as violence against women, particularly domestic and sexual violence, harmful traditional practices, marriage, divorce, custody, property and inheritance rights, should be formulated."⁴¹ This chapter will discuss some of these women's rights and relate how countries, such as South Africa, Guatemala, Kosovo and East Timor have implemented legislation to combat these women's rights abuses.

South Africa as a Case Study

South Africa is a prime example of a constitution which has successfully incorporated the experiences, ideas and concerns of women, as well as men. It is in fact regarded as one of the most gender friendly constitutions in the world.⁴² Because of the hard work of the WNC, the constitution included several principles for women's rights, including the principle of equality, the right to freedom and security of person (which includes against domestic and gender-based violence), as well as rights over reproduction and one's own body. In fact, in the preamble of the Constitution, women's equality was included along racial equality, a positive indication of the many rights that would be afforded to women throughout its text. Also telling was the clause that provided that the Women's Charter drafted under the auspices of the WNC would be carried forward so as to be adopted in later government policies.

Anti-Discrimination in the Public Sector: South Africa

⁴¹ United Nations, *Women, Peace and Security*, retrieved on 31 January 2012 at <http://www.un.org/womenwatch/daw/public/eWPS.pdf>. ¶ #340.

⁴² Gouws, Amanda (2005), 'The State of the National Gender Machinery: Structural Problems and Personalised Politics' in Margaret Abraham, *Counters of Citizenship: Women, Diversity and Practices of Citizenship*. p 143.

Paragraph 9(1) provides that ‘everyone is equal before the law and has the right and protection and benefit of the law’.⁴³ In consequent paragraphs 9(3), it is enumerated, more specifically, that ‘the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.’⁴⁴

Affirmative Action: South Africa

Principle 9(2) of the Bill of Rights, furthermore, offers that ‘to promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.’⁴⁵ The 1998 Employment Equity Act built upon this principle by requiring businesses or organisations with fifty or more employees to take affirmative action measures including but not limited to: (1) measures to identify and eliminate employment barriers, including unfair discrimination, which adversely affect people from designated groups; (2) measures designed to further diversity in the workplace based on equal dignity and respect of all people; and (3) retain and develop from designated groups and to implement appropriate training measures, including measures in terms of an Act of Parliament providing for skills development.⁴⁶ The Equity Act describes these measures ‘as preferential treatment and numerical goals, but excludes quotas.’⁴⁷

Women and Marriage

⁴³ South Africa (1996), *Constitution of the Republic of South Africa, Chapter Two: Bill of Rights*. Adopted: 4 December 1996, retrieved on 15/2/12 at:

<http://www.info.gov.za/documents/constitution/1996/96cons2.htm#10>

⁴⁴ South Africa (1996), *Constitution of the Republic of South Africa, Chapter Two: Bill of Rights*. Adopted: 4 December 1996, retrieved on 15/2/12 at:

<http://www.info.gov.za/documents/constitution/1996/96cons2.htm#10>

⁴⁵ South Africa (1996), *Constitution of the Republic of South Africa, Chapter Two: Bill of Rights*. Adopted: 4 December 1996, retrieved on 15/2/12 at:

<http://www.info.gov.za/documents/constitution/1996/96cons2.htm#10>

⁴⁶ South Africa (1998), ‘*Employment Equity Act, No. 55 of 1998*’, retrieved on 5/4/12 at <http://www.agsa.co.za/Portals/1/ACTS/EEA.pdf>

⁴⁷ South Africa (1998), ‘*Employment Equity Act, No. 55 of 1998*’, retrieved on 5/4/12 at <http://www.agsa.co.za/Portals/1/ACTS/EEA.pdf>

The equal rights of women upon entry into marriage, during marriage, and its dissolution are explicitly stated within the Universal Declaration of Human Rights as well as the International Covenant on Civil and Political Rights.⁴⁸ Women's status within marriage can have far-reaching effects. 'A woman's rights within marriage and the family greatly affects her ability to control her life and make voluntary, informed reproductive choices.'⁴⁹ It is the responsibility of a government to ensure the following rights for women within marriages:

- (a) Guarantee that marriages are entered into with free and full mutual consent. This includes legislation that requires both partners to be of eighteen years at the time of marriage. Furthermore, traditional marriage practices 'which discriminate against women and undermine their ability to consent to marriage or to achieve equality within marriage,' including the use of bride-price and the practice of polygamy, should be outlawed.
- (b) Ensure that partners enjoy equal rights within marriage.
- (c) Develop mechanisms that allow for divorce and protect the equitable distribution of property.

Protecting Women's Rights in Marriage: South Africa

The South African 'Recognition of Customary Marriages Act' (RCMA) was a historic act that brought customary marriages into the mainstream legal system in replacement of the previous practice of partial recognition. The logic behind the Act was that if the South African government gave full legal recognition to customary marriages, they would more easily be able to regulate the marriages. Before 1998, customary marriages were regarded as unions and 'relegated to an inferior status in comparison to the legal status of civil marriages.'⁵⁰ The consequences of past partial recognition of customary marriages meant that the government could do very little to change the inferior status given to women. Under past customary marriage law, women were recognized as legal minors and were given unequal rights over their children in comparison to their

⁴⁸ Universal Declaration of Human Rights, *adopted* 10 December 1948, G.A. Resolution 217A (III), U.N. Doc A/810 (1948); International Covenant on Civil and Political Rights, G.A. Resolution 2200A (XXI).

⁴⁹ Center for Reproductive Rights (2006), 'Marriage Rights' in *Gaining Ground: A Tool for Advancing Reproductive Rights Law Reform*, retrieved on 20/2/12 at: http://fidakenya.org/wp-content/uploads/2011/03/GG_Part-VII_Marriage-Rights.pdf

⁵⁰ Mbatha, Likhapa (2005), 'Reflections on the Rights Created by the Recognition of Customary Marriages Act.' *Gender, Culture, Rights: Agenda Special Focus*, retrieved on 10/4/12 at: <http://winafrica.org/wp-content/uploads/2011/04/Recognition-of-Customary-Marriages-Act-in-South-Africa.pdf>

husband.⁵¹ For instance, ‘a woman’s rights to maintenance and property if the union should dissolve are determined in large part by the legal recognition of the marriage.’⁵² The passing of the RCMA in 1998 (which took effect in 2000) ‘improves the legal status of African women married under customary law and improves the rights of women in the family by prescribing shared guardianship and customary rights among parents in a system which never allowed equal rights between spouses over children.’⁵³ The RCMA also implemented these additional regulations on marriage:

- Both parties must be aged eighteen by the time of the marriage.
- Both parties must consent to being married to one another.
- Both spouses have equal status within the marriage.
- Past polygamy is recognized and future polygamy is allowed.

Protecting Women’s Rights: Guatemala

Guatemala is an example of a state that elicited women’s demands during the writing of its constitution but did not incorporate them into the constitution in good faith, however. Contrasting with its earlier signing of CEDAW, which include sections on women’s equal rights within the home, Guatemala’s domestic codes still discriminate against women. Guatemala’s current constitution still maintains women’s inferior status within marriage, for instance, and stipulates that ‘when the husband and wife hold joint parental authority over minors, the husband must represent the minor and administer his or her property’.⁵⁴

Reproductive Rights

In many traditional, patriarchal societies, women are either implicitly or explicitly recognized as subservient to her father or husband, who in turn is recognized as the primary authority within the household. In some cases, moreover, a husband or father’s

⁵¹ Education and Training Unit for Democracy and Development (2010), ‘*Family Law and Violence against Women*,’ retrieved on 9/4/12 at: <http://www.paralegaladvice.org.za/docs/chap08/02.html>

⁵² Center for Reproductive Rights (2006), ‘Marriage Rights’ in *Gaining Ground: A Tool for Advancing Reproductive Rights Law Reform*, retrieved on 20/2/12 at: http://fidakenya.org/wp-content/uploads/2011/03/GG_Part-VII_Marriage-Rights.pdf

⁵³ Mbatha, Likhapa (2005), ‘Reflections on the Rights Created by the Recognition of Customary Marriages Act.’ *Gender, Culture, Rights: Agenda Special Focus*, retrieved on 10/4/12 at: <http://winafrica.org/wp-content/uploads/2011/04/Recognition-of-Customary-Marriages-Act-in-South-Africa.pdf>

⁵⁴ Organisation for Economic Cooperation and Development (2010), *Atlas of Gender and Development*, p. 114.

authority extends to the decisions made surrounding family planning and a woman's sexual health. Dr. Nafis Sadik, former advisor to the UN Secretary General, highlights that 'reproduction is used, consciously or not, as a means to control women, to limit their options and to make them subordinate to men.'⁵⁵ Existing state legislation that reaffirms women's subservient status should be withdrawn and new legislation that protects women's reproductive and sexual rights should be put in its place. This recommendation is alignment with the policy recommendations set forth by various UN bodies. The UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) reaffirms that all states should afford women the right to 'decide freely and responsibly on the number and spacing of children and to have access to the information, education and means to enable them to exercise these rights.'⁵⁶ The Beijing Platform for Action, moreover, reaffirms that 'the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence.'⁵⁷

Reproductive Rights: South Africa

The South African constitution affords women significant reproductive rights.

Article 12.2 states that 'everyone has the right to bodily and psychological integrity, which includes the right:

- a. To have security and control over their body; and
- b. To make decisions concerning reproduction.

The fact that reproductive rights are stated so explicitly is unique. Most states only include reproductive rights within more generic categories of rights, such as the right to equality or freedom of person. The explicit manner in which reproductive rights are included gave it higher level of authority than if it had been subsumed into a larger

⁵⁵ United Nations Women (1997), 'The Right to Reproductive and Sexual Health', DPI/1877, retrieved on 1/4/12 at: <http://www.un.org/ecosocdev/geninfo/women/womrepro.htm>

⁵⁶ Convention on the Elimination of all Forms of Discrimination Against Women (1979) Retrieved on 25/1/12 at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article16>

⁵⁷ United Nations, 'Right to Health, Reproductive Health and Family', retrieved on 14/4/12 at <http://www.unfpa.org/rights/language/right2.htm>

category.⁵⁸ The scope of the right was decidedly large. 'Decisions concerning reproduction' could include family planning, pre-natal and post-natal care, treatment for sexually transmitted diseases, and, most controversially, abortion.

Violence against Women

Violence against women takes many forms. It encompasses a wide range of abuses, from 'physical, sexual and psychological violence occurring in the family and in the general community, including battering, sexual abuse of children, dowry-related violence, rape, female genital mutilation and other traditional practices harmful to women... trafficking in women, forced prostitution, and violence perpetrated or condoned by the state.'⁵⁹ Violence against women, in all of its forms, has been shown to increase during periods following conflict. 'It is common after war for there to be no effective personal security for women and for rape, and other forms of sexual violence (including domestic violence), to remain prevalent or be on the increase (as is common at the end of war).'⁶⁰ Men who are no longer certain of their primacy within the home may lash out against their wives or children, for instance. Furthermore, widows may be pressured and intimidated through violence by her husband's family for the family property and inheritance.

It is for these reasons that it is uniquely important that peace agreements or newly formed constitutions include legislation protecting women from gender-based violence, including domestic violence, rape, female genital mutilation and forced prostitution. In addition to enhancing the legal code, moreover, it is important to implement gender-sensitivity training for police forces as well as community awareness programmes that can help change cultural prejudices that tacitly accept violence against women as inevitable. The UN Secretary General highlights that in, 'environments where fragile ceasefires prevail, when national security forces and international peacekeepers constitute the main bulwark against rampant sexual violence, women's security

⁵⁸ Mbatha, Likhapa (2005), 'Reflections on the Rights Created by the Recognition of Customary Marriages Act.' *Gender, Culture, Rights: Agenda Special Focus*, retrieved on 10/4/12 at: <http://winafrica.org/wp-content/uploads/2011/04/Recognition-of-Customary-Marriages-Act-in-South-Africa.pdf>

⁵⁹ United Nations General Assembly (1993,) *Declaration on the Elimination of Violence Against Women* , retrieved at 2/4/12 at: <http://www.un.org/documents/ga/res/48/a48r104.htm>

⁶⁰ Pankhurst, Donna (2000), 'Women, Gender and Peacebuilding' University of Bradford: Department of Peace Studies, retrieved on 9/4/12 at: <http://www.brad.ac.uk/acad/confres/assets/CCR5.pdf>

requires the adoption of special methods to detect, prevent and respond to sexual violence. Female investigators, gender-specific investigative units and specific gendered violence procedures should be created as part of any peacebuilding process.’⁶¹

Legislation Protecting Women from Violence: Guatemala

Prior to 1998, Guatemala was one of the most dangerous places to be a woman. With a population of only 14 million, the state recorded more than 4,000 murders of women from 2000 to 2008. Of those murders, only two percent were ever brought to justice.⁶² Guatemala’s national congress made a significant step towards ending this impunity in 2008 with its passing of the ‘Law against Femicide and Other Forms of Violence against Women.’ Under this new piece of legislation, crimes of gender-based violence, including domestic violence, rape, and spousal rape, would carry hefty penalties. The crime of femicide, moreover, would carry with it the penalty of twenty-to-twenty-five year imprisoned without the possibility of parole.⁶³ While codifying such an extensive definition of gender crimes should be recognized as a positive development within Guatemala, it has not been implemented to its full effect. Investigations remain inadequate and prosecutions for gender-based crimes are rare. ‘Statistics reveal that so few convictions have been handed down that there is almost complete impunity for those who murder women in Guatemala.’⁶⁴ Key Guatemalan officials moreover, ‘continue to blame the victims for bringing this violence upon themselves, and family members of murdered women report that these attitudes often translate into hostility towards them when seeking government intervention and investigation.’⁶⁵

⁶¹ United Nations Security General, ‘*Women’s Participation in Peacebuilding.*’ A/65/354-S/2010/466 (2010), retrieved on 18/3/2012 at <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/WPS%20S%202010%20466.pdf>

⁶² Guatemala Human Rights Commission (2009), ‘*Guatemala’s Femicide Law: Progress against Impunity?*’ Retrieved on 17/4/12 at [http://www.ghrc-usa.org/Publications/Femicide Law ProgressAgainstImpunity.pdf](http://www.ghrc-usa.org/Publications/Femicide%20Law%20Progress%20Against%20Impunity.pdf)

⁶³ Guatemala Human Rights Commission (2009), ‘*Article 6 of the Law against Femicide and Other Forms of Violence against Women*’, p. 9.

⁶⁴ Center for Gender and Refugee Studies, ‘*Guatemala’s Femicides and Ongoing Struggle for Women’s Human Rights*’, retrieved on 18/4/12 at: http://cgrs.uchastings.edu/documents/cgrs/cgrs_guatemala_femicides2.pdf

⁶⁵ United Nations General Assembly (1993,) *Declaration on the Elimination of Violence Against Women* , retrieved at 2/4/12 at: <http://www.un.org/documents/ga/res/48/a48r104.htm>

Legislation Protecting Women from Violence: South Africa

South Africa has made a concerted effort to bolster its legislation to better protect women against gender-based violence. Under Amendment Act 32 of 2007, South Africa's laws pertaining to sexual offences were consolidated into one piece of legislation that expanded the scope to include gender-neutral definitions, for the crimes of rape, spousal rape, and anal rape. Under the amendment, each of these crimes could be punishable up to twenty-five years imprisonment.⁶⁶ South African women continue to struggle to bring their perpetrators to justice, however. According to a United Nations study, only one in six reported rapes reach court and, of those, only six per cent end in a conviction.⁶⁷

In addition to advancing women's legal protection against gender-based violence, the South African government created a Sexual Offences and Community Affairs Unit in 1999 to coordinate all of its legal and state responses to incidences of gender-based violence. The purview of this sexual offences unit included establishing shelters for victims of rape and domestic violence, implementing community awareness of gender-based violence, as well as providing training for police working in gender crimes. The 1998 Domestic Violence Act, moreover, ensures that women and children victims of domestic violence can obtain protection under the law. Also included in the DVA is the right of a policeman to arrest a spouse without obtaining a court warrant if he or she is suspected of committed a violent domestic offence.

It is crucial that state efforts to combat gender-based violence include both a legal response as well as a community response. Otherwise, it may become the case that women are protected under the law against gender-based or domestic violence but may not realize that they are victims, that it is socially acceptable to come forward, and may not know how to access the court system to pursue justice. According to a 2010 CEDAW report, one of the limitations of South Africa's comprehensive domestic violence programme is the 'absence of social interventions that address the causes or influencing

⁶⁶ United States Department of State (2011), *2010 Country Report on Human Rights Practices: South Africa*, retrieved on 17/4/12 at <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154370.htm>

⁶⁷ United Nations Women, *'Progress of the World's Women: Factsheet'*, retrieved on 17/4/12 at <http://progress.unwomen.org/wp-content/uploads/2011/06/EN-Factsheet-SSA-Progress-of-the-Worlds-Women.pdf>

factors in any domestic violence situation.’⁶⁸ It is important to note, however, that South Africa still retains one of the highest rates of gender-based violence worldwide. South Africa still suffers from one of the worst rates of violence against women, however. According to a study by Interpol, a woman in South Africa is raped every 17 seconds and one in four South Africa women suffers domestic violence.⁶⁹

Programmes to Prevent Gender-Based Violence

The UN missions in Kosovo and East Timor serve as good practice examples in incorporating preventative measures in responding to gender-based violence. Following the cessation of hostilities in East Timor, the domestic Gender Affairs Unit, in partnership with the United Nations Population Fund (UNFPA) and the United Nations Transitional Administration for East Timor (UNTAET), established a two-year program on minimizing gendered violence. The program raised public awareness on the legality and mal-effects of domestic violence through posters throughout the urban and rural areas.⁷⁰ It also used radio broadcasting to inform women of the resources available to them in cases of gendered violence. The UN Mission in Kosovo (UNMIK), moreover, introduced a domestic violence program in September 2000 that established a unified policy on how to respond to cases of domestic violence. All police trainees must undergo gender violence training as part of the training program at the Kosovo Police Service School. Furthermore, each regional police headquarters is required to employ a full-time, domestic violence coordinator.⁷¹

Conclusion

Women’s rights injustices, such as rape, domestic violence, economic deprivation, will continue and can even be exacerbated during the post-conflict period. It is crucial, therefore, that states reassess and reform legislation that fails to fully protect women

⁶⁸ Convention on the Elimination of Discrimination of Women (2010), ‘2010 Country Reports: South Africa’, retrieved on 2/4/12 at <http://www.un.org/womenwatch/daw/cedaw/reports.htm>

⁶⁹ Odhiambo, Agnes (2011) ‘Healthcare is Failing Women’, retrieved on 20/4/12 at: <http://www.hrw.org/news/2011/12/20/healthcare-failing-women>

⁷⁰ United Nations, *Women, Peace and Security*, retrieved on 31 January 2012 at <http://www.un.org/womenwatch/daw/public/eWPS.pdf> ¶ #280.

⁷¹ United Nations, *Women, Peace and Security*, retrieved on 31 January 2012 at <http://www.un.org/womenwatch/daw/public/eWPS.pdf> ¶ # 279.

from the various injustices that become increasingly common following episodes of conflict. South Africa, Kosovo and East Timor all serve as examples of states that have begun this process of reform, with varying levels of success.

Chapter Four: Increasing Women's Representation In Parliamentary Politics

Global Averages for Women Parliamentarians

Women are highly underrepresented in domestic parliaments and legislatures. As of December 2011, women only made up on average 19.7 per cent of all parliaments worldwide. In the Middle East, that number is much lower, at an average of 11.3 per cent.⁷² In both Japan and the US the representation of women is still below the worldwide average, with Japan at 13.6 per cent, and the US at 16.8 per cent.⁷³ The UK managed an average of 21 per cent and in Norway they are significantly above the worldwide average, with women making up 39.6 per cent of their parliament and legislature.⁷⁴ When one looks at the women-to-men ratio for each country, however, a startling trend emerges. Countries that have suffered extended conflict in the last forty years have a much higher rate of women's parliamentary participation than do the countries in Europe or North America. For example, Rwanda, a country that suffered one of the worst episodes of violence in recent history, is ranked first with women making up 56.3 per cent and 38.5 per cent in the lower and upper houses of parliament, consecutively.⁷⁵ Mozambique, South Africa, Timor-L'este, Burundi, Angola, and Ecuador—all post-conflict states—all rank in the top twenty-five per cent in the world.⁷⁶

Reasons for Women's Exclusion

In study performed by the Inter-Parliamentary Union, women ranked deterrents for entering into politics. The five deterrents most often chosen by women, in descending order, are: (1) domestic responsibilities; (2) prevailing cultural attitudes regarding the

⁷² Internal-Parliamentary Union (2011), 'Women in National Parliaments', retrieved on 2/4/12 at: <http://www.ipu.org/wmn-e/world.htm>

⁷³ Inter-Parliamentary Union (2011), 'Women in National Parliaments: World Classification', retrieved on 2/4/12 at: <http://www.ipu.org/wmn-e/classif.htm>

⁷⁴ Inter-Parliamentary Union (2011), 'Women in National Parliaments: World Classification', retrieved on 2/4/12 at: <http://www.ipu.org/wmn-e/classif.htm>

⁷⁵ Inter-Parliamentary Union (2011), 'Women in National Parliaments: World Classification', retrieved on 2/4/12 at: <http://www.ipu.org/wmn-e/classif.htm>

⁷⁶ Internal-Parliamentary Union (2011), 'Women in National Parliaments', retrieved on 2/4/12 at: <http://www.ipu.org/wmn-e/world.htm>

roles of women in society; (3) lack of support from family; (4) lack of confidence; (5) lack of finances; and (6) lack of support from political parties.

Cultural Attitudes towards Women in the Public Sphere

It is of particular insight that women identified domestic responsibilities as the largest deterrent to entering into parliamentary politics.⁷⁷ A female parliamentarian explains that 'women are obliged to start their activities from a different point than men. They arrive at the starting point, exhausted, because of other activities, such as family responsibilities.'⁷⁸

Lack of Political Party and Campaign Experience

In the same Inter-Parliamentary Study, the majority of parliamentarian respondents when asked about their main channel of entry into politics responded with political party activities. As we will discuss, 'legislated quotas circumvent... entrenched elites and force them to look for suitable women candidates.'

Financial Limitations

To successfully embark on an electoral campaign, women need financial autonomy as well as economic resources. The fact that majority of women worldwide are in lower economic standing than men proves to be a significant hurdle for women to overcome when entering into politics. 'Because women control and have access to fewer economic resources, they are often unable to pay the formal and informal costs associated with gaining a party's nomination and standing for election.'⁷⁹

⁷⁷ Ballington, Julie, (2008) 'The Road to Parliament: Less Travelled by Women' in *Equality in Politics: a Survey of Women and Men in Parliaments*, retrieved on 28/1/12 at:

<http://www.ipu.org/pdf/publications/equality08-e.pdf>

⁷⁸ Ballington, Julie, (2008) 'The Road to Parliament: Less Travelled by Women' in *Equality in Politics: a Survey of Women and Men in Parliaments*, retrieved on 28/1/12 at:

<http://www.ipu.org/pdf/publications/equality08-e.pdf>

⁷⁹ National Democratic Institute, *Democracy and the Challenge of Change: a Guide to Increasing Women's Political Participation*, retrieved on 14/4/12 at:

http://www.ndi.org/files/Democracy_and_the_Challenge_of_Change.pdf

Importance of Proportional Representation of Women in Legislatures

Increasing women's participation within legislatures is beneficial in a variety of ways. First, higher rates of women's inclusion will bolster a government's democratic legitimacy. A study performed in thirty-one democratic countries found that higher rates of women in legislatures positively correlated with the government's perceived legitimacy, among both women and men.⁸⁰ A 2008 survey by the Inter-Parliamentary Union (IPU) found that women prioritized the issues of childcare, parental leave, equal pay, physical rights, reproductive rights, gender-based violence and poverty alleviation more so than their male counterparts.⁸¹ Moreover, countries with higher percentages of women in legislatures 'often experience higher standards of living with positive developments in education, infrastructure and health, and concrete steps being taken to help make democracy deliver.'⁸² For instance, the Organisation for Economic Co-operation and Development (OECD) found that in its nineteen member countries, an increase in female legislatures had a direct and positive correlation with the total educational expenditures.⁸³ Furthermore, there is a positive correlation between the percentage of women in parliament and the percentage of women employed. Out of countries belonging to the Organisation for Economic Cooperation and Development, 'percentages of women in parliament are high in Nordic countries where women make up a large part of the labour market and low in Turkey, Greece, Italy and Hungary.'

Numerous studies have shown that closing the gap between male and female employment rates would have significant implications on both domestic and global economies. The gender disparity in workforce participation cannot be understated. According to the International Labor Organisation (ILO), while there are 61 million women and 67 million men of working age, only 17 million women compared to 47

⁸⁰ Wollack, Kenneth (2010), 'Women as Agents of Change: Advancing the Role of Women in Politics and Civil Society' National Democratic Institute: Presentation to the House Committee on Foreign Affairs, retrieved on 10/4/12 at: [http://www.ndi.org/files/Women As Change Agents Testimony 090610 0.pdf](http://www.ndi.org/files/Women%20As%20Change%20Agents%20Testimony%20090610%200.pdf)

⁸¹ Wollack, Kenneth (2010), 'Women as Agents of Change: Advancing the Role of Women in Politics and Civil Society' National Democratic Institute: Presentation to the House Committee on Foreign Affairs, retrieved on 10/4/12 at: [http://www.ndi.org/files/Women As Change Agents Testimony 090610 0.pdf](http://www.ndi.org/files/Women%20As%20Change%20Agents%20Testimony%20090610%200.pdf)

⁸² Wollack, Kenneth (2010), 'Women as Agents of Change: Advancing the Role of Women in Politics and Civil Society' National Democratic Institute: Presentation to the House Committee on Foreign Affairs, retrieved on 10/4/12 at: [http://www.ndi.org/files/Women As Change Agents Testimony 090610 0.pdf](http://www.ndi.org/files/Women%20As%20Change%20Agents%20Testimony%20090610%200.pdf)

⁸³ Chen, Li-Ju (2008), 'Female Policymaker and Educational Expenditure: Cross-Country Evidence' Research Papers in Economics 2008: 1 Stockholm University, department of Economics, retrieved on 18/4/12 at: http://ideas.repec.org/p/hhs/sunrpe/2008_0001.html

million men are actually employed. Women's low employment rates are severely detrimental to domestic and global economies. According to the Social Commission for Asia and the Pacific Countries, for instance, the restriction of job opportunities available to women cost the region between \$42-44 billion U.S. dollars.⁸⁴

Implementing Parliamentary Quotas

Quotas are an often-used method for increasing women's representation within parliamentary legislatures. Quotas can be temporary or permanent measures that aim to compensate for structural discrimination and cultural barriers against women performing in parliamentary politics. The use of quotas 'facilitates historical leaps or jump starts in women's political representation.'⁸⁵ There are two different types of quotas that can be implemented, aimed at differing levels in the political process:

(1) Political Party Quotas:

- a. The pool of potential candidates (aspirants)
- b. The candidates that stand for election (candidates)

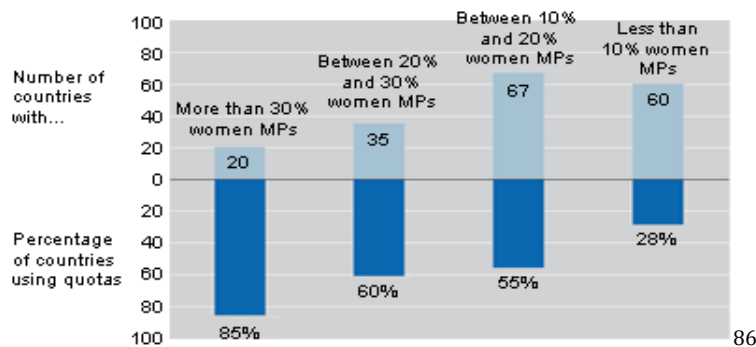
(2) Institutional Quotas: Focuses on the elected (MPs or equivalent)

Each of these types of quotas has been implemented by numerous states around the world. Mexico has implemented the first of these quotas, focusing on aspirants. Countries like South Africa, Rwanda, Uganda and Morocco have implemented quotas for candidates. Kosovo serves as a good example of the effectiveness of institutional quotas, moreover. States that have implemented quotas have achieved higher rates of women in parliaments than states that did not. In fact, over three-quarters of states who have met a thirty per cent threshold for women's representation in parliaments have an electoral quota in place. The graph below elucidates this causation.

⁸⁴ Global Private Sector Leaders Forum, 'Why Women's Economic Empowerment Matters', retrieved on 4/4/12 at: <https://pslforum.worldbankgroup.org/resources/empowerment.aspx>

⁸⁵ Institute for Democracy and Electoral Assistance (2010), 'Frequently Asked Questions', retrieved on 1/4/12 at <http://www.quotaproject.org/faq.cfm>

Countries with the most women in parliament are also the most likely to use quotas



In Costa Rica, due to the implementation of the quota system, women's representation rose from 19 to 35% in one election cycle.⁸⁷ Other successful examples include Belgium, Kosovo, South Africa, Uganda and Rwanda. For quotas to be efficient, however, there needs to be a robust implementation and monitoring programme. 'If quota rules are unclear and do not match the electoral system in place, and if there are no sanctions for non-compliance and no rules about the ranking on the list, quotas may lead to minimal or no numerical increase in women's political representation.'⁸⁸

Implementation of Political Party Quotas

'It is the parties that hold the key to change, in the drafting of programmes, in taking account of women's needs and of the impact of all kinds of action on their situation, in nominating candidates, in providing logistic support for election campaigns and in many other areas.'⁸⁹ It is for this reason that quotas imposed on political parties can be so successful in changing the culture of distrust of women in politics. Quotas force political parties to make investments—training, financial, or otherwise—in women. 'By tradition, habit, and networks, male-dominated selection committees in political parties

⁸⁶ United Nations International Children's Fund (2006), Figure 5.2: 'Countries with the most women in parliament are also the most likely to use quotas', retrieved on 9/4/12 at:

http://www.unicef.org/sowc07/docs/sowc07_figure_5_2.pdf

⁸⁷ Escobar-Lemmon, Maria & Michelle Taylor-Robinson (2003), 'Women Ministers in Latin American Government', retrieved on 1/4/12 at:

<http://www.wfu.edu/politics/conference/pub/Chapter%2015%20Escobar%20Lemmon-Taylor%20Robinson.pdf>

⁸⁸ Dahlerup, Drude (2006), 'Women, Quotas and Politics', *Taylor & Francis*. P. 304.

⁸⁹ Pascaud-Becane, Genevieve (1999), 'Participation of Women in Political Life', retrieved on 12/4/12 at: http://www.ipu.org/PDF/publications/womenplus5_en.pdf.

tend to nominate fewer women than men... Quotas force political parties to seek, find, and train women candidates—efforts that they may not have made otherwise.’⁹⁰

Implementation of Political Party Quotas: South Africa

During the apartheid government in South Africa, women constituted only 2.8% of the national parliament.⁹¹ In the lead-up to the first democratic election following the end of apartheid, South Africa’s largest political party—the Africa National Congress (ANC)-voluntarily implemented a one-in-three quota in 1994.⁹² Other political parties quickly followed suit. In 2009 it decided to improve on this statistic and committed in its election manifesto to ‘increase women representation in parliament and government to 50%.’⁹³ By 2009, the statistical representation of women improved to 43%. As a result, in part, of the quota system, South Africa is now ranked 7th in the world for highest representation of women in national parliaments.⁹⁴

Implementation of Institutional Quotas: Kosovo

Kosovo is also a prime example of a state that has effectively implemented legal quotas. According to electoral law, ‘in each political entity’s candidate list, at least 30% must be female.’ Kosovo’s electoral law also included sanctions for non-compliance that stated if women had not been allocated 30% of the candidate list, ‘the last elected candidate of the majority gender will be replaced by the next candidate of the opposite gender’ until the 30% quota had been achieved.⁹⁵ Furthermore, electoral law stipulates that if a member resigned from office mid-term that he or she must be replaced with a candidate of the same gender. In Kosovo’s 2001 national election, the first election in which the quota system came into force, women won 28% of the seats in the parliamentary

⁹⁰ Electoral Knowledge Network, ‘Advantages and Disadvantages of Legislated Quotas for Women’s Representation’, retrieved on 11/4/12 at: <http://aceproject.org/ace-en/topics/pc/pca/pca03/pca03a/pca03a1>

⁹¹ Institute for Democracy and Electoral Assistance, ‘Women in Parliament in South Africa’, retrieved on 15/3/12 at: <http://archive.idea.int/women/parl/studies5a.htm>

⁹² Electoral Institute for the Sustainability of Democracy in Africa (2009), ‘South Africa: Women’s Representation Quotas’, retrieved on 27/3/12 at <http://www.eisa.org.za/WEP/souquotas.htm>

⁹³ Electoral Institute for the Sustainability of Democracy in Africa (2009), ‘South Africa: Women’s Representation Quotas’, retrieved on 27/3/12 at: <http://www.eisa.org.za/WEP/souquotas.htm>

⁹⁴ Inter-Parliamentary Union (2011), ‘Women in National Parliaments: World Classification’, retrieved on 2/4/12 at: <http://www.ipu.org/wmn-e/classif.htm>

⁹⁵ Institute for Democracy and Electoral Assistance (2012), ‘Gender Quotas in Special Areas: Kosovo’, retrieved on 31/2/12 at: http://www.idea.int/gender/quotas_special_areas.cfm?country=123

assembly.⁹⁶ This was a huge success when compared to the 2001 global average of 14%.⁹⁷

Offering Political Training for Women

Establishing female quotas will not be sufficient, however, if women do not have the proper training or confidence to effectively fulfill the responsibilities given to them. 'There is very much technically that women have to learn. In terms of the technical capacity to discuss the issues, women are much less prepared because we have not had the luxury of all the education and study that men have had when they go out and take long years to discuss these issues.'⁹⁸ The UN recommends that quotas be 'coupled with training for women candidates and women in public office; public awareness raising campaigns; and changes within political parties.'⁹⁹

Political Training: Kosovo, East Timor and Cambodia

Kosovo serves as a prime example of a state pursuing these changes. With the help of the UN Mission in Kosovo, Kosovo combated against women candidate's inexperience by hosting training and capacity-building workshops in the political process and the aspects of running for political office.¹⁰⁰ As a result, women made up 28% of Kosovo's General Assembly in 2004, a statistic which increased to 31% by 2010.¹⁰¹ Furthermore, in East Timor, with the help of UNTAET, Timorese women are provided with additional political training, increased campaign airtime on UN broadcast facilities and 'high-level advocacy for the inclusion on women's concerns in party platforms'. These capacity-building efforts by UNTAET in 2001 facilitated in the election of twenty-seven per cent

⁹⁶ United Nations Development Programme, *Millenium Development Goals: Kosovo*, retrieved on 7/3/12 at: <http://www.kosovo.undp.org/?cid=2,120>

⁹⁷ Inter-Parliamentary Union (2001), 'Women in National Parliament: Statistical Archive', retrieved on 6/3/12 at: <http://www.ipu.org/wmn-e/arc/world051201.htm>

⁹⁸ Pankhurst, Donna, 'Women, Gender and Peacebuilding', University of Bradford: Department of Peace Studies, retrieved on 9/4/12 at: <http://www.brad.ac.uk/acad/confres/assets/CCR5.pdf>

⁹⁹ United Nations (2002), *Women, Peace and Security*, retrieved on 31 January 2012 at: <http://www.un.org/womenwatch/daw/public/eWPS.pdf> ¶ #348.

¹⁰⁰ United Nations Development Fund for Women, 'Women War Peace: the Independent Experts' Assesment.' ¶ #86. Retrieved on 8/4/12 at: http://www.unifem.org/materials/item_detail.php?ProductID=17

¹⁰¹ Inter-Parliamentary Union (2011), 'Women in National Parliaments: World Classification', retrieved on 2/4/12 at: <http://www.ipu.org/wmn-e/classif.htm>

women to the National Constituent Assembly that same year.¹⁰² Cambodia undertook a similar process to train potential women candidates. UNIFEM collaborated with the transitional authority and civil society groups to train 919 women candidates in political training and governing.¹⁰³ As a result of this initiative, the number of women electoral candidates increased from 16 per cent in 2002 to 21 per cent in 2007. The number of women candidates elected also increased from 8.5 per cent in 2002 to 15 per cent in 2007.¹⁰⁴

Increasing Women Voter Turnout: Cambodia

In addition to increasing women candidates, it is essential to create programmes that promote and assist women to register to vote. The United Nations Transitional Administration of Cambodia (UNTAC) made its priority to increase the Cambodian female electorate during the 1993 elections. Towards this end, UNTAC offered a daily radio segment that highlighted the difficulties faced by women and the potential impact those difficulties had on women's ability to vote in the upcoming general elections.¹⁰⁵ By generating early awareness of potential complications for women voting in the general election, UNTAC hoped it would give women ample opportunity plan how to circumvent such complications.

Increasing Women Voter Turnout: Liberia

In Liberia, the Women in Peacebuilding Network (WIPNET) went a step further and created a coalition of over 200 women to provide childcare, transportation and supervision of market stalls to allow women the opportunity and the means to register to vote in the general election. The effects were overwhelming. At the conclusion of the five-day registration period, more than 7,400 women had registered to vote.¹⁰⁶ This

¹⁰² United Nations (2002), *Women, Peace and Security*, retrieved on 31 January 2012 at: <http://www.un.org/womenwatch/daw/public/eWPS.pdf> ¶ #277.

¹⁰³ United Nations (2010), 'Millenium Development Goals: Factsheet', retrieved on 14/4/12 at: http://www.un.org/millenniumgoals/pdf/MDG_FS_3_EN.pdf

¹⁰⁴ United Nations (2010), 'Millenium Development Goals: Factsheet', retrieved on 14/4/12 at: http://www.un.org/millenniumgoals/pdf/MDG_FS_3_EN.pdf

¹⁰⁵ United Nations (2002), *Women, Peace and Security*, retrieved on 31 January 2012 at: <http://www.un.org/womenwatch/daw/public/eWPS.pdf> ¶ #274.

¹⁰⁶ Bekoe, Dorina & Christina Parajon (2007), 'Women's Role in Liberia's Reconstruction', retrieved on 2/3/12 at <http://www.usip.org/publications/women-s-role-liberia-s-reconstruction>

same strategy should be applied during the election-day as well, especially in countries where rural populations may have to travel to a voting centre.

Conclusion

As this section has edified, state programmes for women's empowerment within politics have generally been met with huge success. Quotas are a proven method to overcome the historical gap between men and women within parliamentary politics. Beyond legal requirements, however, this section has illustrated the necessity of offering additional politics and campaign training for women so that they are aware of and can succeed in campaign politics. Increasing voter turnout is also a recommended way in which to empower women, as exemplified in the cases of Liberia and Cambodia.

Chapter Five: Gender Mainstreaming Across All State Functions

What is Gender Mainstreaming?

Gender mainstreaming is defined as, ‘the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated.’¹⁰⁷ Gender mainstreaming should be implemented in all ‘functions of the state, within the operational activities for development, poverty eradication, human rights, humanitarian assistance, budgeting, disarmament, peace and security and legal affairs’.¹⁰⁸ A letter written by the UN Secretary General in 1997 highlighted that the work of gender mainstreaming ‘is the responsibility of us all, and not just gender experts or isolated units.’ The Secretary General set out four directives towards this end:¹⁰⁹

- (1) Analytical reports and recommendations on policy and operational issues within each area of responsibility should take gender differences and disparities fully into account;
- (2) Specific strategies should be formulated for gender mainstreaming; priorities should be established;
- (3) Systematic use of gender analysis, sex disaggregation of data, and commissioning of sector-specific gender studies and surveys is required;
- (4) Medium-term plans and budgets should be prepared in such a manner that gender perspectives and gender equality issues are explicit.

¹⁰⁷United Nations (1997), Report of the Economic and Social Council for 1997, retrieved on 12/4/12 at: <http://www.un.org/womenwatch/daw/csw/GMS.PDF>

¹⁰⁸ United Nations (1997), Report of the Economic and Social Council for 1997, retrieved on 12/4/12 at: <http://www.un.org/womenwatch/daw/csw/GMS.PDF>

¹⁰⁹ United Nations (2004), ‘Facilitator’s Manual Competence Development Programme on Gender Mainstreaming.’, retrieved on 18/4/12 at: <http://www.un.org/womenwatch/osagi/pdf/CompetenceDevelopmentFacilitatorsManual.pdf>

Using Gender Audits

In adhering to the first of the directives as listed above, gender audits may prove beneficial. Implementing gender audits help to facilitate the development of gender mainstreaming action plans as well as monitoring the effectiveness of current and ongoing gender mainstreaming programmes. Gender audits can also ensure that directives made on the national level are effectively carried out on the local level. Gender Audits are useful in constructing assessments in two principle areas:

- 1) Adherence to gender-sensitive procedures adopted by the state. This includes resource allocation, gender analysis, programme planning, and the implementation of monitoring systems.
- 2) The actual impact of the above policies on its intended beneficiaries.

Gender Mainstreaming in South Africa

South Africa has one the most complex gender-mainstreaming frameworks in the world. South Africa adopted a framework that ensures gender-mainstreaming mechanisms and processes within all branches of government, including within the Office of the President, the national parliament, the Judiciary and nearly all provincial departments. 'The rationale for such a design was to ensure a comprehensive thrust in all facets of South African life while avoiding duplication. Whereas functions are phrased in similar language, the point of entry, level of authority and degree of thrust differs significantly with each structure.'¹¹⁰

Gender Mainstreaming within the National Government

Falling within the purview of the Office of the President, the Office on the Status of Women (OSW) coordinates gender-mainstreaming processes across all government ministries. The OSW also monitors each of the department's through its relationship with gender focal points within each of the provincial departments, whose duties we will elaborate on in due course. Using its overarching knowledge of all the mainstreaming programmes, the OSW has found itself particularly well-suited to

¹¹⁰ Office on the Status of Women (2008), 'South Africa's National Policy Framework for Women's Empowerment and Gender Equality', retrieved on 3/4/12 at: http://www.kr.co.za/Publishing/Templates/Skills_Development_Practice/Toolkit/Docs/womenempowerpol.pdf

prepare reports on South Africa's implementation of commitments found in treaties such as Beijing +5, Beijing +10, and CEDAW 1997 and 2008.

As was discussed earlier in this report, for such a body to be effective at mainstreaming across all departments, it would need to implement a set of universal indicators for assessment of gender programmes. That South Africa only relied upon *ad hoc*, project-specific indicators is a major criticism of its National Gender Machinery.

Gender Mainstreaming within Parliament

There are several different committees within South Africa's legislature whose purview includes gender-mainstreaming, including the Parliamentary Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women, the Commission for Gender Equality, the Parliamentary Women's Caucus, and the Women's Empowerment Unit. The Commission for Gender Equality (CGE) functions as the primary oversight body for gender mainstreaming within the government, public and private sector. Having been fought for by women during the WTC negotiations, the CGE has the right to investigate cases of discrimination and litigate on behalf of its victims. The general consensus is that the CGE is doing fairly well at fulfilling its duties, although it has seemingly prioritized cases in which the public is concerned over cases that would fall under the 'government watchdog' category.¹¹¹

Gender Mainstreaming within Provincial Departments

Gender Focal Points are dedicated to implementing gender-mainstreaming policies and programme within individual ministries or provincial departments. It is their duty to ensure that the implementation of state policies and department programme comply with the principles of gender equality. GFPs are also the point-of-contact for local NGOs. GFPs have an established history in working with NGOs and providing conferences and

¹¹¹ African Development Bank (2009), 'South Africa: the National Gender Machinery, Gender Mainstreaming and the Fight against Gender Based Violence', retrieved on 12/3/12 at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/South%20Africa%20-%20The%20National%20Gender%20Machinery%20Gender%20Mainstreaming.pdf>.

workshops for the exchange of ideas and improvement or implementation of gender programme.

In the case of South Africa, however, the practical efficiency of gender focal points has been undermined by poor strategic planning. Within the South Africa context, each gender desk operates on an *ad hoc* basis and is primarily dependent on the support of the head of that ministry. When the minister does not prioritize gender mainstreaming, the gender desk quickly becomes sidelined from the formative work of that ministry. In countries where gender equality is still not universally accepted, gender projects will become easily sidelined. Gender focal desks within South Africa are furthermore understaffed.¹¹² It has even been reported that in some ministries, when the gender officer left, his or her position was never filled.¹¹³ The gender focal desks also do not receive any national funding for localized gender projects. As a result, their influence is dependent on how well they are able to influence department officers to apply a gender perspective or initiate a gender programme.

These ministries should not be run on such an *ad hoc* basis. The structural inefficacy of South Africa's gender focal points has allowed for haphazard implementation of national programmes, sometimes dependent on the personal beliefs of a single person. To circumvent these issues, it is recommended that a state (a) require each ministry to have an acting gender officer; (b) require ministries to report when an officer has left his or her post and identify a time period in which that position needs to be refilled; (c) institute a national budget for funding gender focal points within each ministry; and (d) implement an easily-accessible reporting mechanism, from local gender desks to the OSW, so that a gender officer can file a complaint if his or her works are being impeded by local staff.

¹¹² African Development Bank (2009), 'South Africa: the National Gender Machinery, Gender Mainstreaming and the Fight against Gender Based Violence', retrieved on 12/3/12 at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/South%20Africa%20-%20The%20National%20Gender%20Machinery%20Gender%20Mainstreaming.pdf>

¹¹³ African Development Bank (2009), 'South Africa: the National Gender Machinery, Gender Mainstreaming and the Fight against Gender Based Violence', retrieved on 12/3/12 at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/South%20Africa%20-%20The%20National%20Gender%20Machinery%20Gender%20Mainstreaming.pdf>

Conclusions

Despite the criticisms of South Africa's gender machinery described herein, South Africa still remains one of the world's leading examples for gender mainstreaming. It is thus recommended that states rely on the practices of South Africa to inform their own gender mainstreaming programmes, from the initial planning stages with gender audits to the comprehensive task allocations given to the executive, parliament, judiciary and provincial departments.

Conclusion

Significant barriers to women's inclusion and representation in peacebuilding process and post-conflict states still remain, including economic deprivation, gender biases, lower education attainments and the 'constraints time imposes by the unequal division of domestic responsibilities.'¹¹⁴ States can help overcome these obstacles specific to women by implement a wide range of policies, some of which have been elucidated in this essay, including negotiation and electoral quotas, political training, gender audits and the implementation of gender mainstreaming in the executive, parliamentary and district levels. From the earliest stages of negotiations to post-conflict public administration, states should take measures to ensure that women have the resources and the opportunity to participate, be topically represented and thus, empowered.

¹¹⁴ United Nations Security General, *Women's Participation in Peacebuilding.* A/65/354-S/2010/466 (2010), retrieved on 18/3/2012 at: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/WPS%20S%202010%20466.pdf>

Acronyms

ANC: African National Congress

ANCWL: African National Congress Women's League

CEDAW: Convention on the Elimination of Discrimination against all Women

CODESA: Convention for a Democratic South Africa

DVA: Domestic Violence Act

GFP: Gender Focal Points

GBV: Gender-Based Violence

MPT: Multi-Party Talks

NATO: North-Atlantic Trade Organisation

NGM: National Gender Machinery

NI: Northern Ireland

NIWC: Northern Ireland Women's Coalition

NWC: National Women's Coalition

OSW: Office on the Status of Women

RCMA: Recognition of Customary Marriages Act

SA: South Africa

UN: United Nations

UNMIK: United Nations Mission in Kosovo

UNTAET: United Nations Transitional Administration for East Timor

USAID: United States Agency for International Development

WIPNET: Women in Peacebuilding Network

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Appendix: DPI Board and Council of Experts

Director:

Kerim Yildiz

Kerim Yildiz is Director of DPI. He is an expert in international human rights law and minority rights, and is the recipient of a number of awards, including from the Lawyers Committee for Human Rights for his services to protect human rights and promote the rule of law in 1996, the Sigrid Rausing Trust's Human Rights award for Leadership in Indigenous and Minority Rights in 2005, and the Gruber Prize for Justice in 2011. Kerim has written extensively on human rights and international law, and his work has been published internationally.

DPI Board Members:

Nicholas Stewart QC (Chair)

Barrister and Deputy High Court Judge (Chancery and Queen's Bench Divisions), United Kingdom . Former Chair of the Bar Human Rights Committee of England and Wales and Former President of Union Internationale des Avocats.

Professor Penny Green (Secretary)

Head of Research and Director of the School of Law's Research Programme at King's College London and Director of the International State Crime Initiative (ICSI), United Kingdom (a collaborative enterprise with the Harvard Humanitarian Initiative and the University of Hull, led by King's College London).

Priscilla Hayner

Co-founder of the International Center for Transitional Justice, global expert and author on truth commissions and transitional justice initiatives, consultant to the Ford Foundation, the UN High Commissioner for Human Rights, and numerous other organisations.

Arild Humlen

Lawyer and Director of the Norwegian Bar Association's Legal Committee. Widely published within a number of jurisdictions, with emphasis on international civil law and human rights. Has lectured at law faculties of several universities in Norway. Awarded the Honor Prize of the Bar Association for Oslo for his work as Chairman of the Bar Association's Litigation Group for Asylum and Immigration law.

Jacki Muirhead

Practice Director, Cleveland Law Firm. Previously Barristers' Clerk at Counsels' Chambers Limited and Marketing Manager at the Faculty of Advocates. Undertook an International Secondment at New South Wales Bar Association.

Professor David Petrsek

Professor of International Political Affairs at the University of Ottawa, Canada. Expert and author on human rights, humanitarian law and conflict resolution issues, former Special Adviser to the Secretary-General of Amnesty International, consultant to United Nations.

Antonia Potter Prentice

Expert in humanitarian, development, peacemaking and peacebuilding issues. Consultant on women, peace and security; and strategic issues to clients including the Centre for Humanitarian Dialogue, the European Peacebuilding Liaison Office, the Global Network of Women Peacemakers, Mediator, and Terre des Hommes.

DPI Council of Experts

Christine Bell

Legal expert based in Northern Ireland; expert on transitional justice, peace negotiations, constitutional law and human rights law advice. Trainer for diplomats, mediators and lawyers.

Cengiz Çandar

Senior Journalist and columnist specializing in areas such as The Kurdish Question, former war correspondent. Served as special adviser to Turkish president Turgut Ozal.

Yilmaz Ensaroğlu

SETA Politics Economic and Social Research Foundation. Member of the Executive Board of the Joint Platform for Human Rights, the Human Rights Agenda Association (İHGD) and Human Rights Research Association (İHAD), Chief Editor of the Journal of the Human Rights Dialogue.

Salomón Lerner Febres

Former President of the Truth and Reconciliation Commission of Perú; Executive President of the Center for Democracy and Human Rights of the Pontifical Catholic University of Perú.

Professor Mervyn Frost

Head of the Department of War Studies, King's College London. Previously served as Chair of Politics and Head of Department at the University of Natal in Durban. Former President of the South African Political Studies Association; expert on human rights in international relations, humanitarian intervention, justice in world politics, democratising global governance, just war tradition in an Era of New Wars and ethics in a globalising world.

Martin Griffiths

Founding member and first Executive Director of the Centre for Humanitarian Dialogue, Served in the British Diplomatic Service, and in British NGOs, Ex -Chief Executive of Action Aid. Held posts as United Nations (UN) Director of the Department of Humanitarian Affairs, Geneva and Deputy to the UN Emergency Relief Coordinator, New York. Served as UN Regional Humanitarian Coordinator for the Great Lakes, UN Regional Coordinator in the Balkans and UN Assistant Secretary-General.

Dr. Edel Hughes

Senior Lecturer, University of East London. Expert on international human rights and humanitarian law, with special interest in civil liberties in Ireland, emergency/anti-terrorism law, international criminal law and human rights in Turkey and Turkey's accession to European Union. Previous lecturer with Amnesty International and a founding member of Human Rights for Change.

Professor Ram Manikkalingam

Visiting Professor, Department of Political Science, University of Amsterdam, served as Senior Advisor on the Peace Process to President of Sri Lanka, expert and author on conflict, multiculturalism and democracy, founding board member of the Laksham Kadirgamar Institute for Strategic Studies and International Relations.

Bejan Matur

Renowned Turkey based Author and Poet. Columnist, focusing mainly on Kurdish politics, the Armenian issue, daily politics, minority problems, prison literature, and women's issues. Has won several literary prizes and her work has been translated into 17 languages. Former Director of the Diyarbakır Cultural Art Foundation (DKSV).

Jonathan Powell

British diplomat, Downing Street Chief of Staff under Prime Minister Tony Blair between 1997- 2007. Chief negotiator in Northern Ireland peace talks, leading to the Good Friday Agreement in 1998. Currently CEO of Inter Mediate, a United Kingdom - based non-state mediation organization.

Sir Kieran Prendergast

Served in the British Foreign Office, including in Cyprus, Turkey, Israel, the Netherlands, Kenya and New York; later head of the Foreign and Commonwealth Office dealing with Apartheid and Namibia; former UN Under-Secretary-General for Political Affairs. Convenor of the SG's Executive Committee on Peace and Security and engaged in peacemaking efforts in Afghanistan, Burundi, Cyprus, the DRC, East Timor, Guatemala, Iraq, the Middle East, Somalia and Sudan.

Rajesh Rai

Rajesh was called to the Bar in 1993. His areas of expertise include Human Rights Law, Immigration and Asylum Law, and Public Law. Rajesh has extensive hands-on experience in humanitarian and environmental issues in his work with NGOs, cooperatives and companies based in the UK and overseas. He also lectures on a wide variety of legal issues, both for the Bar Human Rights Committee and internationally.

Professor Naomi Roht Arriaza

Professor at University of Berkeley, United States, expert and author on transitional justice, human rights violations, international criminal law and global environmental issues.

Professor Dr. Mithat Sancar

Professor of Law at the University of Ankara, expert and author on Constitutional Citizenship and Transitional Justice, columnist for Taraf newspaper.