



Gender, Development and Conflict Resolution: Enhancing Rights & Equitable Practice

Rita Manchanda





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Foreword

The Democratic Progress Institute (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. The Institute'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. It 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 paper by Rita Manchanda¹ contributes evidence-based research to consolidate policy awareness of the importance of incorporating gender perspectives into all aspects of civil and political life in ‘conflict societies’ in order to advance inclusion and democracy, equitable development and justice in unequal power relations. It provides policy suggestions on how to address gender inclusion in conflict resolution and the reconstruction of societies emerging from conflict and emphasises the importance of gender-sensitive attention to building a ‘peace economy’ that provides equal socio-economic opportunities for both women and men.

Democratic Progress Institute

October 2012

1 Rita Manchanda is Research Director for South Asia Forum for Human Rights, and a journalist, writer, scholar, and human rights activist. A firm believer in the power of participatory democracy, she advocates for the integration of women peace builders into the policy arena. She has organised numerous regional dialogues on media reporting of conflict, women and peace building and Minority Rights. In addition, Ms. Manchanda is a founder and national committee member of the Pakistan India People’s Forum for Peace and Democracy. She serves on the board of several organisations and Journals including the International Journal of Transitional Justice. She has been in the forefront of developing a feminist epistemology of Gendered narratives of conflict and peace building grounded in empirical policy research. Ms Manchanda also served as the Commonwealth Technical Fund Gender Advisor to the Sri Lankan government (2005-2006) in the Ministry of Social Welfare and Women’s Empowerment. Her work was focused on mainstreaming gender in the peace process but was also involved in post tsunami gender integration. She has written extensively about women and peacebuilding, including a study for UNIFEM entitled ‘Women’s Agency in Peace Building: Gender Relations in Post Conflict Reconstruction.’

‘Women’s engagement is not an optional extra component of stabilisation and recovery; it is a critical precursor to success. Women’s empowerment will enable you to deliver long-term stability, democratisation, and development.’

Afghan civil society representative, London Conference 2011

‘The world is starting to grasp that there is no policy for progress [in promoting development, health and education] more effective than the empowerment of women and girls... And I would also venture that no policy is more important in preventing conflict, or in achieving reconciliation after a conflict has ended.’

UN Secretary General Kofi Anan (2005)

Introduction

Think violent conflict, war torn societies and masses in flight; the images that claim attention are of devastated and grieving women and children – the overwhelming and disproportionate victims of armed politicised violence. But it is the other, less familiar side of the war story that this paper focuses on - women as agents of change, overturning gender stereotypes, building peace and expanding the possibility of inclusive, accountable and gender balanced societies. This aspect remains on the margins of conflict resolution discourses despite the growing literature and legal commentary on the systemic

nexus of gender with development and conflict resolution.² This paper contributes evidence-based research to consolidate policy awareness of the importance of incorporating gender perspectives into all aspects of civil and political life in ‘conflict societies’ in order to advance inclusion and democracy, equitable development and justice in unequal power relations. It provides policy suggestions on how to address gender inclusion in conflict resolution and the reconstruction of societies emerging from conflict. It emphasises the importance of gender-sensitive attention to building a ‘peace economy’ that provides equal socio-economic opportunities for both women and men.

The window of opportunity generated by the conflict resolution moment is much too brief to wait until after the arrangements for peace are settled. The historical experience is that if gender exclusion is to be challenged it must begin as soon as the guns fall silent. Without the participation of women, resources for peace building will be denied the support of half of the population; without a voice, women’s needs and entitlements are unlikely to be prioritised or resourced (Porter 2003). Without unpacking masculinities and femininities that prop up the gendered social system, there can be no transformation towards less violent, more tolerant and more equal societies.

A growing body of international legal, policy and academic analysis

² A comprehensive articulation of this interlinked theme is available in: BOUTA, Tsjeard, FREKS, Georg and BANNEN, Ian, ‘Gender Conflict and Development’, The World Bank, (Washington DC, 2005) retrieved 20 August 2012

asserts that gender exclusion reinforces the ‘development deficit’ that drives conflict and undermines the effectiveness of development efforts in societies in transition from conflict. It aborts the possibility of the conflict resolution moment being transformative of unequal power relations, especially gendered systems of inequality. The paper examines the gendered dimensions of conflict resolution, taking a dynamic perspective to understand the interplay between conflict processes and gender roles by focusing on the resulting changes. It brings a gender lens to the development of legal-policy frameworks that shape the discourse on civil-political and social-economic rights. There is an unavoidable and necessary emphasis on women in our focus on gender relations. Given the multiple levels at which gender as a social system operates - at the institutional, ideological and symbolic levels - this paper emphasises the importance of incorporating gender perspectives in conflict resolution architecture, that is, gendering ‘peace agreements’, drafting constitutions, development and security paradigms and law and justice systems. It is based on the understanding that gender is part of the subtext of the socio-economic order, of the customary law- civil law dichotomies, and indeed, of the constitutional order.³

Beijing Declaration and Platform for Action (1995) (BPA) :

Adopted by governments at the Fourth World Conference on Women in Beijing, it articulates a comprehensive global policy framework to achieve gender equality, development and peace.

³ BELL, Christine and O’ROURKE, Catherine (2010), ‘Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and Peace Agreements’ in: *International Comparative Law Quarterly* (vol 59)

It was the first global framework to focus on armed conflict and women, emphasizing women's full participation, gender sensitive training of peacekeepers, and gendered planning in humanitarian crisis recovery.

Democratic equality demands that women participate in all decisions and processes, including in resolving conflicts and rebuilding war torn societies. Rhetoric affirming the importance of the role of women in the prevention and resolution of conflicts, in 'mainstreaming' gender in peace agreements and 'new' constitutions has become an integral aspect of conflict and conflict resolution discourses. It is the product of an exceptional convergence of local and transnational women's groups, feminist scholarship, normative commitments of governments at international women's conferences and legal norms established by international treaty bodies, legal institutions and UN Security Council Resolutions.

Convention on the Elimination of Discrimination Against Women (1979) (CEDAW) :

The international bill of rights for women contains no specific references to armed conflict situations, but the CEDAW Committee, through the stapling on of General Recommendations, has expanded the scope for addressing the disproportionate impact on women's rights of armed conflict because of their sex and gender inequality. Following on from Recommendations 19 (1992), 24 (1999), CEDAW is currently drafting a comprehensive general recommendation

to address the lacunae in accountability for the full range of violations women suffer in accessing justice in conflict and post-conflict situations, and examining gender specific challenges that continue to marginalise women's participation in reconstruction.

International Criminal Court of Justice (1988) is the first international treaty to recognise sexual and gender-based violence as grave breaches of international law and to establish a model for defining rape and the formulation of rape as a 'war crime' and a 'crime against humanity.'

UN Security Council Resolutions 1325 (2000) was a magisterial intervention by the Security Council, acknowledging the linkage between women peace and security (WPS) at the highest formal legal and institutional level. UN SC 1325 affirmed that the protection of women in conflict and the participation of women in peace processes promoted international peace and security. The WPS discourse emphasised the crucial linkage between women's status and their vulnerabilities in conflict situations to sexual and gender based violence, economic impoverishment and social exclusion. In calling attention to women's rights and empowerment, it draws attention to local women's capacities to build a peace that transforms the status quo. The message of WPS is 'women build peace.' Its sister resolutions 1325, 1820, 1888, 1889, and 1960 call for accountability for sexual violence (1820),

reiterate concern about ‘the under representation of women in formal peace processes, the lack of mediators and ceasefire monitors with proper training in dealing with sexual violence and the lack of women as Chief or Lead peace mediators in United Nations sponsored peace talks’(1888); emphasise implementing indicators and women’s social and economic rights in situations of conflict and post conflict reconstruction (1889).

This growing body of international law and legal commentary demonstrates a normative recognition of the gendered impact of conflict and of the importance of women’s participation in negotiating and implementing peace agreements. Indeed, in a textual analysis of gendered peace agreements, the Centre for Humanitarian Dialogues boldly asserts that ‘these international guarantees recognise women’s rights to a share of power and resources, their access to physical and psychological security, and to remedies and reparations: as these are entitlements already in existence under international law, they should not thus be regarded as simply ‘concerns’ or ‘needs.’⁴

However, translating lofty policy exhortations into practice has foundered against entrenched gendered systems of bias and exclusion. While the protection agenda of WPS has secured some policy attention, the participation agenda has been slow to take

⁴ Centre for Human Development (Geneva, forthcoming), ‘From Clause to Effect: Analysis and guidance on including gender in peace agreements from six Asia Pacific cases’

off. The annual reports of the UN Secretary General reveal the persistent gap between rhetoric and practice, as evinced in the 'missing' women at the peace table as signatories, negotiators or mediators.⁵ UNIFEM's⁶ review of 24 peace agreements since 1992 showed just over 2.2 per cent of women were signatories, 3.2 mediators, 5.5 witnesses and 7.6 were part of negotiating teams.⁷ A comprehensive gendered survey of peace agreements (1990-2010) found that barely 16 per cent of peace accords (1990-2010) contained specific references to women.⁸

The international conflict resolution discourse increasingly focuses on the participation of women in peace agreements as signatories, negotiators, observers and mediators. The UN Secretary General's Report on WPS (2011) continues to urge international agencies to take 'proactive steps to engage women and ensure gender expertise.' Such a strategic emphasis on this one structural change as a key remedy has been criticised by feminist scholars as reductionist. It assumes that women participate as 'women' and are more sensitive to the gender dimensions of conflict and conflict resolution. It is an

5 *Women Peace and Security, Security Council Report Cross Cutting report 2010* retrieved at: http://www.securitycouncilreport.org/atf/cf/jper_cent7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9per_cent7D/XCuttingper_cent20WPSper_cent202012.pdf

6 UNIFEM (2010), *Women's participation in peace negotiations Strategies for Policy Makers*, *The Institute for Inclusive Security*, no2, October 2009 retrieved at:

http://www.unifem.org/attachments/products/0302_WomensParticipationInPeace-Negotiations_en.pdf

7 *Resistance to women's full inclusion global African Union Peace and Security Council; Uganda and Kenya peace processes involved women mediators; OAU, EU Special Representative in conflict areas: one woman in Sudan*

8 BELL, Christine and O'ROURKE, Catherine (2010), 'Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and Peace Agreements' in: *International Comparative Law Quarterly* (vol 59)

assumption that is as problematic, much as is essentialising women as ‘women for peace.’ Women are not a pre-political category denuded of their other competing identities of class, ethnicity, religion, caste and community. For instance, Timorese women participating in the 1999 negotiations for ending the struggle of Timor, a colony, to free itself from Indonesia ‘saw themselves as being involved qua cadres, rather than as women.’

Bell and O’Rourke remind us that ‘the difficulties of navigating the boundary between using gender as a category disruptive of traditional military and political assumptions, and ‘essentialising’ women as bringing a ‘different voice’, a different set of priorities, and a form of ‘transcendent’ identity politics, is particularly acute in the peace negotiation context.’ Nevertheless, their analysis shows that where women have been enabled to make an impact around the peace table, ‘the compromises between parties’ political-military objectives and human rights and social justice analysis of the conflict is predominant, indicating that broader projects of inclusion, social justice and accountability were viewed as central to resolution of the conflicts in question.’⁹

The Institute for Inclusive Security’s policy brief for ‘Bringing Women into Peace Negotiations,’ drawing upon evidence-based research of the Guatemalan (1996), Northern Ireland (1998), Sudan (2005) and Sri Lanka (2002) agreements, maintained that ‘when women are involved, peace agreements are more credible

⁹ *Ibid.*, p.33

and cover a broad range of issues.’ The agenda goes beyond ‘topics of military action, power and wealth sharing,’ to ‘incorporate social and humanitarian issues.’ Commenting on the Sudan peace talks on Darfur in Arusha, one of the women said, ‘the women had come there to achieve peace. They had not come there with the idea that they would be in the next cabinet.’¹⁰ Commenting on the inter-ethnic dynamics of the Sub-Committee on Gender in the Sri Lanka peace process (2002-5) Norwegian facilitator Astrid Heiberg noted that women are more ready to view a problem collectively and seek solutions together with less concern about their stated positions.¹¹

South Asia Forum for Human Rights’ (SAFHR), conceptualizing its decade-long rights based audits of South Asian peace processes, emphasises the criticality of the nexus between the politics of conflict and the politics of exclusion and the centrality of gender perspectives in unravelling unequal power relations and building a democratic peace.¹² Arguably, during two recent peace processes in Nepal (organically through women’s political mobilisation during the conflict) and in Afghanistan (with international actors encouraging local women’s groups), women’s participation in the peace building structures showed the possibility of incorporating the

10 UNIFEM (2010), *Women’s participation in peace negotiations Strategies for Policy Makers*, The Institute for Inclusive Security, no2, October 2009 retrieved at: http://www.unifem.org/attachments/products/0302_WomensParticipationInPeaceNegotiations_en.pdf

11 ANDERLINI, Sanam Naraghi (2007), *Women Building Peace: What They Do, Why it Matters*, Lynne Rienner, London, p.82

12 SAFHR :*Auditing Peace Processes* ...

broader project of social justice, inclusiveness and accountability.¹³

Afghanistan:

In Afghanistan's Constitutional Loya Jirga (2004), international community backed lobbying for a women's quota brought 200 women to the table. But the majority of female delegates were proxies of former mujahedeen/warlords sent to subvert the women's agenda. However, some who were associated with the Afghan Women's Network, with the support of internationals such as UN Special Representative Brahimi, forged strategic alliances with other marginal groups. They supported the demand of the Uzbeks for minority rights. The women traded their votes on national language (including recognition of Uzbek language) for equal rights for women and a 25 per cent quota in the new constitution.

Nepal:

In the slew of agreements that comprised the architecture of peace - CPA 2006, interim constitution 2007 - foremost are the principles of inclusiveness, proportionality and participation that represent the broad front of marginalised groups, discriminated against on the basis of class, ethnicity, caste, region and gender. It reflected the collective assertion of marginalised groups - women, janajatis, Dalits and madhes for reworking power relations.

¹³ MANCHANDA, Rita: 'No Women, No Democratic Peace', Seminar 2011 retrieved at: http://www.india-seminar.com/2011/619/619_rita_manchanda.htm

The gender perspective that is being emphasised here is concerned not just with the presence of women but also with shaping the kind of equality that should underpin any new constitutional order. The essentialising assumption is that women, having been historically disempowered, would be more sensitive to what ‘exclusion’ means. It is a contested assumption.

Anderlini, whose writings have definitively shaped the women and peace policy discourse, in condensing women’s experiences of building peace contends that women often introduce other conflict experiences and set different priorities for peace-building and rehabilitation. ‘They tend to be the sole voices speaking out for women’s rights and concerns, often forging coalitions based on women’s shared interests that transcend political, ethnic, and religious differences, and bringing a better understanding of social justice and gender inequality to peace negotiations.’¹⁴

Despite international norms, exhortations and case studies showing of the value of local women’s peace work in stopping violence, women’s transition from informal to formal politics and to obtaining a seat at the decision-making tables has been deeply resisted across the globe. It remains the exception when the conflict resolution momentum, as in the case of Nepal, has enabled women, including women from the most oppressed castes and ethnicities, to make up a third of the elected representatives in Nepal’s new Constituent Assembly (2008). The political processes during the

¹⁴ ANDERLINI, Sanam Naraghi (2007), *Women Building Peace: What They Do, Why it Matters*; Lynne Rienner, London

conflict and its aftermath opened up possibilities encouraging greater gender balance in political power. However, as in the Nepal case, the fragile peace consensus that produced a remarkably gender sensitive interim constitution and an inclusive constituent assembly disintegrated only too swiftly. Politics lapsed back to men in dark rooms brokering power deals while the democratic CA process became a dying sideshow. Restoration of the status quo too often means gender exclusion.

This paper is structured around the broad intersectional themes of i) women, peace building and conflict resolution; ii) political representation and gender; iii) DDR (disarmament, demobilisation and reintegration) and gender; iv) incorporating gender perspectives in democratic reforms and involving women in constitution making; v) access to justice and gender; vi) mediation/negotiation and gender. It draws on comparative empirical data to develop generalised analyses.

Chapter One:

Women, building peace and conflict resolution processes

'We showed our commitment through our peace advocacy, we showed out commitment when we went into the cantonments to disarm the boys, we said it through elections, we say it on behalf of women everywhere, we are capable.'

Leymah Gbowee Co-Nobel peace,
Prizewinner 2012

It is local women's peace work during conflict that is the foundation from which is derived the internationalised women's peace and security agenda. Put another way, the societal upheaval of conflict produces important and ambivalent¹⁵ gender-role changes. As men retreat from public spaces or go underground, women become heads of households and join the militaries, participate in informal peace processes and take over positions of local public authority.¹⁶ The driving spirit of UNSC Resolutions 1325+ is the recognition of the important role of women in the prevention and resolution of conflicts and in peace building.

15 MANCHANDA, Rita (2004), 'Maoist Insurgency in Nepal: Radicalising Gendered Narratives', *Cultural Dynamics*, vol 16, no. 2/3

16 In El Salvador during conflict, a number of women took charge of political institutions in El Salvador, for instance 33 out of 262 mayors elected during 1985–88 were women. See Kumar (2001). In Nepal, in areas most affected by the conflict, the Maoist heartland. As men went underground, women took over positions in local representative institutions for example ward members and the phenomenon of all women wards emerged. See Gautam et al (2001)

Grassroots women's peace-work

In examining evidence based comparative research, this paper will draw particular attention to a lesser talked about region in the global mapping of gender and peace building: the conflict zones of South Asia. These have a rich history of grassroots women's peace work. Nevertheless, many women in the highest seats of power remain in evident disconnect and are not likely to bring a gender perspective to formal peace processes.

In South Asia, the history of conflict and peace building is replete with the narratives of women mediating between warring factions, managing community survival by patrolling the night streets and sounding alerts; using kitchen politics to appeal to 'rebel' groups to avert reprisal attacks against communities; becoming human shields between soldiers and 'rebels'; negotiating the release of 'boys' taken away by state and non-state armed groups; becoming the front line for defending human rights and protesting violations, especially sexual and gender-based violence (SGBV); building reconciliation between divided communities at the ground level; providing indirect channels of communication between armed 'national' leaders; widening the popular constituency for peace and monitoring ceasefires.

Nowhere in the region is female peace activism more visible than in India's troubled periphery in the northeast, peopled by myriad multi-ethnic, multi-religious communities trapped in self-determination

conflicts as they seek to rework the social contract with the Indian state and compete amongst themselves for land and identity. Women here have built upon social traditions of collective activism and organised to stop violence, demand justice and the repeal of emergency laws like the Armed Forces Special Powers Act (AFSPA) which symbolises the culture of impunity, excess and arbitrary use of force. In Manipur, one of seven Northeast states of India, a latter day Gandhian icon, Irom Sharmila, has been on hunger strike since 2000 protesting the abuse of power of AFSPA (she is being force fed in custody). Meanwhile, her sisters, the Meira Paibis (torch bearers) keep nightly vigils in their neighbourhood, performing resistance by mass 'sit ins' against enforced 'disappearances' and killing.

Manipur (2004), Meira Paibis staged a naked protest before the gate of the headquarters of the Assam Rifles in Imphal, in outrage at the rape, torture and killing of Manorma Devi by the state paramilitary forces. Holding aloft the banner 'India Army, Come Rape Us' a dozen Meira Paibis stripped to shame the government to repeal AFSPA. A review committee on AFSPA was constituted but its report (recommending repeal) was not tabled in Parliament. Justice for Manorma Devi is yet to be achieved.

Amongst the neighbouring Naga tribes of the hills, social sanction for women's peace activism is rooted in the traditional role of Naga women as peacemakers between warring villages/ tribes. This dates back to the headhunting days when a demi or a pukrelia would step forward in the midst of battle and halt the violence.

Its contemporary version is the story of Neidonuo Angami, then President of the Naga Mothers Association (NMA), intervening between two fighting factions in Phek district in Nagaland state, and saying ‘listen to your mother before you kill your brother.’

Spiralling fratricidal violence in the 1980-1990s pushed the welfare-oriented Naga women’s organisations into peace work. In 1994 Naga Mothers launched a ‘Stop all Bloodshed’ campaign with non-partisan ‘Peace Teams’ fanning out to the district headquarters to urge an end to the violence and reaching out to the tribal segregated factions. The Indo-Naga Ceasefire Agreement (1997) brought an end to armed conflict with the Indian state but continuing factional violence threatened the peace talks. Only the National Socialist Council of Nagaland (NSCN): Isak-Muivah group is at the peace table, not the rival NSCN Khaplang or Phizo’s NNC factions.

Naga women’s groups kept open a channel of communication between the warring factions, facilitating direct and indirect talks. In 1999, four women from Nagaland’s NMA and Manipur’s Naga Women’s Union (NWU) trekked across the Myanmar border to the NSCN-K camp and met Khaplang at his headquarters in Burma. On returning, they briefed 16 top I-M group leaders. Naga women, who traditionally were not trusted to carry important messages, became trusted interlocutors. After the Bangkok civil society consultations with the top I-M leaders, the women again apprised Khaplang of the details, breaking his isolation. NMA and

NWU are important members of the non-partisan initiative of the church and Naga social organisations, building reconciliation through the Forum for Naga Reconciliation. Since its emergence in 2008, factional violence has lessened sharply, paving the way for the Naga Concordant (2011) of all factions.

When the 1997 Indo-Naga Ceasefire Agreement (NSCN) was signed as a prelude to ending five decades of insurgency, there was limited support for pursuing the peace negotiations before unity was established among the Naga groups. The Naga social organisations, including the women's groups, played a crucial role in winning popular acceptance and legitimacy for the NSCN (I-M). When multiple ceasefire violations threatened to derail the peace process, NMA joined a 22 member civil society Action Committee to independently monitor the ceasefire. The NMA President declared, 'both sides can decide to break the ceasefire. But for whom are they talking? We're all stakeholders in the process.' The Action Committee pushed for the inclusion of independent observers in the formal ceasefire mechanism. Though accepted, it was not implemented. However, the Naga social organisations and especially the women's groups succeeded in getting the Ceasefire Ground Rules amended in 2001 to accommodate civilian security concerns. The clauses now included safeguards against civilian injury and property damage.

NMA's emphasis on motherhood as a mobilisation strategy secures social legitimacy and de-politicises its intervention, thus enabling the Naga Mothers to position themselves as non –partisan, but

undermines their authority to assert women's rights to equal political participation. Its sister organisation Naga Women's Union of Manipur (NWUM) positions itself as a rights-based organisation and has used the conflict 'opportunity' to knock on the door of such male bastions as the tribal councils. Naga women went from being a ceremonial presence to being recognised as stakeholders in the peace process holding accountable the state and the 'rebels'/'nationalists.' Naga women have demonstrated a capacity to transform their efficacy in the informal sphere as peacemakers into authority in the formal sphere.¹⁷ New initiatives for resolving old problems such as the Committee for Alternative Arrangement for determining an empowered self-governing structure for the Naga tribal minority in Manipur, included women in the observer delegation to the tripartite talks with Manipur and Indian Union governments.

Women have used 'soft power' especially in societies with high levels of social cohesion and particularly in matrilineal societies where women hold custodial rights on clan land (Bougainville) or where they have economic authority as controllers of trade (Manipur valley: Ima markets). Naga, Metei and Bougainville women have used their soft power 'to push both sides to the negotiating table through protests, demonstrations and shuttle diplomacy.'¹⁸

17 May 12, 2010: Kohima – In the high level parleys between the Union Home Secretary and the NSCN (I-M) head Th Muivah, members of Naga 'civil society' organisations i.e. Naga Ho Ho, Naga Mothers, and human rights organisation NPMHR were invited by the Naga leader to stand witness to the discussions on the crisis precipitated by the government's volte-face in stopping the NSCN's top leader from visiting his home village in Manipur. Mrs Jo Jo Aiyo (NPMHR) at the high level talks exposed the government's double speak on not giving prior information to the Manipur state govt. Infochange....

18 UNIFEM 2007, Case Study Bougainville retrieved at:

Making a difference?

What does the presence of women at or around the peace table bring? Feminist research contends that women bring the voices and concerns of the victims, or as Hannah Ashrawi succinctly describes, the ‘underbelly of war.’ In the Uganda process women insisted on ‘a compensation fund for victims; in the Darfur Agreement (2005) women emphasised the need for protection and security of refugees and the internally displaced; in Northern Ireland (1998) the early release of prisoners; in El Salvador the women commanders at the peace table brought to the fore the neglected disarmament, demobilisation and reintegration (DDR) concerns of women in the armed movement and the needs of the families of supporters and combatants. It is not only the humanitarian and human rights agenda which women (and civil society groups) bring, but most importantly, the impact upon the democratisation of what otherwise are top-down, cloistered processes.

Women are conduits for bringing in the voices and concerns of victims and civilians, but also serve as conduits for taking negotiations back to the grassroots and their constituencies.¹⁹ This is particularly crucial in negotiations which are protracted and where there is a legacy of secret ‘deals’ and a trust deficit. In the protracted Naga peace process, the Naga social organisations have used the mass Naga People’s Conventions and the tribal

<http://www.womenwarpeace.org>

¹⁹ ANDERLINI, Sanam Naraghi (2007), ‘Women Building Peace: What They Do, Why it Matters’, Lynne Rienner, London, p.79

conferences to keep the people informed. NMA office bearers in their biannual women's conferences have taken to the grassroots level the 'high level parleys' between the top leaders of the Naga national movement and representatives of Naga social organisations. From peace processes in Burundi to Bougainville, Guatemala to Nagaland women and civil society groups have played a crucial role in monitoring ceasefires and the implementation of peace agreements. The Northern Ireland Women's Coalition (NIWC) constituted a 'civic forum', Guatemala created an Assembly of Civil Society and South Africa also had a Women's National Coalition.

Evidence-based analysis attests to the presence of women defusing confrontational tension among negotiating parties. In the Northern Ireland (Belfast) Agreement (1998), NIWC delegates used their cross community access to serve as facilitators for the negotiations, encouraging political opponents to work together and foster consensus building. Equally importantly, they brought to the agenda of the Agreement health and social issues such as integrated housing and mixed schooling; attention to the concerns of marginalised groups other than women; community based initiatives for addressing the suffering of victims of violence; early release and integration of prisoners; and emphasis on the principles of equality, inclusion and respect for human rights when developing positions. Emphasising reconciliation, NIWC women argued that a 'workable solution needed to be based on common ground not fixed positions.'²⁰

²⁰ UNIFEM (2010), *Women's participation in peace negotiations Strategies for Policy Makers*, The Institute for Inclusive Security, no2, October 2009 retrieved at:

'You need us because we women are willing to sit together on the same side of the table and together look at our complex joint history, with the commitment and intention of not getting up until - in respect and reciprocity – we can get up together and begin our new history and fulfil our destiny.'

Terry Greenblatt speaking on the
Israeli-Palestinian dialogue: UNSC May 2002

However, the emphasis on women as peacemakers building reconciliation and motherhood politics tends to reinforce gender stereotypes and denies the evidence of women participating in armed opposition movements (Nepal, Sri Lanka, and Aceh) and in perpetrating extremist violence (Gujarat, India). Also there is a need to be wary of overemphasizing women, privileging their gender identity and assumptions based on the collective empathy of 'mothers' rejecting violence that rapes daughters and kills sons on both sides. Women, no less than men, have mobilised along community solidarities. As Valley Rose, a Naga activist, remarked at a peace forum that brought together women across conflict fault lines in Northeast India, 'are we really talking about peace or are we talking about my group, your group, this right and that right? Are we not creating more differences among different communities in the state through these activities?'

Critical feminist discourses warn against the negative trade-offs of

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

reductionist stereotyping which is used to de-politicise women and deny them participation in the public sphere. In the few instances where women hold leadership positions in opposition groups or governments, as in El Salvador, Uganda, Sri Lanka and Nepal, they remain largely excluded from the highest levels of decision making. The assumption is that as women are rarely Ministers of Defence or Interior/Home Affairs, or heads of Parliamentary Accounts Committees for Security, they tend to be excluded. It should be added that in the exceptional cases where women dominate the higher positions of power in government and opposition as in Bangladesh, there is no evidence to suggest that in relation to the Chittagong Hill Tracts Accord (1997) and its implementation, a fact that the Prime Minister, Foreign Minister, Leader of Opposition and the Convener of the Chittagong Hill Tracts Committee were women, translated into bringing a gender perspective.

In developing the WPS discourse, women activists are increasingly challenging the 'hard issues: soft issues' divide, asserting that 'all issues' are women's issues, especially the so called 'hard' issues of security reform, infrastructure and development and constitutional and legal reform. Scholars and gender sensitive practitioners are questioning the overly narrow militarised approach to the causes that drive and sustain conflict. For instance in Uganda, the agenda of a ceasefire accord with the Lord's Resistance Army was reshaped to include health and education as central to an agreement on Disarmament, Demobilisation and Reintegration (DDR) as a result of the involvement of women and civil society groups. The

Ceasefire Agreement was redefined to include halting gender-based violence, thus making sex- and gender-based violence a ceasefire violation.

Drawing attention to the multiple ways in which militarism operates (as ideology and in practice) and the subtle connections between gender and militarisation, analysts emphasise the ‘deepest connections between the politics of the conflict and the broader politics of exclusion.’²¹ Gender politics is a politics of inclusion; gender perspectives unsettle power relations that are the subtext of the socio-economic and political system.

²¹ BELL, Christine and O’ROURKE, Catherine (2010), ‘Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and Peace Agreements’ in: *International Comparative Law Quarterly* (vol 59), p.33, p.38

Chapter Two: Political Participation and Gender Roles

‘Whatever the code words let us in! Peace-builder, decision-maker, whatever argument works, let us in! Let us in so we can wrestle with the discussion; at least, contest the parameters, and react, in real time and not after the fact.’

Women’s organisations of the Solomon Islands, Vanuatu,
Bougainville and Fiji²²

From Ceasefire Agreements to Comprehensive Peace Accords, a recent policy study of the Centre for Humanitarian Dialogues consolidated²³ the understanding that if women’s contribution, situation and rights are not specifically recognised in the peace agreement, they will also tend to be overlooked in post-conflict society. It textually corroborated the policy assertion that ‘addressing the status of women in peace agreement texts is significant not just for the inclusion of women in peace-building strategies, but for their future inclusion in the domestic, political and legal order itself.’

22 COHN et al. (n 16) 138 (GCR World Bank).

23 Centre for Human Development (Geneva, forthcoming), ‘From Clause to Effect: Analysis and guidance on including gender in peace agreements from six Asia Pacific cases.’ See also: CHINKIN, Christine, *Peace Agreements as a means for promoting gender equality and securing the participation of women* (Background paper for UN Division for the Advancement of Women meeting of experts on the same topic, November 2003), retrieved on 10/6/2012 at <http://www.un.org/womenwatch/daw/egm/peace2003/reports/BPChinkin.PDF>; ANDERLINI, Sanam Naraghi (2007), ‘Women Building Peace: What They Do, Why it Matters’, Lynne Rienner, London

The historical experience is one of women being absent from the public sphere where decisions are made. The contingent situation may be different in Guatemala, Kosovo, Liberia, Bougainville, Nepal, Northeast-India and Chittagong Hill Tracts in Bangladesh, but the gendered politics of being instrumentalised in the power narratives are the same across regions, cultures and especially in identity based ethno-nationalist conflicts.²⁴ The ‘peace’ aftermaths brings back that hard public-private divide, pushing women ideologically and coercively back into the private sphere.

‘... We were let down by our committee members and leaders. Women did all the work during the blockade – we put up the barriers, we went on hunger strikes, we were the one’s who dealt with and were abused by security forces. But when it came to having an understanding with the government, the men quietly went and signed the papers without consulting us.’

Vachin Haikop,
Sadar Hills District Demand Committee (SHDDC),
Manipur²⁵

²⁴ As Partha Chatterjee showed in an early study of the centrality of the women’s question in anti colonial national movements and its analogous closure, it is predicated on the construct of specific roles women are expected to play as signifiers of the contesting group’s superior civilisational values and traditions in private sphere

²⁵ Sadar Hills District Demand Committee (SHDDC) is struggling for autonomy of the Kuki tribes dominated Sadar hills in Manipur. Kuki women who were the visible face of the 94 days blockade found themselves bypassed when the male leadership of the SHDDC negotiated a political deal with the Manipur state government on October 31, 2011 lifting the blockade on the promise of upgrading the Sadar Hills to a district. See ROY, Esha, ‘The Election No One Watches’ Indian Express, 15 January 2012

Mass Mobilisation and Marginalisation

Women are visible in panoply of roles during conflict and invisible when formal peace processes begin. The exigencies of conflict blur the public-private divide. Many armed movements, some ideologically but most instrumentally, have mobilised women's active participation. In Nepal's Maoist struggle for a revolutionary transformation of society and polity based on institutionalised exclusion, women and girls made up 40 per cent of the movement, in the mass fronts, propaganda units, the people's militias and the rebel army (rising to be senior commanders and central committee members of the party). Similarly, in Sri Lanka a third of the Liberation Tigers of Tamil Eelam (LTTE) militant cadres were women, including the Black Tigers. In the ethno-religious self-determination conflict of Mindanao in the Philippines, women made up approximately 20 per cent of the Moro National Liberation Front (MNLF). It was the only Moro or Muslim armed group with women in its leadership. Despite the widespread prevalence of women in the militaries, it remains the black hole of feminist politics. The dominant discourse is sceptical of the possibility of a transformative politics in such patriarchal, hierarchical and authoritarian structures. A minority discourse that draws evidence from Nepal and Sri Lanka challenges this reductionist analysis of women as 'cogs in the wheel.'

UNSC 1325(8b) specifically stresses 'support for local women's peace initiatives and indigenous processes for conflict resolution'

and involving women in ‘the implementation mechanisms of peace agreements.’ Underscoring this is the reality of faltering peace processes.²⁶ It has prompted conflict resolution practitioners to question - is there a better way to make peace? John Paul Lederach has been led to rethink his emphasis on horizontal relationship building across fault lines to focus on up-streaming into vertical capacity. He argues that ‘high, middle range and grassroots levels of leadership rarely see themselves as interdependent, until they discover they need each other, usually when the process is under enormous stress and time constraints.’²⁷ At the grassroots is where the women are.

However, once the guns are silenced and ‘normalcy’ limps back, women who were so visible during conflict get excluded from the public sphere. In revolutionary struggles, such as Nepal’s Maoist movement, the ideology and practice of empowering the marginalised and excluded (including women) should have translated into women’s participation. But the Maoists included no women in their team for peace talks, though other social and ethnic constituencies were represented. Women activists were in the forefront of the spontaneous groundswell of popular democratic protests referred to as Democracy Movement II, which was the last straw that toppled 250 years of monarchical rule in Nepal. But no women participated in negotiating the Comprehensive Peace Agreement.

²⁶ UN Human Security Report 2005 retrieved at:

<http://www.un.org/depts/dbll/resources/terrorism/toc/toc12.pdf>

²⁷ LEDERACH, John Paul, (1999), *The Challenge of the 21st Century: Justpeace People Building Peace Utrecht*, European Centre for Conflict Prevention

Empirical studies show that particularly in religious or ethnic conflicts as in Aceh, Mindanao, Chittagong Hill Tracts, Naga, Bodo, Mizo and Bougainville, political formations derived from identity mobilisations have proven quite hostile to the entry of women into formal political processes. This is despite the pattern of mass mobilisation of women in these movements and women's demonstrated agency in informal structures of negotiations and peace building. The aftermath sees the ideological and even violent pushback of women from public space and the erasure of their agency in the official narratives of the struggle. In the internationalised Bougainville process, although women were included in the first agreement (1998), they were excluded thereafter. The Bougainville Agreement (2001) included a women's representative who was a signatory but she was in no position to make the Comprehensive Peace Agreement gender sensitive. Indeed it refers to women only as a 'special interest group.'²⁸ The new Constitution (2004) did grant a three-seat quota for women in a 33-seat assembly, but even this was opposed by ex-combatant organisations.

Getting to the Table

The gatekeepers to the 'peace table' give entry to those who have an army, represent a political party or a community. Bringing a gender perspective would mean paying greater attention to who is given formal and informal access to the site of negotiations, and

²⁸ UNIFEM 2007, *Case Study Bougainville* retrieved at: <http://www.womenwarpeace.org>

to try and construct innovative ways of broadening access. ‘Given that women are underrepresented in formal sites of power, and are more fully represented and even over-represented in civil society spheres, more attention to how civil society is enabled during a peace process would be likely to promote the inclusion of women.’

Negotiators, signatories and mediators of ceasefires and peace accords, when asked why a gender perspective was not incorporated, sometimes suggest it was overlooked as in the Timor Agreement. The assumption is that the process is gender neutral. In some instances a gender perspective is dismissed as overloading a process focused on disarmament and power sharing. ‘We weren’t doing gender,’ retorted Santu Larma, the signatory of the Chittagong Hill Tracts accord (1997) with the Bangladesh government, when questioned by a Bangladeshi feminist scholar. It is a reminder of the overly narrow way of understanding the causes that drive conflict. The politics of exclusion and discrimination that often are the root cause of conflict have everything to do with power relations, including gender relations.

In processes that are mobilised around an equality and equity ideology including the assertion of women’s rights, such as the Nepal’s Maoist movement, the male upper caste revolutionary leadership argues for resolving class contradictions first, and gender issues will get resolved in the process.

At all the political negotiating tables I have seen in Nepal during the

peace process, not once have I seen a woman at the table. So far in the peace process, decisions are being made by men for women'

Ian Martin UNMIN, Nepal²⁹

In some agreements, bringing in a gender perspective can be a deal breaker, as in the Swat: Pakistan Agreement (2009) and Aceh, Indonesia accord (2005), which hinged on the introduction of Shari-ah or Islamic law. An extension of this is international actors compounding gender oppression in the name of cultural specificity. Pakistani feminist scholars Khattak (2007) and Saigol (2001) are particularly critical of UN inter-agency responses of 'going through the men', which further victimised the Afghan women³⁰ during the mujahedeen wars and the Taliban takeover. Lurching to the other extreme was the culturally insensitive drive to unveil the Afghan women as the centrepiece of the campaign to save Afghan women.

Arguably, the targeted pressure of the US-based NGO 'Feminist

²⁹ MARTIN, I. (2007), *Implementing Commitments to Women's Equal Participation*, [online] 29/12/2007 retrieved on 19/5/2008 at:

http://www.unmin.org.np/?d=activities&p=activity_detail&aid=50

³⁰ *Drawing upon research on the situation of women who made up the majority of the population in the refugee camps, they challenge the abject surrender of the UN system to gender conditionality and the misogynist politics that undergirded the jihad years. Over a ten year period, UNHCR provided not a single woman with a job, bowing to a fatwa restricting women's movement and exclusion, yet on occasions when a bolder approach was taken, there was no impediment, such as consulting women on location of wells, including women in allocation and rebuilding of homes, thus enabling widows to be beneficiaries. By adopting a pro-active approach, The World Food Programme in Afghanistan persuaded the Taliban to let women run outdoor Tandoors. MANCHANDA, Rita, (2004), *Women's Agency in Peace Building and* MANCHANDA, Rita, (2004), *Women's Agency in Peace Building and Gender relations in Post Conflict Reconstruction: UNIFEM Working Paper 8*, pp. 17-18*

Majority' got five women to the Bonn table (2001) and paved the way for 20 per cent of the voting delegates in the Constitutional Jirga to be women and eventually guaranteeing 25 per cent quotas for women in the new constitution. But presence does not mean participation. What kind of women make it to the table is equally important and so are the women around the table. Shadia Marhaban, the sole woman in the negotiating team of the Aceh armed group, Gerakan Aceh Merdeka (GAM), noted that her role was to support GAM's positions in the negotiations, not to introduce women's or gender issues.³¹ Lacking strong links to the various women's networks, she did not have a constituency to push gender inclusion in the Aceh agreement (2004).³²

Given the structures of power and the way the peace table is constructed, women are not invited. They have to create their own place. In some cases a strategic intervention can make all the difference as in the case of Somalia, where only five clans were recognised as legitimate entities in the peace talks, and none considered women important enough to include in the negotiating teams. When the peace talks began in 2000, the UN invited a lone woman, Asha Hagi Elmi Amin, founder of Save Somali Women and Children, as an observer. The representatives of the five clans ignored her. As she was divided between two clans (as daughter

³¹ MARHABAN, Shadia, (2010), 'Aceh: The maintenance and dividends of peace.' *Peace Talks series by HD Centre* retrieved at:

<http://peacetalks.hdcentre.org/2010/08/aceh-the-maintenance-and-dividends-of-peace/>

³² GROSSMAN, Kristina, 'Women as Change Agents in the Transformation Process in Aceh, Indonesia' in: FLESCHENBERG, Andrea and DERICHS, Claudia (eds.) (2011), *Women and Politics in Asia: A Springboard for Democracy?* (Zurich: LIT Verlag), p.101

and wife) she was not trusted by any of them. Amin, together with other women constituted themselves as the sixth clan, a woman's clan. Overcoming opposition and ridicule, Amin, as representative of the sixth clan went on to co-chair the Somali Reconciliation Conference (2004) and was the first woman to sign the peace accord. Amin, with 22 other women eventually sat in the Somali Parliament of the Transitional Federal Government as part of the 12 per cent quota for women.

*'Peace is always in the making. It is not an event.
There is no success in peace making. It is always in the
making.'*

Neidonuo Angami
(President, Naga Mothers Association)

The normative emphasis in the international Women, Peace and Security discourse on the importance of women's participation in the process of drafting a peace agreement reflects the significance of this opportunity to bring in gender perspectives and securing the rights and entitlements of women in the future architecture of the society and the polity. However, in several 'transition' processes, women denied entry to the 'peace table' have used strategic alliance building drawing in the horizontal strength of civil society networks and the vertical reach of the international community to create a place for themselves.

Nepal: Comprehensive Peace Agreement (2006)

No party to the talks included women in their delegations (neither the Communist party Nepal (Maoists) nor the Seven Party Alliance). General reference was made to ending discrimination on the basis of class, caste, ethnicity and gender in restructuring a more inclusive state, but with no specific provisions, the Committee to draft the Interim Constitution, included no women. However, a strategic alliance of women across political parties, gender equality advocates, women's organisations and support from UN and international agencies enabled Nepali women to achieve more gender balanced representation in the drafting committee. The Interim Constitution (2007) was remarkably gender inclusive. Its high point was the provision for a third of all positions in public bodies for women including in elections to the Constituent Assembly; amendments to discriminatory laws on citizenship and property. In recognition of the importance of gendering the electoral process, the UN Mission to Nepal included a gender advisor.

The Maoist decision to nominate women for 73 of their seats proved a game changer in the elections producing a constituent assembly in which a third were women and significantly, many from the most oppressed social groups. Women worked with the international community to get three women included in the 'back up' team of the high level 32 member Peace Committee. Consequently a third of all local peace teams across Nepal are women. A Women's Equality Charter was adopted, including security sector reform. Yet

when the Special Technical Committee was constituted to oversee the integration of men and women Maoist combatants, there were no women in the committee.

Evidently, the opportunity for women joining as agents in a potentially transformative politics was predicated on the fragile cross-class and caste consensus holding. As the contest between the ‘elites’ and the institutionally excluded intensified, gender as other group interests elided a crosscutting category. Constitution making was fatally compromised and ended in 2012 without delivering the map of a ‘new’ Nepal.

Quotas: fast-tracking gender parity in politics

As demonstrated above, one of the most common ways of strengthening women’s participation in decision-making structures is quotas, though it remains a controversial route. Among the top 25 nations, with gender-balanced power sharing structures are Nepal and Timor L’este, which adopted gender quotas for achieving political representation in the later stages of their peace processes. A growing number of global normative frameworks endorse the adoption of gender quotas in political representation – from the Beijing Platform for Action to CEDAW to UN SCR 1325. Evidence-based analysis shows that gender neutral language and general references to women’s participation in the slew of agreements that constitute the road map to peace, have not been as

effective as the specific language of quotas in constituting the peace table, and new legislature and governing councils.

The Aceh Agreement uses gender neutral language in specifying that ‘GAM’ the new governing authority in the autonomous Aceh province will nominate representatives at all levels in the commission established to conduct the post-tsunami reconstruction. But there is enough empirical experience to alert us that unless women are specifically mentioned, they are unlikely to be included and their priorities and concerns in post-tsunami reconstruction will be marginalised. Strong advocacy work aided by UN Women resulted in two representatives of Women’s Policy Network participating in drafting and reviewing the Law on the Governing of Aceh mandating a 30 per cent quota of female candidates to be fielded by local political parties.³³ However, in the 2009 provincial parliament elections only four out of 69 seats went to women, with very few women appointed to other provincial, district and sub-district level bureaucracies.

Specific language providing for quotas has proved useful in providing concrete, measurable targets, though there is a danger in a numerical quota becoming the ceiling rather than the floor. Importantly, presence is not participation. Nonetheless, the evidence demonstrates that quotas fast track women’s participation and help to level a discriminatory field. For instance, Somali women having insinuated themselves into the peace process as the

³³ www.unifem-eseasia.org/Governance/Women_Legal_Rights.html Accessed 27 February 2012

fifth clan went on to influence the Transitional National Charter (TNC), establishing a 245 member Transitional National Assembly (TNA) with a 12 per cent quota for women, alongside specific quotas of the four clans. Such ‘ethnic’ quotas are integral to the power sharing deal. Subsequently women were granted 25 seats in the 245-seat Assembly to be equally divided among the four major clans and a clan ‘Alliance.’ It was a reminder of the complex ways in which gender and ethnicity are played out.³⁴

In peace agreements involving indigenous groups, the position of indigenous women is often specifically addressed and specific quotas provided as in the Chittagong Hill Tracts, Bodoland, Guatemala, Aceh, Mindanao, Bougainville power sharing arrangements. For instance, the Chittagong Hill Tracts Accord created autonomous self-governing councils in the Chittagong Hill Tracts, ‘a tribal inhabited area’ reserved three seats for women in the two-tier district and regional governing councils. Of the three women, two are to be elected from the tribal population, and one from the non-tribal population. While these struggles had involved the mobilisation of indigenous women, there is little to suggest much recognition of women’s contribution. Also, as indicated in the Bangladesh and Somalia cases, the extending of tribal or ethnic quotas to women is quite problematic. ‘Quotas for women are sometimes provided

³⁴ *Feminist scholars have explored ‘the makings of nations’ and ethnicities as a process of struggle between women and men. As Cynthia Enloe’s influential studies have provocatively demonstrated, ‘men will always tie them (women) down to their national and ethnic affiliations and thereby subject them to all varieties of patriarchy.’ (ENLOE, Cynthia (1993), The Morning After: Sexual Politics at the End of the Cold War, Berkeley and London: University of California Press, 1993, p. 250)*

as a sub-part of what is assumed to be an overarching ethnic or clan identity meaning that women may well be viewed as being present as ethnic and clan members first and foremost. While identities are constructed and never just given, Bell and O'Rourke suggest 'the potential for cross-identity organisation of women to promote women's equality within new government structures may be restricted from the outset.'

Nonetheless, quotas in organising power sharing vaulted Nepal to rank 14th in gender balanced legislatures, but also revealed its weakness as reflected in the continuing marginalisation of 'political' women, despite their constituting a third of the Nepal Constituent Assembly. Also, the re-polarisation of politics marginalised the constitutional assembly process that hinged on consensus, and decision-making slipped back-to-back room compromises amongst the 'all male' party bosses. It is a reminder of women's inability to access such 'all male patronage networks' (Dyana Mazurana) where policy decisions are determined, sidelining transparent democratic processes. Also, without inner party democracy, the presence of women in party structures and legislatures become tokenism.³⁵ Reservations may get women tickets but without the full support of the party apparatus and funds, it becomes an empty exercise in contesting unwinnable seats.

Also, it must be asked whether even where there is no party

³⁵ MANCHANDA, Rita, 'Nepali Women Seize the New Political Dawn Resisting Marginalisation after Ten Years of War', *Opinion Piece No. 3: Women at the Asia Pacific Peace Table 2010 Series*, Centre for Humanitarian Dialogue

whip, it can be assumed that women will prioritise their gender identity and transcend party and other affiliations to organise themselves as ‘women’? Moreover, it is not sufficient to simply have women, but specifically women who have the capacity to bring a gender perspective. It is well established that in Afghanistan the constitutional Jirga adopted 25 per cent quotas for women but the warlords sent ‘proxy’ women who pushed regressive gender policies. Quotas can also have the unintended effect of actually capping women’s participation rather than encouraging it, as has been seen for example in Bougainville, where there appears to be a widespread perception that female candidates should not contest any seats apart from the three reserved for women.³⁶

³⁶ BELL, Christine and O’ROURKE, Catherine, ‘UN Security Council Resolution 1325 and peace negotiations and agreements’, Centre for Humanitarian Opinion Piece Series, (Geneva: HD Centre, 2010). For a lengthier version see: BELL, Christine and O’ROURKE, Catherine (2010), ‘Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and Peace Agreements’ in: *International Comparative Law Quarterly* (vol. 59)

Chapter Three: DDR and Gender

In examining the issues of ‘Disarmament, Demobilisation and Reintegration’ (DDR), it is important to locate it within the holistic long-term context of building secure and sustainable peace, even as the practical exigencies of DDR require immediate and short-term interventions. Also, where the state is implicated as a party to conflict, delinking DDR from its corollary, security sector reform is to undermine the legitimacy of ‘DDR’ and as in the case of Nepal peace process (based on a ceasefire between two undefeated armies) produce ambivalent reactions from ex-combatants and the civilian communities into which they are to be re-integrated. That successful DDR is the critical piece in moving from violent conflict to a stable peace is reflected in the detailed articulation in peace agreements of disarmament and demobilisation schedules and commitments on reintegration and its twin rehabilitation. The implicit assumption writ large in these DDR programmes is that the subject of DDR is a male combatant. Despite the substantive evidence of women’s effectiveness in fostering conditions conducive to the reduction of violence, DDR programmes do not envisage a role for ‘civilian’ women.

There are normative exhortations in UN SC Resolution 1325 that ‘those involved in planning DDR programmes should consider the different needs of female and male ex-combatants and take into account their dependents.’ UN Disarmament Experts’ meetings

have recognised the important role played by women in helping ‘to create conditions for cessation of violent conflict, in such activities as monitoring peace, dealing with trauma.... [And] collecting and destroying weapons.’³⁷ In addition, there is growing policy advocacy on ‘how to gender’ DDR programmes. However, from El Salvador to Nepal, DDR programmes have side-lined women’s contribution and entitlements; created conditions pushing women towards ‘self-demobilisation’, marginalisation and impoverishment; rendered women’s psycho-social integration into communities more difficult and squandered their acquired leadership and organisational skills.³⁸

Evidence-based research has demonstrated that women make up to 30 per cent of armed opposition movements as combatants or in vital auxiliary services that sustain the violent struggle, but DDR programmes continue to overlook female ex-combatants. Peace agreements use gender-neutral language (Aceh) or ignore the existence of female combatants (Mindano) as beneficiaries. Vanessa Farr, whose work has brought scholarly attention to the subject, argued that internationally managed DDR ‘field programmes overlook the needs of women combatants in part because they do

37 Secretary General’s Report to the General Assembly United Nations Study on Disarmament and Non Proliferation Education, New York, 2002, A/57/124, paragraph 36 retrieved at:

<http://www.un.org/disarmament/HomePage/ODAPublications/DisarmamentStudySeries/PDF/SS-30.pdf>

38 According to Bop (2001), ex-female soldiers in Sierra Leone and Eritrea remained without a job and lived in situations of extreme poverty after conflict. In Eritrea, the formal employment sector did not recognise the experiences and skills that women had gained during conflict and disapproved of the new self-awareness acquired during conflict. Consequently, women who had had a range of occupations (barefoot doctors, dentists, administrators, mechanics, and teachers) during the combat years were wasted and wasted away

not fit the stereotype of women as caregivers.’³⁹ As is evident from the greater difficulties and social rejection that women ex-combatants face in returning to their communities, they do not garner much sympathy of the community, human rights or peace activists. It should be added that the dominant feminist discourse is no less uncomfortable with women’s participation in militarised political organisations and the positing of the possibility of an emancipatory politics within such authoritarian hierarchical structures.

However, as the growing literature on women in armed movements shows, especially in revolutionary struggles, there is the possibility of challenging unequal social relations including gender relations, as shown in the Nepal Maoist movement and even with the LTTE. This possibility was reflected in the reluctance of the LTTE women (as opposed to male combatants) to shed their distinct ‘uniform’ and move about in civilian wear during the ceasefire interregnum (2002-5).⁴⁰ It had come to symbolise respect, dignity and empowerment. Dwindled to civilian status they were likely to face social stigma and rejection. In the case of Nepal, a significant number of women, particularly from the oppressed social groups, had been drawn to the Maoist movement’s ideology of a liberation politics and the practice of more equal gender relations, especially in the People’s Liberation Army.⁴¹

39 FARR, Vanessa (2003), ‘The Importance of a Gender Perspective to Successful Disarmament, Demobilisation and Reintegration’ in: *Disarmament Forum 4*

40 MANCHANDA, Rita, ‘Women’s Agency Working Paper, UNIFEM, 2004

41 ARINO, Maria Vilellas, ‘Nepal: A gender view of the armed conflict and the peace process.’ Working Paper 04, *Ecole de cultura de pau, Barcelona, June 2008*; Security in South Asia, ‘Common ground? Gendered assessment of the needs and concerns of Maoist Army combatants for rehabilitation and integration: A Report’, *Saferworld, Nov 2010* retrieved at:

‘Today, the image of tired malnourished women carrying children at one end and rearing cattle at the other end has been transformed into the image of dignified fighting women with guns.’

Hisila Yami, ‘Comrade Parvati’

Even in extremist rebel movements, such as in Sierra Leone where women were abducted and involuntarily inducted into rebel armies,⁴² narratives of women ex-combatants suggest the possibility of some space for agency and empowerment. Reducing them to victim and ‘dependent’ is further stripping them of dignity and self-respect.

It could be argued that women are overlooked in DDR processes because unlike their male colleagues they are not seen as constituting a source of continuing violence and regression back into conflict. Tweaking this argument, Anderlini suggests that in certain cases as in El Salvador where the peace agreement recognised the FMLN women as beneficiaries of the DDR process, the women, by not asserting their claim and stepping back into domesticity, enabled their male colleagues, husbands and partners to occupy public space, take up jobs and recover their self-esteem which was critical for social reintegration and the consolidation of peace.⁴³ That self-esteem is implicitly ‘masculine’, obliging the women to reassume

http://www.saferworld.org.uk/downloads/pubdocs/Common%20ground_%20LR.pdf

YAMI, Hisila (2007), *People’s War and Women’s Liberation in Nepal*, University of Michigan; MANCHANDA, Rita (2004), ‘Maoist Insurgency in Nepal: Radicalising Gendered Narratives’, *Cultural Dynamics*, vol 16, no. 2/3

42 44 per cent of all women and girls given basic military training by their ‘captors’

43 ANDERLINI, *Women Building peace*, p.103.

pre-conflict gender roles. Moreover, the adoption of gender neutral language cannot be assumed to be inclusive, as the FMLN women comandantes at the negotiating table discovered.’ When the lists of beneficiaries were formulated, members of the [negotiating] team did not specifically put down the names of women. It was a very serious problem that we had later because only the men were thought of as beneficiaries, and we had to return to re-do lists...’⁴⁴ Eventually one-third of the beneficiaries in El Salvador’s land transfer programme were women.

Similarly, the Aceh peace agreement allocates ‘suitable farming land as well as funds’ to former combatants, pardoned political prisoners and ‘civilians who have suffered a demonstrable loss due to the conflict.’ Women, especially widows and daughters, are at risk of losing out by their claims not being specifically recognised, as legitimate claims on land by widows and daughters are often contested by other family members, and village leaders are often unwilling to support them in their legal rights of inheritance. Shari’ah courts, customary law and local patriarchal structures combine to further weaken women’s claims to land.⁴⁵

⁴⁴ CONAWAY, Camille Pampell and MARTÍNEZ, Salomé (2004), *Adding Value: Women’s Contributions to Reintegration and Reconstruction in El Salvador*, Hunt Alternatives Fund

⁴⁵ For more on women’s rights to land in Aceh, see: FITZPATRICK, David (2008), *Women’s Right to Land and Housing in Tsunami-Affected Aceh, Indonesia*. Singapore: Oxfam and NUS retrieved at:

http://www.ari.nus.edu.sg/docs/downloads/aceh-wp/acehwps08_003.pdf

Designing a DDR Process: Who is eligible?

Those who possess guns, or can dismantle and assemble an AK47, met the eligibility criteria in the well-documented Sierra Leone DDR programme. It discriminated against the many ‘abducted’ women who during conflict had performed multiple role including providing vital auxiliary services that sustained camp life and thus conflict, as well as a military role (44 per cent of women had been given military training by their ‘captors’). It is more than likely these women shared a weapon. The international community, by reducing women to sex slaves or camp followers, victims or dependents, strips them of their self-respect and denies them the control over their lives they managed to assert even in conditions of ‘captivity’ as they adapted. DDR programmes did not reach out to these women as being separate from their ‘captors’ and often they came to know of the DDR registration process after it had closed. In the end, women made up 6.5 per cent of total fighters registered, although the initial government estimate was 12 per cent. Of the 12,056 underage girls in the rebel forces, only 506 were registered. Excluded, these girls often with small children, were categorised as ‘children’ by the international community, but not by their own communities, and thus doubly victimised.

The lessons were writ large in the Sierra Leone (2002) DDR programme, but were overlooked by the UN agencies overseeing the DDR process in Nepal Maoist army. A UN monitored action plan was adopted in June 2009 which had banned the continuing

recruitment of children, and towards 2010 embarked on the final phase of ‘discharging’ some 2,973 ex-combatants recruited as ‘children’ and 1,035 recruited near the end of the war. However, the absence of socio-economic profiling exercise at an earlier stage of the process meant that the different needs of girls/women and boys/men were not addressed in the rehabilitation and integration process. As there was no gender plan sensitive to the greater difficulty involved in the psycho-social integration of ex-combatant girls/ women who had flouted social taboos in a deeply gender oppressive society (a gender plan was adopted as an afterthought), women were socially ostracised and excluded from schools. Many with small children were also unable to access vocational training at a distance, and rehabilitation packages were inappropriate in emphasising education without providing for immediate sustenance. No outreach was made to the ‘host’ community which would receive the discharged with persisting negative attitudes and resentment over the ‘fighters’ benefitting while local civilian victims were neglected.

Indeed, these flaws in the design of DDR programmes also affected thousands of ex-combatants in the cantonments who voluntarily opted for the rehabilitation package, a substantive percentage of whom were women. Of the 19,605 ‘verified’ combatants in the seven UN managed cantonments, 3846 were women. By June 2012 only 218 women and 3846 men were waiting for the promised integration into Nepal’s formal security apparatus, a key commitment on which Nepal’s peace process had hinged. This

being said, there are complex political and strategic reasons for the sharp drop in numbers (not least of which is keeping combatants 'outside' as insurance in a time of growing uncertainty regarding the peace process: See ICG Report 2012). However, according to a field based gendered analysis by Saferworld of the concerns of Maoist combatants about rehabilitation and integration needs, conducted in 2010, 'the research suggests that while many current combatants were keen to integrate into security agencies, 60 per cent were willing to return to civilian life, if a favourable rehabilitation package is offered, based on the perception that in reality not all Maoist Army combatants will be able to integrate. Out of this 60 per cent, two-fifths actually preferred to return to civilian life as their first choice over integration, particularly women with children and men seeking political careers.'

This assessment corroborates anecdotal evidence that whereas women like Sharada Soti Magar (24 years old) would have liked to opt for integration into the Nepal security apparatus, 'I would join my husband in the Army but had to give up the plan owing to my small baby.' With no possibility of a reproductive rights policy, maternity benefits, family housing, child care facilities, integration was an option only for the likes of Bhawani Sunar (23 years old) of the Fourth Division that housed more than 3,000 combatants prepared to join the national army. 'Our stay in camp has made us accustomed to the military life. Our relation with the military is as inseparable as fish are from water.' When the process of registering began in November 2011, members of the Fourth Division in

Nawalparsai camp, an estimated 87 per cent combatants including both women and men, participated in a regrouping process opting for integration.⁴⁶ While the enthusiastic commitment of the combatants was no doubt influenced by the political need to ensure that the agreed quota of 6,500 to be integrated in the Nepal Army was met, the gendered uncertainties confronting women closed options for a vast majority of them. Also, the fact that there were no women in the cross-party Special Technical Committee determining the integration process, despite the existence of top level Maoist women in the Politburo of the Maoist party and in the PLA ranks, also meant there was no pressure to remove any of these obstacles.

Significantly, the Saferworld gender assessment, in articulating stakeholders concerns, suggested that the ‘integration Commission should provide technical support to all security agencies in the development and implementation of a ‘gender policy’ which: sets guidelines for recruitment, training, rank allocation and promotion; sets procedures for treatment and leave related to reproductive health issues; ensures adequate maternity and paternity cover and continuation of duty after pregnancy; establishes a disciplinary code (and enforcement mechanism) proscribing discrimination, intimidation and violence, particularly against women; and establishes new and/or strengthens the capacity and scope of existing similar ‘gender units’ in headquarters, with ‘focal points’

⁴⁶ ‘Unmarried female combatants to join Nepal Army’, Kantipur, Nov 23, 2012 retrieved at: <http://www.ekantipur.com/2011/11/23/editors-pick/unmarried-female-combatants-to-joinnepal-army/344268.html>

throughout the agency.’

Many current combatants alluded to the poor record of security agencies on gender equality and gender sensitivity in comparison to that of the Maoist Army. Women’s security, in particular, remains a significant concern among many current combatants (particularly women) regarding integration into security agencies. Continuing practices of impunity for sexual violations and the prospect of blanket amnesties for acts committed by both sides during conflict have reinforced, gendered security anxieties.

The absence of a gender plan as part of the DDR process saw the repeat of the pattern of the self-demobilisation of the most vulnerable of women ‘fighters.’ Media reports had warned that a significant number of former female combatants had run away from the Maoist Army of their own accord as a result of having been rejected because of their inter-caste marriage or the stigma associated with having been a member of the Maoist Army or, alternatively, experiencing SGBV or harassment. Some of these women with children had run away to India or urban areas within Nepal to find work, possibly in the sex industry. This group of women (and their children) are the most vulnerable, as they do not have support networks and as they have missed out on registration, they do not qualify for any rehabilitation package. Extra efforts need to be made to track and identify women so that they are included in post-conflict assistance programmes.

Even those who register and have the possibility of opting for rehabilitation packages, including vocational training, find they are often inhibited from accessing these resources because of their distance from a training site or a lack of childcare facilities.

‘However, many current combatants (particularly women) identified the need for support facilities, such as childcare centres for children too young to attend school, to be established in communities to support women single parents in order that they are able to take advantage of such employment and vocational training opportunities...Discharged combatants (particularly women) felt that most women participating in the rehabilitation packages had chosen the micro-finance option as support facilities for dependants are available in this package and not others, including vocational training...’

In the context of gender deficit DDR programmes, an important World Bank policy intervention report ‘Gender Conflict and Development’ advocates, ‘*A key development challenge* is to acknowledge both women’s and men’s participation in armies and to provide assistance to all women that joined the armies with or without weapons. This assistance should not be provided exclusively through Disarmament, Demobilisation, and Reintegration (DDR) programs. Rather, the implementation of reintegration activities should be in parallel with disarmament and demobilisation activities—to avoid women’s self-demobilisation.’

Chapter Four:

Incorporating Gender Perspectives in Democratic Reforms

'In a conflict situation where there is no consensus about the constitution, laws themselves are the medium for discrimination.'

Kalpana Kannabiran, feminist legal scholar and activist

The conflict resolution momentum produces aspirations and opportunities for restructuring failed systems, and rebuilding more inclusive, accountable and equal societies. Peace agreements, constitution making and democratic reforms open up possibilities for reworking power relations in political representation and electoral structures, overhauling security and justice systems, incorporating fundamental rights and special rights for minorities, and instituting more inclusive socio-economic societies. Bringing a gender perspective into these democratizing processes is crucial, as gender as an analytical category is deeply disruptive of settled power relations that inhere in the socio-economic order, in hierarchies of citizenship, definitions of security and militarisation, traditional law and constitutional law relationship, and in the constitutional approach chosen. The time of legal reforms is the moment to constitutionally enshrine gender-equality issues (such as women's and men's equal access to land, property, education, work, and politics), and to formalise women's and men's democratic

representation and participation in all decision-making structures of government and society.

Addressing the status of women is crucial in negotiating peace agreements, especially Comprehensive Peace Agreements that set out how power will be held and exercised and which lay the basis for redrafting the new constitutional order. However as scholar and activist Dyan Mazurana observes, ‘at no time is women’s representation more crucial, yet simultaneously more lacking, than in official negotiations that set the framework for re-organizing states and democracies. Clearly one must question the low priority given to women’s voices, rights, citizenship, and equality when they are repeatedly and systematically excluded from participating in political discourses that will profoundly shape their lives.’⁴⁷

There is substantive scholarship to suggest that the ways in which transitional post conflict societies and the ‘new’ political units (states /autonomous regions) formulate rights and obligations reinforces male and female differences, and in the process the masculinity of the public sphere and the femininity of the private sphere has been strengthened.⁴⁸ Also, as demonstrated above, there is a need to be wary about gender neutral as well as gender specific language and laws within the constitution. For instance, the Dayton Peace Accords ending the conflict in Bosnia Herzegovina

47 MAZURANA, Dyan, ‘Understanding the Gendered Legacies of Armed Conflict: Women’s Rights and Lives during Armed Conflict and Transition Periods and Governance’, A Report DFID/IDRC 2010

48 MOGHADAM, Valentine (1994), *Identity Politics and Women: Cultural Reassertions and Feminisms in International Perspective*, Boulder: Westview Press

included equality provisions that were gender-neutral, no specific mention of women's rights was made, but the right to marry was mentioned leaving open for interpretation whether family rights could take priority over women's and girls' rights.⁴⁹ Increasingly, therefore, peace agreements and constitution making processes are being seen as important sites of intervention for gender equality scholars and policy advocates.⁵⁰

Involving women in Constitution Making

'Since every stroke of the constitutional pen can either empower women as full citizens or turn them into marginalised dependents of male citizens and a patriarchal state, drafting and ratifying a constitution must be processes that include politically conscious women, preferably in equal numbers with men around the drafting table and in the ratifying assembly.'

Cynthia Enloe,
'Updating the Gendered Empire'

A constitution is the primary design for establishing state power and authority, a plan for distributing power and responsibilities within state institutions, and serves as a map of citizen's limits,

⁴⁹ Dayton Accords provided no positive measures for the inclusion of women in the highest levels of the new government, with the result being that from the beginning women were underrepresented within government and administrative and economic positions

⁵⁰ DOBROWOLSKY, A., 'Shifting States: Women's Constitutional Organizing Across Time and Space' in: BANASZAK, LA., BECKWITH, K. and RUCHT, D. (eds.) (2005), *Women's Movements Facing the Reconfigured State* (CUP, New York), pp.114–140. See also DOBROWOLSKY, A., and HART, V. (2003), *Women Making Constitutions: New Politics and Comparative Perspectives* (Palgrave MacMillan Houndsmill, Basingstoke & NY)

rights and responsibilities. Where women have secured direct representation at these decision making tables, or indirectly impact on the process through the mobilisation of civil society (including women's groups), from Guatemala to Nepal, they have brought to the fore women's rights and entitlement to equal opportunities.

Equally significantly, women have emphasised the equitable participation of all marginalised and excluded groups. In Nepal's slew of agreements that plot the road map to peace, you can pick out the motifs of inclusiveness, proportionality and participation that reflect a broad front of marginalised groups, discriminated on the basis of class, ethnicity, caste, region and gender. The Guatemala peace accords that ended 36 years of civil war, included demands for 'equitable participation by all citizens, both men and women on the basis of complete political and ideological pluralism.' In South Africa during negotiations that brought an end to apartheid and a transition to democracy, women across the political spectrum (Women's National Coalition) embraced a constitution and legislative agenda that supported the diverse nature of South African society. The women's coalition lobbied for inclusion of traditionally excluded constituencies, and supported a constitution that enshrines the rights of minorities and is explicit in banning discrimination based on gender, race, class, disability and so forth.

The gender perspective that is being emphasised is concerned not with the presence of women but with shaping the kind of equality that should underpin the new constitutional order. Priorities vary

depending upon the contingent context (Nepal: inclusion; South Africa: defence and security; Cambodia: corruption; Bangladesh's Chittagong Hill Tracts: indigenous peoples' land rights and pluralism; Northern Ireland: rights of marginalised groups and victims of violence; Rwanda: reconciliation; Sudan: equitable wealth sharing regardless of gender and age). Admittedly, there is a broad assumption that women are organizing as women. That assumption is a controversial one as evidenced in the complex intersection of ethnicity and gender.

Women in Constitutional committees

Gender equality advocates have repeatedly emphasised the fact that women are unlikely to have a fair representation in these structures of power. To balance that asymmetry of influence, women at the table have drawn upon their strategic linkages with the civil society movement. As Mazurana observed, 'the majority of women today who are working to shape democracy and civil political discourse in their countries in ways that favour upholding women's rights emerged from women's and other movements for social justice, community and religious-based groups, and civil society organisations.' In South Africa, as a prelude to developing the new constitution, civil society groups, and especially the National Women's Coalition, participated in civil political discourses that helped craft one of the most democratic constitutions in the world. Women prioritised provisions of health, medical, and

social services to women and girls, the right to decide on marriage and reproduction, the pursuit of gender justice and land reform, protection against discrimination and gender-based violence, and particular protections for poor, indigenous or ethnic minority women and girls.

In Nepal, the process for negotiating a peace agreement and the committee for drafting an Interim Constitution included no women. It was only after lobbying by an inter political party women's alliance, supported by high profile women activists and backed by UN agencies, that four women were included in the 16 member drafting committee. From a gender policy perspective, the most important clause in the 2007 Interim Constitution was the guarantee that women would make up one third of the Constituent Assembly (CA) and institutions of state.⁵¹ Overturning one of the many gender discriminatory laws, the Citizenship Act was amended to recognise claims of descent through one's mother. Equal property rights for women over parental property was recognised, right to abortion was included as well as rights to reproductive health. The 2008 elections to the Constituent Assembly produced Nepal's most socially diverse legislature including a third who were women, and many from the most oppressed castes. The Vice-Chair of the CA was a woman and seven women headed the different legislature and constitutional committees.

⁵¹ *Nepali Interim Constitution (2007), Part 7, Paragraph 63, Article 4*

However, as the consensus produced by the conflict resolution momentum fractured, ‘the possibility of asserting a cross party gender sensitive agenda shrinks,’ observed veteran politician Sarita Giri, a member of the drafting committee of the Constitution. When it came to statutory rights for women regarding citizenship and property rights, cross party alliance building proved too weak to translate advocacy into policy decisions. Sapana Malla, a leading NGO campaigner for women’s legal rights, and nominated to the CA by centre-left UML, regretted that there was a watering down of rights from what had been secured during the Interim Constitution (2007). On women’s inheritance rights to property the language restricts it to ‘ancestral property’ as opposed to ‘parental property’; on citizenship law, citizenship through either parent is recognised, but it is a claim not a right and is premised on naturalisation and permanent residence in Nepal from birth until 16 years of age. Unlike for Nepali men married to foreign women, no provision is made for Nepali women married to foreign men.

‘We feel women (in the CA) are still supplicants – that position has not changed. Earlier men made laws for women that were imbued with patriarchal values. Now we are 33 per cent in the CA. We have our own negotiating power. But we forget that we are not in the political decision making bodies, the high level political committees. There has to be proportional representation of women in the political party decision making bodies.’

Nepal woman law maker

While the lofty expectations of transforming all unequal relations, including gender relations has had to be scaled down, nonetheless, significant strides have been made in putting in place a gender sensitive legal and policy framework in Nepal. The 2012 Domestic Violence and Punishment Act is an important achievement of the women's movement in and outside the legislature. It substantively expands the meaning of domestic violence and the socio-economic support systems needed. In 2011 Nepal adopted a National Action Plan on 1325 that promises to bring co-ordination and priority to gender concerns.

All Issues are Gendered: All Issues are Women's Issues

Security: Traditionally, security is considered to be the quintessential 'hard' area, a masculine bastion outside the sphere of women. It is an overly militarised version of security challenged by the more holistic concept of human security that goes beyond the formal structures and objectives of national armies and law and order systems. A gender inclusive perspective on human security is still developing. It goes beyond security sector reform, that is - the appropriate downsizing of militaries and confrontational security policies; corruption in arms deals and accountability structures; budgetary guns versus butter concerns; the induction of women into the 'national' security apparatus; and above all the challenge of dealing with past oppression and abuse of force. It includes such

gendered concerns around militarisation such as restrictions on women/girls' movement and its impact on livelihoods, access to markets, schools and health facilities; impunity for sexual violence in conflict societies, explicit commitments in ceasefire and peace agreements on punishing sexual and gender-based violence; the security needs of internally displaced persons and refugees in camps and on their return, women/girls obtaining administrative documentation in their own names; environmental degradation of military use of forest, land and water bodies, military occupation of land, water bodies, schools, public facilities; militarisation of aid (Afghanistan) and development (Northeast India).

UN Security Council Resolutions 1325 and 1820 have brought a new emphasis on prevention, focusing on specific security concerns of women, including sexual and gender-based crimes, both during conflict and in its aftermath. Increasingly, there is a policy focus on the legacy of continuing militarisation and its multi-faceted aspects post-conflict, which have not been sufficiently addressed in peace agreements and which have particular gendered dimensions.⁵² The South African peace process offers some glimpses into a gendered approach to security and the challenges in democratising security concerns. The historical legacy of powerful women in the African National Congress enabled women like Thandi Modise, head of the Parliamentary Committee on Defence, to develop a new security paradigm and mobilise support through strong ties with

⁵² For example: CEDAW Committee Asia Pacific Consultations, April 2012 (part of a global consultations common agenda) emphasises these aspects. Experts Group on WPS of UN Women (SARO) – Regional Conference Kathmandu Oct/Nov 2012 is focusing on these aspects

civil society groups. In 1994, South Africa adopted the normative framework for a national security policy in which human security principles were central. The traditionalists hit back with a national defence review proposing a \$4.5 billion weapons procurement programme. When the debate was taken to the people, the women emphasised that money was needed for development, especially when there was no external threat. The women's movement talked of corruption, environmental degradation, military land usage, sexual harassment and gender inequality in the forces.⁵³

In most peace agreements, as demonstrated in the Centre for Humanitarian Dialogue's gendered policy analysis of six peace agreements, gendered concerns are not able to make a policy impact on the security sector, including on prevention and protection against sexual and gender-based violence. In some cases (Bougainville) there is general language regarding human rights training of security forces, and references to security sector reform (Nepal), but there is no mention of gender sensitive training. It is all the more striking as in all of these conflicts there was widespread and systemic sexual and gender-based violence by the state security forces.

Customary Law

In a majority of contemporary 'ethnic' self-determination conflicts such as Aceh, Naga, Bodo, Mizo (India) Bougainville, Mindanao

⁵³ *ANDERLINI, pp.138-139*

and Chittagong Hill Tracts where mobilisation has been based on identity politics together with the claim to unique histories and the demand for separate recognition and dignity – ‘peace’ is largely perceived to be about reclaiming customary law and traditional practices. In such contexts, the post conflict legal framework is likely to give priority to customary law and traditional practices side-lining the uniform statutory law and creating structures of legal pluralism or exception in the new autonomous self-governing regions. Recognition of customary law is integrally associated with the survival of community identity, protecting land rights and family law, with particular consequences for women. It should be added that protracted conflict compounded by natural disaster could disrupt and dislocate customary social practices and traditions. Post-conflict ‘peace’ often involves the movement’s ethnic elite leaders reconstructing an idealised identity in which the matriarchal aspects of tradition are commonly erased. The encounter with ‘modernity’ and the influence of the churches/mosques recasts that tradition, reinforcing a patriarchal ethos in the interpretation of tradition and custom. Also, laws and traditions determining dispute settlement in land and family law matters are crucial for the continuing dominance of religious or tribal authority.⁵⁴ The women of the community become the space for upholding cultural nationalism and are confined within the customary laws and practices of the group. Additionally, the penetration of the market produces a shift away from common

⁵⁴ See MANCHANDA, Rita (2012), *Gender & Ethno-Nationalist Struggles: Narratives of Power & Instrumentalisation* (New Delhi, SAFHR Monograph) and MANCHANDA, Rita and TAPAN, Bose (2012), *Acts of Domination or Conferring Rights: Peace Processes in South Asia* (PLACE, Sage Publications: Auditing Peace Processes series forthcoming)

property resources to individual ownership, undermining the space for women's traditional economic rights.⁵⁵

These post conflict dynamics in the development of legal frameworks and their gendered implications are particularly evident in the Bougainville post conflict 2004 constitution which paternalistically provides that 'The customary practices of provision of care for widows, children, orphans, the aged and the disabled shall be encouraged; and 'The role and welfare of women in traditional and modern Bougainville society shall be recognised and encouraged and shall be developed to take account of changing circumstances.' Bougainville is a predominantly matrilineal society. However as the Centre for Human Development study of the Bougainville peace agreements showed, 'a decade after the peace agreement, women have no guarantee that they will be consulted or have an active role in decisions about land use. By customary law they are the custodians of the land. However, the failure to enshrine that status in official documents like the peace agreement and the Constitution has serious consequences. According to some women's rights activists, male chiefs and clan leaders have exploited the omission to their advantage, ignoring women's matrilineal rights to the land and proceeding to lease and sell without involving or even informing women, including women chiefs.'⁵⁶

55 *Tribal Customary Law and Women's Status National Commission for Women* retrieved at: <http://ncw.nic.in/pdfReports/Customaryper cent20Law.pdf>

56 MCNICHOLAS, Tina (2009), 'Empowering Bougainville's Unsung Heroes' in: *Pacific Connection Magazine, June-August 2009. Pacific Islands Development Program/East-West Centre* retrieved at:

<http://archives.pireport.org/archive/2009/August/08-11-ft.htm>; accessed 10 July 2012

In the case of Aceh, the return to its customary law and traditional practices was a key demand of the GAM led armed opposition movement. The Law on Governing Aceh (LoGA) outlined the principles for establishing the rule of law, iterating the restoration of the ‘traditionally strict adherence to principles of Shari’ah law (‘Qanun Aceh’). Women’s groups have objected to the way that the law has been used to institutionalise harsh punishments and limit the active participation of women in public life. Absent gender specific language regarding claims on entitlements of former combatants, pardoned political prisoners and civilian victims of conflict to ‘suitable farming lands and funds’ means women’s claims on land have been adversely affected. As the Centre for Human Development study emphasises, Shari’ah courts, customary law and local patriarchal structures are traditionally unfavourable to women’s claims on land.⁵⁷

The Chittagong Hill Tracts Agreement (an executive accord without constitutional status) provided that ‘tribal laws and social justice shall be under the self-governing councils of the autonomous tribal inhabited region. Enacted as law (Chittagong Hill Tracts Regulation (Amendment) Act 2003) in the reformed judicial system in the Chittagong Hill Tracts ‘cases arising out of family laws and customary laws of the tribes of the district shall be tried

⁵⁷ For more on women’s rights to land in Aceh, see: FITZPATRICK, David (2008), *Women’s Right to Land and Housing in Tsunami-Affected Aceh, Indonesia*. Singapore: Oxfam and NUS retrieved at:

http://www.ari.nus.edu.sg/docs/downloads/aceh-wp/acehwps08_003.pdf

by the Mauza Headman and the Circle Chiefs.’ Local patriarchies tend to trivialise crimes against women and have been known to adopt lenient practices of bail. There is the traditional practice of compounding punishments, for example monetary compensation for rape, especially when it is intra-tribal.

The relationship between gender, ethnicity and democracy is a finely balanced one. Women’s democratic struggles are in many ways embedded and not separate from ethnic struggles. As ‘There is no question of pursuing an autonomous project of emancipating the women from their ethnicity and ethnic movements but of struggling to make power relations more democratic and social structures more ‘gender’ just,’ argues Samir Das, a keen student of peace accords. It is a fine balance that needs to be struck: respecting the value of customary laws and practices and upholding international standards protecting women’s rights and choices.

Chapter Five:

Access to Justice: Gender and Transitional Justice Mechanisms

‘... Experience shows that in most transitional justice scenarios there is a chronic problem of gender inequality and systemic discrimination against women. We seek to ensure that transitional justice mechanisms address such imbalances at the very beginning of a reconstruction process. A gender and women’s human rights perspectives are vindicated when perpetrators of sexual violence are brought to account. Of crucial importance is consulting women to determine their priorities for transitional justice initiatives.’

Navinethan Pillay, (2009) High Commissioner Human Rights

Accountability for mass crimes committed during violent conflict is crucial for societies emerging from conflict to redress the suffering of victims and move towards reconciliation; to re-establish the rule of law and uproot legislation that has become a source of oppression; to institutionalise the national (or community’s) desire for ‘never again’ and to document the ‘official’ narrative of the conflict to pave the way for a more just post conflict socio-political order. In the dominant template of the liberal democratic peace, ‘transitional justice’ mechanisms have become an integral element of the peace building agenda of countries/ regions recovering from conflict. Extraordinary and exceptional measures are called for to deal with the legacy of past crimes. Such mechanisms comprise

judicial and semi judicial processes like truth and reconciliation commissions (TRCs), memorialisation, international and national tribunals, reparations, vetting and dismissals, traditional dispute settlement and reconciliation practices.

The term ‘transitional justice’ is itself contested, because of the assumptions it makes about the societies and institutions where it will be applied. Often the ‘post-war’ order includes powerful parties who were complicit in conflict related crimes and unlikely to want to pursue justice and advocate blanket amnesties. Also, state infrastructure may not be so debilitated or destroyed as to be incapable of addressing the crimes in question within the existing ‘normal’ national system. What might ‘transitional justice’ actually mean in a context where there are conflict zones with degraded structures, but the country as a whole enjoys well developed judicial mechanisms?⁵⁸ Cultural values and practices are also relevant as in the case of TRC, which is a product of cultures where forgiveness is valued and revolves around the face-to-face confrontation of perpetrator and victim.

More importantly, there is a weakness of transitional justice mechanisms in responding to the range of human rights violations suffered by women during conflict. Despite the established international discourse about the experience of conflict being gendered, and significant strides in legal frameworks and commentary instituting accountability for the widespread practice

58 UN Women (SARO) Report of Regional Open Day: Partnerships for Peace, New Delhi 27-28 Sept 2011

of sexual and gender based violence in conflict as a ‘war crime,’ evidence based analysis of Peace Agreements, the workings of special international and domestic tribunals, TRCs and customary dispute settlement structures showed that violations of women’s human rights often goes unpunished in these transitional mechanisms.⁵⁹ This has serious consequences for the post conflict environment of normalising sexual and gender-based violence (SGBV). Conflict situations lower the social threshold for SGBV, and left unpunished, impunity becomes entrenched in the aftermath, degrading further the status of women resulting in increasing levels of domestic violence. Conflict related SGBV does not occur in a vacuum, and is accompanied by displacement, disruption of livelihood, and loss of family and community. In devising justice mechanisms, it needs to be recognised that the destruction of women’s civil and political rights is inextricably linked with their social and economic rights.

Peace Agreements

In laying out the power map of the transition to a post conflict society, peace agreements scripting frameworks for dealing with violations of human rights and humanitarian law, tend to overlook women’s experiences. For instance, the Centre for Human Development’s study of six Peace Agreements – Aceh, Bougainville,

⁵⁹ VALJI, Nahla, ‘Making transitional Justice Work for Women: 1325 +10’ UN Women, September 2010; VALJI, Nahla, ‘Gender and Transitional Justice Programming: A review of Peru, Sierra Leone and Rwanda’ 1325+10, UN Women, August 2010 retrieved at: <http://www.unrol.org/files/Guidance%20note%20on%20Gender%20&%20Transitional%20Justice.pdf>

Chittagong Hill Tracts, Mindano, Nepal and Timor – showed that there was little or no recognition of the gendered nature of human rights violations, no mention of the widespread prevalence of sexual violations, no reference in the judicial and quasi-judicial mechanisms proposed of gender issues, and no regard for promoting the inclusion of women as judicial officers or commissioners. In all of these conflicts there was systemic violation of women's human rights, including widespread SGBV used as a tool of war.

‘Judicial mechanisms have often tended to marginalise and overlook women's experiences, perhaps because they require addressing issues that do not affect men to the same extent (i.e., sexual violence), the fact that women find it difficult to testify (which is often exacerbated by lack of personal security), or that commissioners, government, or the general public are reluctant to acknowledge women's war experiences...’

In the Peace Agreements of Aceh and Nepal, Truth Commissions are proposed, but there is no mention of whether mandates include gender issues, or promote the participation of women. The Aceh Agreement alludes to setting up a Human Rights Court but no details are given of its mandate. Customary dispute settlement mechanisms for addressing conflict related violations are limited by conflict situations involving different ethnicities, for example Acehnese versus Indonesians, Bougainvilliers versus Papua New Guineas, Chittagong Hill Tracts tribes versus Bengali-Bangladeshis, Moro Muslims versus Philippines, Timorese versus Indonesians,

and Nepalis versus Nepalis. Also customary laws and practices tend to discriminate against women. The Bougainville Peace Agreement contains a gender-neutral apology, acknowledging the ‘suffering and pain caused to so many.’ Two agreements mention ‘war crimes’, but whether SGBV is recognised as a war crime is unclear. Also, a general amnesty is granted in both agreements. Aceh’s agreement makes a general reference to crimes against civilians by military personnel being tried in civil courts, but leaves unsaid whether such crimes include SGBV.

The Chittagong Hill Tracts Accord does not mention truth commissions, tribunals, or war crimes. It does not recognise or address human rights violations by the state, despite widespread accounts of torture, abductions, arrests, forced evictions, arson, rape and 11 massacres committed by the military in its operations against the hill peoples. The absence of a transitional justice mechanism in the Accord contrasts with the processes instituted in Bangladesh to bring justice and closure for the atrocities committed by the Pakistan army and their collaborators during the 1971 ‘Liberation War.’ Bangladesh officially demanded an apology from Pakistan for human rights violations, particularly the mass rapes of Bengali women. In 2011 Bangladesh instituted a War Crimes Tribunal to try the perpetrators of human rights violations of the 1971 conflict. But for the Chittagong Hill Tracts conflict, there is no accountability mechanism for war crimes by Bangladeshi soldiers and settlers. As Amena Mohsin observed, ‘[the Accord] speaks not only of the hegemonic position of the Bengali nation

over the hill people, but more significantly of democratic practices in Bangladesh as well as the power position of the military in Bangladesh politics.’

International & National Tribunals

In the domain of international law and jurisprudence, some significant advances in securing justice for women’s human rights violations have been made through the workings of ad hoc international tribunals, special courts and the permanent international court of justice. International Criminal Tribunal Yugoslavia (ICTY, 1993) listed rape as a crime against humanity in its founding statute. Subsequently, in the landmark Akayesu case (1998) the International Criminal Tribunal Rwanda (ICTR, 1994) established the model for defining rape in international law – ‘a physical invasion of a sexual nature.’ It was the first time sexual violence in an internal conflict was punished; and rape was found to be an act of genocide. The initial case had not included SGBV, but concerted advocacy by women’s groups civil society organisations as well as the role of a single (female) judge, led to the charge sheet being amended.

Women Judges⁶⁰ in International Courts

ICTY: 6 per cent; ICJ: 13 per cent, ICTR: 23 per cent, Extraordinary Chambers in the Courts of Cambodia 25 per cent, Special Court of Sierra Leone 33 per cent, International Criminal Court: 53 per cent.

The jurisprudence of the Special Court for Sierra Leone (2000), East Timor Serious Crimes Investigation Unit and the Iraqi High Tribunal has played an important role in the evolution of international law. In the functioning of these tribunals gender expertise in court staffing was emphasised and efforts made to overcome inhibitions that hamper women participating as witnesses. In Sierra Leone, 20 per cent of its investigators were dedicated to SGBV cases, in contrast to one to two per cent in the ICTR. A long view of the body of jurisprudence of the ICTR revealed that despite the Akayesu case, challenges persisted in women's access to justice. The Court had handed down 21 sentences, comprising 18 convictions and three acquittals. 90 per cent contained no rape convictions, with double the number of acquittals for rape than rape convictions. (This is in a context of 250,000-500,000 cases of SGBV.)

60 In a gendered reading of the Sept 2012 judgment in the Naroda Patiya massacre in Gujarat 2002 in which 97 persons were killed of which 36 were women who were gang raped, stabbed and burnt (35 were children), an academic commentator emphasises the gender identity of the Judge and the accused, Judge Jyostna Yagnik and prime accused Maya Kodnani, as central to the concurrent sentence awarded. See DESOUZA, Peter Ronald, 'Struggle for Gujarat's Soul', Indian Express, September 7, 2012

In 2002 the Rome statute set up the International Court of Justice (ICJ) (2002) which recognised SGBV as a crime against humanity including rape, sexual slavery enforced prostitution, forced pregnancy and forced sterilisation. It established the model for defining sexual and gender based crimes in international law. Important as international prosecutions are, especially in setting standards, domestic prosecutions are vital in addressing the majority of the perpetrators and uprooting the culture of impunity. International human rights interventionism is also often regarded with suspicion and not without justification). Moreover, as in Sri Lanka, there are limits to the ability of the international community to pressure accountability for war crimes and domestic processes, such as the Lessons Learnt and Reconciliation Commission, in which the (military) victor's interests prevail over the victim's right to justice.

Traditional or Informal Mechanisms

The discourse on transitional justice stresses the recourse to traditional and customary dispute settlement mechanisms as a way of bridging the 'justice gap.' In conflict societies formal institutional judicial structures are likely to have collapsed or been delegitimized. Moreover, in identity-based mobilisations involving the self-determination of indigenous and ethnic communities, peace settlements reaffirm the value and significance of customary laws and practices. Often traditional leaders, losing out to the

penetration of the market and modern institutions, cling to power derived from their authority in such traditional institutions. Such traditional dispute settlement practices have tended to be discriminatory of women's rights especially in the context of socio-economic reparations. SGBV tends to be trivialised, with the woman pressured into withdrawing the complaint to avert social stigmatisation, or being obliged to reconcile (marry) the rapist. Often women related crimes, especially within an intra-tribal context, are compounded and family honour vindicated by monetary compensation.

Such 'informal' or plural legal systems are often the only avenues for poor women to access some kind of justice. Given this reality, there is a need to incorporate standards of non-discrimination and gender equality as enshrined in international obligations (CEDAW). For instance in South Africa the constitution permits certain powers to be held by traditional leaders, but these must be held in line with principles of gender equality. The South African Law Commission has reviewed all customary law to make recommendations on its harmonisation with constitutional principles. In the Republic of Uganda, local council courts are required to have a minimum of one-third women. In Burundi the traditional institution Bashingantahe amended its charter to ensure the effective involvement of women. Presently women constitute 40 per cent of the judges in each session. Disappointingly though, the majority of peace agreements include no guarantee for gender equality in prioritizing customary law and traditional practices

such as in Chittagong Hill Tracts (council of local headman and elders) and Aceh (adoption of Shari'ah in strict accordance with Aceh tradition).

Truth & Reconciliation Commissions

The centrepiece of post conflict and post-authoritarian transitions is the mechanism of the Truth and Reconciliation Commission (TRC), non-judicial bodies set up to investigate the past history of violations of human rights in a particular country. Since the first generation of TRCs in Latin America and South Africa there have been 40 TRCs. Particularly in internationalised conflict resolution processes there is a top down pressure to include such components of the liberal democratic peace model, as evident in the Nepal CPA, which is committed to setting up a TRC. Also, hearing consultations with victims and families revealed concepts such as truth telling and 'forgiveness' were found to sit uneasily in the socio-cultural ethos of Nepal.⁶¹ While NGO and donor support is high, it is unclear whether there is much ground-level support for the concept of transitional justice, begging the question, 'who owns the process, and who sets the agenda?' In contrast, the Commission on Disappearances enjoys strong support.

The South Africa TRC was the first to encourage women to tell their stories and demand justice. 55 per cent of the statements before the

⁶¹ *Nepali Voices Perceptions of Truth Justice, Reconciliation, Reparations and the Transition in Nepal* ICTJ and AF, 2008 retrieved at:

<http://ictj.org/sites/default/files/ICTJ-Nepal-Voices-Reconciliation-2008-English.pdf>

Commission were those of women but tended to be in relation to the violations suffered by male family members. Subsequent efforts in recent commissions to involve gender committees and gender experts in providing pre-hearing support, and the presence of women commissioners and gender sensitive witness facilitation, has resulted in the effective mainstreaming of gender in several TRCs. More TRCs are ensuring gender quotas for Commissioners. The Timor L'este Commission provided that no less than 30 per cent of national and regional commissioners must be women.

TRC (2000- 2010) Women Commissioners percentage

Uruguay: 0 per cent, Peru: 17 per cent, Serbia & Montenegro: 20 per cent, Ghana: 33 per cent, Timor L'este: 29 per cent, Sierra Leone: 43 per cent, DRC: 25 per cent, Liberia: 44 per cent, Solomon Islands: 40 per cent, Kenya: 44 per cent, Honduras: 33 per cent

Statements by Women to TRC

South Africa: 55 per cent, Peru: 54 per cent, Ghana: 20 per cent, Timor L'este: 21 per cent, Sierra Leone 28 per cent, Liberia: 51 per cent

Specific Chapters on SGBV and women's experiences

South Africa, Peru, Timor L'este, Sierra Leone, Liberia, Morocco, Guatemala, Haiti.

While the learning process has not been linear, reports have steadily expanded the gendered depth of analysis, especially in establishing the social correlates of SGBV in conflict and analogously, the imperative to adopt more holistic perspectives in gendering transitional justice. The report of the Sierra Leone Truth and Reconciliation Commission (2002) established the links between pre-conflict gender inequalities and the gendered nature of violations during conflict.⁶² It emphasised that the impact of the conflict had been exacerbated by women's exclusion and marginalisation from decision-making and that the ability of women to recover from past violence had been hampered by a 'lack (of) adequate access to productive assets including land credit training and technology.' Redress would require addressing structural inequalities, encompassing law reform, abolition of discriminatory customary practices and so forth. The Timor L'este Commission's women hearings (2002-2003) concentrated not only on sexual violence but also on other aspects of women's experiences of conflict, including violations of women's socio-economic rights, and the wide-ranging consequences of displacement resulting in a range of harms to women. '...The deprivation of women's civil and political rights was intricately tied here to the denial of their social and economic rights.'⁶³

62 VALJI, Nabla, 'Making transitional Justice Work for Women: 1325 +10' UN Women, September 2010 retrieved at:

http://www.humansecuritygateway.com/documents/UNIFEM_AWindowofOpportunity_MakingTransitionalJusticeWorkforWomen.pdf

63 *Ibid.*, p.13

The non-judicial TRC process often brings in its wake judicial amnesties. In the Nepal case, the mandate in the draft Truth and Reconciliation Bill excludes ‘rape’ from the recommended general amnesty for gross violations of human rights. But uncertainty continues to be troubling especially as Nepal suffers from an entrenched culture of impunity. For instance, there is the failure to bring to justice the Nepal Army personnel accused of rape, torture, and murder of Maina Sunwar,⁶⁴ despite the national and international outcry. In 2008 the Kavre District Court issued an arrest warrant against Major Niranja Basnet one of the four accused. When pressure from human rights campaigners resulted in Major Basnet’s repatriation from peacekeeping duties in Chad, it was hoped that justice would take its course. But Nepal’s Defence Minister Bidya Bhandari, a woman, supported the Army’s refusal to let him stand trial, saying that he had faced a Court Martial. She did not add that it was for ‘indiscipline.’

In the evolving transitional justice discourse, increasing attention is focused on the relationship between violence committed during conflict and inequalities among different ethnic, racial, class, caste and political groups of women, men, girls and boys that predate conflict. For transitional justice systems to be more effective they need to address all civil, political, social and economic violations, including pervasive gender inequality and exclusion. The expansion of the approach to reparations, beyond delivering

64 In 2004 Royal Nepal Army personnel took away Maina Sunwar (15yrs), subjected her to simulated drowning, and electrocuted her with a 220 volt charge which may have killed her. She was secretly buried. In 2007 her body was finally located and exhumed

compensation to the victim, holds the promise of transforming the context of vulnerability and discrimination that shape women's lives. Nahla noted that Morocco, in providing new criteria for the equal distribution of benefits within families, has helped to unseat gender-based hierarchies.

Chapter Six: Mediation and Gender

President Ellen Johnson Sirleaf, Leymah Gbowee (Liberia) and Tawakkul Karman (Yemen).

Nobel Peace Prize 2011

In the many conflicts across the world, the power and authority of grassroots women in defusing tension, maintaining channels of communication between feuding parties, facilitating the search for a common ground and building reconciliation is recognised and valued, yet invariably up-streaming this capacity and involving women in conflict resolution processes as negotiators, mediators, facilitators and observers at national and international levels, has proved a formidable obstacle. UNSC 1325 (2000) urges Member States and the Secretary General's office to involve women at every level of peace building, but the UN Secretary General's annual reviews of the impact of 1325 point to the disappointing gap in women's participation. Subsequent UNSC resolutions and UN Women in its advocacy of the Women Peace and Security agenda emphasise the importance of having women mediators. The UN Security Council's Report 2011 calls for:

‘Specific measures and financial incentives by Member States to include women in official delegations. Special envoys and mediators are encouraged to meet with women leaders and peace activists at the earliest possible moment in mediation processes, to

hold regular consultations with women's civil society groups as a standard operating procedure, and to share information from these meetings with the Security Council and the Secretary-General.⁶⁵

Within the UN system, a 2005 study⁶⁶ of senior conflict mediators in peace processes, estimated that of the 61 individuals running peace-making, peace building and peacekeeping missions, or acting as envoys in situations of conflict and post conflict, or dealing with humanitarian and human rights concerns, only about four (six and a half per cent) were women – two in top jobs and two deputies.⁶⁷ In 2000, the year when UNSC adopted SCR 1325, there were no women at all. Globally, international agencies and state parties involved in peace-making have not shown much gender sensitivity in picking top officials. Out of the European Union's nine special envoys in peace related work (and 11 former) only one woman was the EU's special representative to Sudan. The African Union's Peace and Security Council, which is active in multiple conflict mediation activities, has no women steering the way. Despite this there are strong role models, such as Betty Atuku Bigombe, Uganda's Minister for Water Resources who participated in the mediation with the Lord's Resistance Army, and Graça Machel was

65 http://www.securitycouncilreport.org/atf/cf/per_cent7B65BFCF9B-6D27-4E9C-8CD3CF6E4FF96FF9per_cent7D/WPSper_cent20Sper_cent20PRSTper_cent202011per_cent2020.pdf

66 POTTER, Antonia, (2005) *We the Women: Why Conflict Mediation is not just a job for men*, Centre for Human Development, Geneva

67 Swiss Heidi Tagliavini, (SRSR Georgia, since July 2002), Canadian Carolyn McAskie (SRSR Burundi, since June 2004) Bangladeshi Ameerah Haq (DSRSR Afghanistan, since June 2004) and Canadian Patricia Waring-Ripley (DSRSR Kosovo, since August 2005)

involved in the Kenyan peace process.

Conflict mediation is no longer the preserve of the UN and select regional organisations but a complex world of multiple choice – of state groupings of neighbours (New Zealand led group: Bougainville), third party states (India: Sri Lanka), a state positioned as international peace maker (Norway: Sri Lanka). Additionally, there are a growing number of NGOs, such as the Centre for Humanitarian Dialogue and Crisis Management Initiative, assuming these roles. They have not led by example either. In a context where the world of conflict mediation is a highly competitive one, conflicted parties have choices and favour a ‘charismatic leader’ approach, which is peculiarly male, such as in the case of Nelson Mandela.

Moreover, the strategic emphasis on the presence of female mediators being structurally transformative assumes that women mediators will be more sensitive to the gender dimensions of conflict resolution processes, and more willing and able to use their power as mediator to influence peace agreement texts. These are controversial assumptions. As Bell and O’Rourke point out, ‘expecting a woman with a high profile career, as one of the very few women in such a role, to ‘experiment’ with time-honoured practices of ‘secret negotiations’ and military-political elite brokered ceasefires, is to ask them to risk failure that will inevitably be put down to any ‘different style’ they brought to the negotiations, even

where exogenous conflict dynamics are a more likely explanation.⁶⁸

While the evidence base is much too thin for assessing the possible impact of women mediators, there is an empirical base for assessing the gendered impact of internationalised peace processes. Bell and O'Rourke's gendered study of the impact of UNSC 1325 on peace agreements is sceptical of the value of internationalised processes (including those involving international 'male' mediators). The study argues that while internationalised peace agreements mention 1325 more and involve normative gender commitments, non-internationalised processes, in which local civil society and women's groups are able to leverage mechanisms to influence the peace process, are more successful in including broader social justice and economic issues. In explanation, they add that internationalised high profile processes are more difficult for local groups to access and the structural conditions that make for UN and international involvement, of mass atrocity violence and regional destabilisation, make the mobilisation of civil society including women's groups difficult. Also, the scale and intensity of the violence and its destabilizing consequences incentivises a cessation of violence, often at the cost of sacrificing the conflict resolution momentum for bringing in broader social reform, justice and democracy.

Perhaps that is why the 2003 mandate for the UN Mission in Afghanistan (UNAMA) ignored women, despite the centrality of

68 BELL, Christine and O'ROURKE, Catherine (2010), 'Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and Peace Agreements' in: *International Comparative Law Quarterly* (vol 59)

the Afghan woman's plight in the justification of humanitarian militarism. On its renewal in 2010, gender monitoring and participation was added. In Nepal, the UN Mission in Nepal (UNMIN) was given a narrow mandate to implement the Comprehensive Peace Agreement (CPA) and arms monitoring. The Council included in UNMIN's mandate a reference to the CPA preamble, which recognised the needs and the role of women in the peace process.⁶⁹

Bell and O'Rourke argue that it is 'worth considering whether the dynamics of locally-driven conflict resolution processes may be more conducive to the inclusion of civil society actors (and therefore women) and to finely balanced compromises in which a broader understanding of the root causes and consequences of conflict plays a role in enabling agreement on the military and political divisions originally viewed as central to the conflict.'⁷⁰ For instance the Northern Ireland Agreement (1998) involving a less internationalised process (notwithstanding the role of US Senator George Mitchell as mediator) saw cross community women activists re-invent themselves as a political party, the Northern Ireland Women's Coalition (NIWC), which contested elections, won a seat at the table, introduced a less confrontational, more inclusive negotiating style, brought in social and health issues and the needs of victims of conflict.⁷¹

⁶⁹ *Security Council Report*

⁷⁰ BELL, Christine and O'ROURKE, Catherine (2010), 'Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and Peace Agreements' in: *International Comparative Law Quarterly* (vol 59)

⁷¹ 'Bringing Women into Peace Negotiations', *Strategies for Policymakers* no. 2, Oct 2009,

Other evidence-based analysis by the Institute of Inclusive Security provides a more mixed assessment. Their policy briefs draw attention to the strategic interventions of several international actors (women and men) in contributing to shaping the remarkably gendered peace agreements of Guatemala and Sudan. In the Guatemalan process, often held up as incorporating gender sensitive concerns, there was a convergence of international backing and grassroots women's advocacy. Luz Mendes was the lone woman in the delegation of Guatemala National Revolutionary Unity (URNG) in the peace talks (1994-96). However indirectly, women leaders of the internationally supported Assembly of Civil Society (ACS) were enabled to influence the talks. Mendes' participation in the Beijing World Conference (supported by UNIFEM) sensitised her to the importance of gender inclusion, and ACS provided her with 'concrete recommendations for incorporating specific commitments for women's equity.' The UN Secretary General's representative and mediator in the talks, Jean Arnault strongly endorsed the inclusion of women's concerns and gave access to ACS.

Juxtaposition with the Aceh process may be useful in providing a perspective. Shadia Marhaban was the sole woman in the negotiating team of the Aceh armed group, Gerakan Aceh Merdeka (GAM). She noted that her role was to support GAM's positions in the negotiations, not to introduce women's or gender issues.⁷²

Institute for Inclusive Security

72 MARHABAN, Shadia, (2010), *Aceh: The maintenance and dividends of peace.* Peace

Lacking strong links to the various women's networks, she did not have a constituency to push such issues in the Aceh agreement (2004).⁷³ Also, the mediator and former Finnish President Martti Ahtisaari did not seek to endorse gender inclusion.

Darfur Agreement:

The process of the Darfur Peace talks (2005-6)⁷⁴ demonstrated the possibility of shaping a gender sensitive agreement when there is a convergence of 'local' women's activism and sustained international community support. By the sixth and seventh rounds of the talks all parties to the negotiations included women in their formal delegations. A neutral Gender Expert Support Team (GEST) comprising 15 Darfurian women (professionals and grassroots activists), provided technical gender expertise and this served to connect the delegation women to a wider civil society constituency. GEST was given semi-official status and access by the mediator Salim Salim, who from the sixth round was urging the greater participation of women in the delegations. International community support, especially that of the Canadian Senator Mobina Jaffer and the UN Political Affairs Officer, Primrose Oteng, strongly backed the participation of GEST in the seventh round of talks. Eventually the AU also appointed a gender advisor. International

Talks series by HD Centre retrieved at:

<http://peacetalks.hdcentre.org/2010/08/aceh-the-maintenance-and-dividends-of-peace/>

⁷³ GROSSMAN, Kristina, 'Women as Change Agents in the Transformation Process in Aceh, Indonesia' in: FLESCHENBERG, Andrea and DERICH, Claudia (eds.) (2011), *Women and Politics in Asia: A Springboard for Democracy?* (Zurich: LIT Verlag) 101

⁷⁴ *Darfur Agreement failed to produce an agreement that ended the Sudanese conflict because two of the factions refused to sign the accord with the Sudan government*

community provided logistical, technical and financial backing. Women on the formal negotiating teams participated in all three official commissions – wealth sharing, power sharing and security arrangements.⁷⁵

The difference a strategic intervention can make was evident in the Sri Lanka peace process facilitated by Norway and supported by the international Sri Lanka Aid Group. The objective condition was created by local women's mobilisation, but it was international pressure that prised open the 'male' peace process to include the participation of women, if not at the primary table at least at the secondary tables of the subcommittees. The Subcommittee on Gender (SGI) saw five women from each side of the conflict selected by the government and the LTTE, respectively. It was organised and facilitated by Astrid Heiberg, a Norwegian. The SGI was the product of the convergence of mobilisation of national women's groups and international/Norwegian backing. What anchored the process was the constitution of a broad based intra-regional women's coalition that undertook a fact finding of conflict-affected areas to identify needs and priorities and returned with the recommendation endorsing women's participation in all advisory committees. However, the subcommittee's lack of autonomy was an inhibiting factor.⁷⁶

⁷⁵ *Inclusive Security*, p.9-13

⁷⁶ *Talks were stymied before the Subcommittee on Gender could do much more than define its terms of reference*

Whether the normative emphasis and attention devoted to involving women in mediation in conflict resolution and post conflict reconstruction processes translates into raising the presently low level of women in conflict resolution, will require the overcoming a multiple of political and cultural factors. An emphasis on creating a permanent roster of qualified and trained women mediators would at least overcome one inhibiting factor which is often trotted out: where are the women? Can it really be said that this is what is holding back the participation of women?

Conclusion

The grim reckoning of a 2005 global status review of faltering peace accords⁷⁷ has jolted conflict resolution practitioners and produced a burst of scholarly and policy attention on whether there are more effective ways of resolving conflict and rebuilding more inclusive and equitable war torn societies. It is this context that gives a practical impetus to the democratic logic of translating into action the normative rhetoric of the importance of the role of women in the prevention and resolution of conflicts, in ‘mainstreaming’ gender in peace agreements and incorporating gender perspectives in the drafting of ‘new’ constitutions. Despite the reiteration of the crucial nexus between gender, conflict resolution and development, at a practical level bringing in gender perspectives has remained a marginal discourse. There is the thicket of commitments of governments at international women’s conferences and the consolidation of legal norms established by international treaty bodies and UN Security Council Resolutions. But that has failed to bridge the gap of the ‘missing’ women at the decision-making tables when peace is being made or when citizenship rights, responsibilities and equal opportunities are being mapped out in constitutional processes. However, as the growing body of empirical evidence in the preceding chapters demonstrates, incorporating gender perspectives (and involving women organising as women) not only impacts upon the democratisation of top down peace processes, but brings greater balance between power-military objectives and

77 UN Human Security Report (2005) estimated that 40 per cent of peace processes falter within five years.

the broader project of inclusion, social justice and accountability which are central drivers of conflict.

Drawing upon the evidence of more than two decades of the praxis of peace making and the workings of peace accords from Guatemala to South Africa, Northern Ireland to Nepal and Bosnia to the Philippines, this paper has unpacked the difference gender inclusion could mean to the template of the liberal peace paradigm, and practically demonstrated, how to bring in gender sensitive attention to conflict resolution and the re-building of a fractured society and establish a ‘peace economy’ that provides equal socio-economic opportunities to both women and men. Gender as a social system of hierarchy and inequality is the integral subtext of the social, economic, political and legal order. Bringing in a gender lens in peace negotiations and constitutional drafting is deeply disruptive of traditional military, political and economic assumptions. In particular, gender and militarisation touch at the deepest connections between the politics of conflict and the politics of exclusion. However, as the study warns, to leap from there to essentialising women as participating as women, is a reductive assumption that flies against the competing reality of women participating as members of their ethnic and religious community, especially in identity based mobilisations. Its corollary is the other problematic assumption of essentialising women organising as women for peace, that flies against women’s growing participation in armed opposition movements and women as perpetrators of violence.

Notwithstanding these caveats, in the conflict spots of the world women are to be found most numerous in the mass movements for peace. Also, as the body of evidence shows in the peace negotiation context, there are many instances of women at or around the table bringing a 'different voice', a different set of priorities, and a form of 'transcendent' identity politics. Gendered narratives of conflicts in Northeast India, Northern Ireland, Palestine-Israeli and Bougainville have long recognised that women used 'soft power' to defuse tension and worked across fault lines to stop the violence.

The more recent scholarly and policy focus on peace agreements has revealed the difference it makes when women are enabled to impact upon the peace process in facilitating consensual cross community and negotiating spaces, where identity is seen to be less important than common values. Women at the peace table have brought in an agenda that prioritises humanitarian and human rights concerns, attention to the suffering of victims, democratic inclusion and more equal power relations and specific attention to the rights of women. Above all, the empirical experience challenges the overly narrow militarised approach to the causes that drive and sustain conflict and demonstrates the relevance of bringing health and education issues to the designing of DDR processes in Uganda, and in drafting ceasefire agreements that go beyond managing the security concerns of the two militaries, also addressing civilian security concerns (Nagaland, India) and including sex and gender based violence (SGBV) as a ceasefire violation (Uganda). This focus questions the gendered binary of 'hard' (masculine) issues and 'soft'

(feminine) issues and argues that militarisation and security are women's issues, and that women must be at the decision making tables when the architecture of power sharing, law and governance is being built, when citizenship laws are being drafted, when customary laws are being privileged over civil law, which renders women vulnerable to local patriarchies, and when development paradigms are being adopted that risk reinforcing inequalities and the feminisation of poverty.

Taking a holistic view of the continuum of gendered vulnerability that spans the everyday lives of women and the heightened situation of conflict, the emphasis should be on ameliorating the socio-economic status of women and enhancing the rights of women and their democratic participation. The expanding area of reparations in the access to justice paradigm, including in the devising of transitional justice systems such as the second generation truth and reconciliation commissions, emphasises that the destruction of women's civil and political rights is inextricably linked with their social and economic rights. Conflict related SGBV does not occur in a vacuum, and is accompanied by displacement, disruption of livelihood, and loss of family and community.

The conflict resolution momentum creates a window of opportunity for laying the basis of transformative equal politics and equitable practices. However, a gendered analysis of the components of liberal democratic peace continues to show a persistent gap between the lofty aspirations of UNSC Resolution 1325 and state practices,

that is, in the participation of women at the decision making tables of peace negotiations; in planning democratic reforms for a post conflict society; designing DDR processes and including gender in accessing justice. In particular, while internationalised peace processes may be high on the rhetoric of women's inclusion, in practice they have been less effective in enabling gender sensitive attention, and have prioritised ending the violence even at the risk of sacrificing rights (Afghanistan). Indeed, processes in which civil society (and especially local women's groups) have been enabled to impact upon negotiations have been found to be more amenable to bringing in a broader range of issues of social justice and inclusion, which are often the root causes of conflict. A gendered examination of the Guatemala, Northern Ireland and Sudan negotiating processes shows the possibilities of gendering the texts of peace agreements through a complex convergence of local civil society activism and international agency support. Similarly, in post-peace agreements, as in the case of Nepal, women denied entry to the 'peace table' have used strategic alliance building drawing on the horizontal strength of civil society networks and the vertical reach of the international community to create a place for themselves. The current emphasis on addressing getting women a seat at the 'peace table' as signatories, negotiators, observers and mediators is aimed at addressing the persisting 'participation' lacunae. However, it is important to remember the very complex ways in which women are connected to the democratic struggles of their communities. Analysis of the Somalia and Chittagong Hill Tracts-Bangladesh 'ethnic quotas' brings out the paradox in what

is otherwise understood as a strategy for fast tracking women in political participation.

It has long been rhetorically established and reiterated that enhancing women's rights and equitable participation is transformative in the context of conflict prevention, conflict resolution and the rebuilding of war torn societies. Evidence from the field is now available to demonstrate where, how and at what point interventions should be made to make a difference. The peace momentum is too brief to squander and to miss the chance to effect transformative change.

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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 Petrasek

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

Dr. Mehmet Asutay

Dr Mehmet Asutay is a Reader in Middle Eastern and Islamic Political Economy and Finance at School of Government and International Affairs, Durham University, UK. Areas of focus include Turkish and Kurdish political economies, and Islamic political economy. He is the Honorary Treasurer of the British Society for Middle East Studies and of the International Association for Islamic Economics. His research has been published in various journals, magazines and also in book format.

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.

Yılmaz 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.

Dr. 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.

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