

**9th Torkel Opsahl Memorial Lecture
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Peace Processes, Post-Conflict Security and Women's Human Rights: the international context considered.

Introduction

In recent years, peace agreements have become pivotal moments for determining the future constitutional and legal framework of a post-conflict zone. Internationally, increasing efforts have been made to ensure the inclusion of women within all aspects of such agreements. In 1995 the Beijing Platform for Action asserted that 'in addressing armed or other conflicts, an active and visible policy of mainstreaming a gender perspective into all policies and programmes should be promoted so that before decisions are taken an analysis is made of the effects on women and men, respectively.' This vision was given further weight in the ground-breaking Security Council Resolution 1325 on Women, Peace and Security that calls upon all actors when negotiating and implementing peace agreements to adopt measures that ensure the protection of and respect for human rights of women and girls. (For the full text, see Appendix 1) The lecture given by Christine Chinkin considers some of the relationships between peace processes, post-conflict security and guarantees of women's human rights.

The norm in areas of conflict remains the inclusion of a few women in interim governments, such as in Iraq and Afghanistan, rather than the whole-hearted commitment to gender parity that has been implemented in Rwanda, where the goals outlined in the Convention on the Elimination of Discrimination Against Women (CEDAW) have formed the basis of governmental arrangements intended to ensure that genocide will never again threaten. One consequence of the years of 'troubles' in Northern Ireland has been a reluctance on the part of women to engage in politics, compounded by a male-dominated public culture which does not encourage women's participation..An indication of the serious imbalance in institutions focused upon conflict resolution has been acknowledged

by George Quigley in his review of the Parades Commission, which recommends that any future Commission must be 'reflective of gender, geography and community background.'

In 1999, when the UK government was questioned on its 3rd and 4th Periodic Reports regarding its CEDAW commitments, Francine O'Neill, Head of Gender Equality Section, NIO, acknowledged the UK government's awareness that 'women's groups had played an active part in the peace process'. The UK government was 'committed to having in place in the post-devolution period a structure to ensure women's development and progress.' Despite this, there has been little measurable change. Although a strong women's component exists within the community and voluntary sector it remains under resourced and struggles for financial support.

Research has indicated the invaluable services provided by the women's sector, ranging from welfare advice, childcare and education classes and their importance in sustaining communities fractured by conflict and social and economic deprivation. However, while women's groups have been the catalyst for general community development in some areas, their contribution tends to be taken for granted as 'women's work' and their potential for involvement within the wider community remains underestimated.

In recognition of the global imperative to ensure that women are included as equal partners in peace processes wherever they are negotiated, Resolution 1325 calls on all actors involved in negotiating and implementing peace agreements to adopt a gender perspective and urges member states to ensure increased representation of women at all decision-making levels in national, regional and institutional institutions and mechanisms for the prevention, management and resolution of conflict. Currently, countries are being asked to submit reports on the extent of their implementation of the various recommendations contained in 1325. While the UK government, in its response, has detailed activities it funds in many parts of the world to improve the

participation of women in civil and political structures, its responsibilities with regards to Northern Ireland and the participation of women in conflict resolution were not mentioned.

This background provides evidence that United Nations Resolution 1325 remains almost unknown within Northern Ireland. Publicising the existence of 1325 poses a challenge to the male-dominated political culture of Northern Ireland and will hopefully help to transform that culture. It provides women activists with a mandate that is grounded within an understanding of human rights while also providing a challenge to government, politicians, community representatives, civil servants and policy makers to work to ensure that women are included on equal terms within all organisations concerned with conflict resolution and peace building.

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Margaret Ward

Peace processes, post-conflict security and women's human rights: the international context considered

Christine Chinkin

First I must thank Democratic Dialogue for the honour of asking me to deliver the Torkel Opsahl lecture tonight.¹ I am aware that he is known and honoured in Ireland as the chair of the Opsahl Commission on ways forward for Northern Ireland, but I am more familiar with his work as a noted Norwegian human rights lawyer – in particular as a member of the UN Human Rights Committee and as chair of the Independent Commission of Experts established pursuant to UN Security Council resolution 780, 1992 to investigate grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. The Commission was concerned about reports of widespread and systematic rape and other forms of sexual assault during the conflict and through researching and investigating these crimes it was instrumental in enhancing awareness of the incidence and violence of sexual crimes— primarily but not exclusively committed against women – in armed conflict and the need to ensure legal responses. In many ways this lecture draws on all these themes – explorations for ways forward in a post-conflict society, the protection of human rights and women's human rights.

Peace Agreements

Peace agreements and international frameworks for post-conflict reconstruction that have been negotiated over the past two decades have been about much more than establishing a ceasefire and ending conflict – although of course those tasks remain central. Negotiation of such an instrument – whether through a peace treaty, or the

¹ This lecture draws on work on a research project with Hilary Charlesworth supported by a John D. and Catherine T. MacArthur Foundation Research and Writing Award on A Feminist Analysis of International Dispute Resolution.

adoption of a Security Council resolution - has become a pivotal moment for determining the future constitutional and legal framework for a post-conflict zone. Through a complex, often stop-start and lengthy process that requires a web of compromises between the various warring factions it looks to the future and addresses state and society building. Modern peace settlements cover many issues and unusually allocate responsibility for their performance. One need only think of settlements from such different parts of the world as the 1981 Paris Peace Agreement in Cambodia, the 1995 Dayton Agreement, the Bougainville Peace Agreement of 2001, Security Council resolutions with respect to Kosovo and East Timor, agreements and resolutions relating to Sierra Leone, Liberia, the DRC and elsewhere in Africa and of course the Multi-Party Agreement (Good Friday Agreement, Northern Ireland), 1998. Alongside issues relating directly to the conflict – disarmament, development, democracy, reconciliation (DDDR), territorial determinations, political power allocation, security sector reform - such settlements address a range of topics crucial to the construction of a state and state institutions, including the relationship between Nation and State; reconciling conflicting expectations of religious and ethnic minorities; organization of and participation in a modern democracy; institution and capacity building; and protecting and facilitating the actions of civil society. In addition there is often provision for the presence of international bodies, either in a military peacekeeping or civilian law-enforcement police roles (or both), or as in some recent examples in Bosnia, Kosovo and East Timor as the controlling administration with extensive legislative and executive powers. Such agreements are typically negotiated at the highest levels, between leaders of the various factions and with international mediators. Success has been varied: some agreements have collapsed totally; others have been subject to ongoing renegotiation; while others have been instrumental in directing the future course of the territory in question.

At the same time, throughout the 90s, issues of state responsibility for violations of women's human rights and violence against women, especially in armed conflict, have become prominent issues on the international agenda leading to a mass of

international treaties and declarations seeking to reconfigure gender relations through their use as tools for women's empowerment and agency. Since peace settlements are seen as a potential moment for international involvement in societal reconstruction it is not surprising that national and international women's groups urging women's empowerment have focused upon their significance for women. On the one hand inclusion of women's concerns emphasises their relevance to the restructuring of the social order and the role of women in making it effective while on the other hand silence in a peace process on the position of women perpetuates and institutionalises their marginalisation in the political processes after the conflict. It allows those implementing the agreement to commence their mandates with little or no reference to women or to how their operations and institutions impact differentially upon them. If gender relations are not addressed throughout the peace processes and are not incorporated into any peace agreement they are unlikely to be given any priority throughout the reconstruction and a window of opportunity for an integrated and comprehensive approach to peace may be lost.

UN Resolution 1325

Women's NGOs have succeeded in securing international instruments that have demanded the inclusion of women. The Beijing Conference strategic objective E.1 requires governments and international and regional institutions to: 'Take action to promote equal participation of women and equal opportunities for women to participate in all forums and all peace activities at all levels, particularly at the decision-making level'. And to: 'Integrate a gender perspective in the resolution of armed or other conflict.' Beijing was a blue-print for improvement of the status of women across the 12 critical areas of concern, but was not a legally binding document. This objective was followed five years later by Security Council Resolution 1325 on women, peace and security. This resolution requires the inclusion of women in all aspects and at all stages of conflict management, conflict resolution and post-conflict implementation and the inclusion of a gendered perspective in negotiating and implementing peace agreements and to address the special needs of women and girls during repatriation and resettlement and for

rehabilitation, reintegration and post-conflict reconstruction. SC Resolution 1325 has been followed up through two major studies and was one of the topics addressed at the annual meeting of the UN Commission on the Status of Women in March 2004.

SC Resolution 1325 therefore brings the two separate policies of gender balance and gender mainstreaming into the work of all actors in the network of processes around international peace and security – preventive action, peace-making, peace-keeping and post-conflict reconstruction. What it also does is attempt to redress the gender deficit in the Security Council and thus to enhance its legitimacy² and to bring it into line with similar policies that have been brought into other UN policy-making bodies since about the mid 1990s – they rest upon the understanding of gender as drawing attention to aspects of social relations that are culturally contingent and without foundation in biological necessity. Gender balance requires the inclusion of both women and men at all stages and in all roles within peace processes and social reconstruction, for example as members of the parties' negotiating teams or as international mediators and subsequently within national policy and decision-making bodies: the legislature, judiciary, executive etc. Gender mainstreaming is about the content of such agreements and requires gender analysis of all substantive issues. Gender analysis emphasizes relationality and thus investigates the ways in which events – conflict, post-conflict and laws and policies impact upon women and men differently. Gender mainstreaming requires a gender dimension to be integral in the design, implementation, monitoring and evaluation of policies and institutions and social spheres so that women and men are both able to benefit equally and inequality is not perpetuated. Gender balance is largely about numbers while mainstreaming is a useful and practical tool for ensuring attention to the position of women within policies and programmes.

² Di Otto, 'Securing the "Gender Legitimacy" of the UN Security Council: Prising gender from its historical moorings', forthcoming in, Hilary Charlesworth and Jean-Marc Coicaud (eds), *Faultlines of International Legitimacy* (Tokyo: United Nations University Press 2004).

However ensuring that those negotiating and implementing a peace agreement understand and are committed to the concept of gender mainstreaming is a major challenge. This is especially so when many international negotiators have no history of awareness of gender issues or of the patterns of gender relations within the particular society, or of their relevance to post-conflict reconstruction. Negotiators should ask themselves whether peace agreements should be made applicable to the entire population with the expectation that gender-specific aspects will be taken into account (that is gender neutrality) or whether gender-specific provisions should be included, (that is whether parts of the agreement should direct itself explicitly to women). It should of course do both. Gender mainstreaming should be used in addition to, and not instead of, programmes directly targeted at women where they are necessary to redress past imbalances and to address gender-specific harms.

What 1325 essentially does is to recognize that the moment offered by a peace process for societal reconstruction should include within it gender relations, alongside the other issues I have just mentioned. What I want to do in this lecture is to consider some of the progress made since 2000 which is at least partly attributable to 1325 in the negotiation of peace agreements and in post-conflict reconstruction, then to consider some of the provisions that would be included in a peace settlement if 1325 were taken seriously and resources allocated to its fulfillment, and finally to question whether 1325 – as currently understood – does indeed offer the prospect for transformative empowerment for women in a so-called post-conflict society. I am looking at these issues from the perspective of an international lawyer and am focusing primarily on examples where the Security Council has been a major player.

Before doing that however it is essential to emphasise that I am not arguing that there is an essential women's character that is inherently peaceful and associated with peace. Women should be included in peace processes not because of any inherent characteristics but because human principles of equality demand it and

because conflict is also gendered, meaning that women and men have different experiences of conflict and because an effective peace process should be built on the widest base of experience. Further, it should also be remembered that typically conflict leads to demographic change with a much higher percentage of women within society.

1325 – Making a Difference

Has 1325 made any difference in the negotiation of peace processes? Of course attempting to resolve a complex conflict is not a matter of meeting at the peace table and negotiating a peace agreement in one single event. Rather it is a continuum of events, often over a long period and taking place at all levels of society. I think there is little doubt that 1325 has been used by civil society and women's movements as an effective advocacy tool, giving leverage to claims that they should be involved in peace processes at the community level. The 1325 NGO Working Group newsletter reports that the Resolution has provided leverage for women's groups in Afghanistan, Angola, Bosnia, Burundi, Chechnya, Democratic Republic of Congo, East Timor, El Salvador, Guatemala, Iraq, the Mano River Union countries, Nepal, the Southern Caucasus and elsewhere. In many of these instances women have been active on the ground in activities that are explicitly relevant to peace processes, especially at the early stages. These may be undertaken through their own initiatives using existing networks, for example church or community groups that provide women with opportunities for training, leadership, solidarity, networking, coalition building, and developing wider experiences - beyond their village and even beyond national borders – that is making use of women's traditional tools of organising in the context of exploring means for conflict settlement. In addition it has created a basis for arguments that governments should assist women to participate in informal parallel or twin track sessions that explore process and substantive options and which involve all levels of society. Successful examples are cited by the Secretary -General in his October 2004 report. He mentions the activities of the Philippines Government in involving women in workshops and dialogues to integrate their experiences and perspectives into the peace process. Foreign governments or

international organizations such as the UN Division for the Advancement of Women and Unifem have also offered training and resources to support women's endeavours in this respect. The Security Council has undertaken field missions in which it has met with women's groups, for example in Sierra Leone, Liberia and the DRC. Initiatives of this type have also shown that women have a very clear idea about their priorities for peace and for the construction of citizenship. For example, in Bougainville women urged that 'care-centres' should be abolished and people allowed to return to their villages; that communication and transport services should be restored to Bougainville; and that non-governmental organisations and church-groups should be allowed to participate in the rehabilitation program for Bougainville. The Afghan Women's Summit for Democracy, December 2001, a 'parallel process' that was held at the same time as the summit where the Bonn Agreement was negotiated urged provisions on education, media and culture; health; human rights and the constitution; refugees and internally displaced women. Women in Burundi focused on issues to protect women and girls, including mechanisms for the prosecution of crimes of sexual violence, legalisation of women's right to inherit land and access to education for girls. Women in East Timor expressed their priorities through a Women's Charter of Rights – its ten articles listed Equality; Right to Security of the Person; Political Rights; Right to Health; Right to Education; Social Rights; Labour Rights; Tradition and Women's Rights; Right to Freedom from Exploitation; and Children's Rights.

Formal Peace Processes

However the problem is that despite such extensive grass root activity – and clearly asserted views- there remains a huge gap between these community-based processes and the formal, official negotiation process of peace settlements, that 1325 has not been able to bridge. It is clear that the number of women who participate in formal peace processes – the ones that lead to the formal instruments endorsed by the international community - remains small. The reality is that a peace process comprises the 'top tier of peace movements'. It is a classic top-down process that involve the internationals, contact groups and the representatives of the

warring parties while local communities - especially women – are typically excluded. Practical obstacles to women’s participation in these formal processes are immense – they typically take place far removed from the conflict zone, for example Dayton, Sun City, Bonn for Afghanistan, Rome for Mozambique, requiring visas, resources and time – all commodities women involved in community level activities – and simply surviving - in conflict zones may not be able easily to access. They may not even be informed of their occurrence. Cultural mores may make travel without the consent or accompaniment of a male relative impossible. A week or so ago the Security Council met in Nairobi as a way of spurring on a peace process between the government of Sudan and the Sudanese People's Liberation Movement. This was an important initiative and only the fourth time in fifty years that the SC has met away from New York – but Nairobi is still far removed from those actually involved – and while the mandate provided for meetings with the African Union and the Intergovernmental Authority for Development there was no such provision in the mandate for sessions with civil society groups.

Women’s Grass Roots Activities

The omission of women from the formal processes would not be so important if there were in place mechanisms to ensure that the outcomes generated at twin track processes were incorporated into them – with space for exchanges about them. But not only does this rarely occur, another omission is any recognition of the whole range of movements, initiatives and networks that women undertake throughout conflict and which frequently dramatically change pre-conflict gender relations. These may start as humanitarian and practical, for example shared means of acquiring food and water and maintaining schooling, or may be overtly political such as organizing to seek information about disappeared male relatives. Women may have built up communication routes through being used as go-betweens and there are many examples of collaborative working across conflict divides. Through such activities women build up data bases and form inside knowledge of the conflict patterns that mediators from outside need to have. The local conditions, the factors promoting and inhibiting peace are well known to local women and they can bring

that knowledge to the peace table and thus into the terms of settlement. But it is evident that women's activities are not seen as building political or leadership expertise; rather stereotyped assumptions about women's roles blind international negotiators to the potential of such activities to organization and leadership post-conflict. In the first case – where parallel, grass roots peace movements have been generated - the need is to build mechanisms to ensure that they are fed into the formal process. In the second, the need is to change the mind set of international negotiators to enable them to recognise pools of expertise and relevant information acquired by women through coping with and managing conflict. In both, negotiators should meet standards of transparency and accountability for their actions to the local population rather than to the US Senate. Gender balance does not mean the inclusion of a few highly placed international women, nor does it mean training a few handpicked women and delivering them as observers, but rather listening and responding to the diverse experiences of women who have lived through the conflict and facilitating their input into the process and any agreed text.

The continued exclusion of women from formal processes emphasises that despite 1325 gender relations are not seen as central to the causes or patterns of conflict and thus not relevant to reconstruction. SC 1325 does provide for women's voices to be heard and to that extent is about their agency, at least in the informal processes but it does not readily translate into further serious commitment. It is noticeable that 1325 does not spell out the roles for women as agents for social change, but rather reiterates the importance of their participation for the maintenance of peace and security, which sounds very like the essentialist or stereotyped assumptions about women as peacemakers that I earlier dismissed.

Peace Agreements and Gender

But participation is not the only issue. Even more crucial is that of content. I would like to turn to the question of what might be included within the terms framing post-conflict reconstruction if gender mainstreaming were to be taken seriously. Such settlements are typically framed in gender neutral language, that is, they are

assumed to be equally applicable to all and to be equally appropriate for the needs of women and men within the relevant society. Again SC 1325 has made some numerical difference - the Secretary-General notes in his October 2004 *Report on Women, Peace and Security*³ that 15.6 % of Security Council resolutions between January 2000 and June 2004 paid attention to gender and women's concerns, an enormous increase on resolutions in the first 55 years of the Council's existence. Security Council mandates take account of gender but such resolutions are less about transformation of gender relations than about ensuring the protection of women (and of other vulnerable groups) and the end of impunity for crimes of sexual violence and abuse. The substance of these resolutions is typically in the context of protection and criminal justice. An example is the Resolution with respect to the Democratic Republic of Congo, where the UN Organisation's Mission to DRC was set up following the Lusaka Peace Agreement. MONUC's mandate includes that it 'assist in the promotion and protection of human rights with particular attention to women, children and vulnerable persons'. This is the only mention of women, who are thus included in a list of vulnerable persons and without any positive assertion that they are also active players in societal transformation. Nor is there much questioning that their interests and priorities in reconstruction are identical to those of the men.

Obviously I cannot itemize all issues relevant to women that might be included in a peace agreement – and in any case there can be no template but must be context specific. Nor of course is it possible to assert women's needs and priorities for these too will depend upon the specific experiences during conflict – the immediate needs of the former woman combatant are likely to be very different from those of the woman who has been abducted, raped and is HIV/AIDS positive or from those of the woman who has spent years of conflict in a refugee camp in a neighbouring country and on her return is unable to access her home. However in one aspect local specificity has routinely given way to universal assumptions – especially when the

³ UN Doc. S/2004/814.

process is driven by western negotiators. There is a commitment to transform the conflict zone through the liberal concepts of democracy, the protection and promotion of human rights and the rule of law to provide the necessary stability and climate for foreign economic investment as a means for state and society building. This mantra is seen as the way to transform a failed or rogue state into a viable member of the international community. However feminist critique of these key concepts—democracy, the rule of law and human rights—has found them all to be problematic for women. Feminist scholars and activists have challenged these concepts as providing a gendered vision for the reconstructed state that assumes male subjects and excludes women from its ambit. The rule of law has been shown to be based upon male premises about law and governance, the ideal or universal citizen is male, and democracy fails to deliver on its promise to women. International human rights law has been presented as predicated upon protecting men from state intervention in areas of predominant concern to men rather than upon guaranteeing human dignity and optimum choice to all individuals. A peace agreement that seeks to ensure a transformed future for women as well as men must take heed of the gendered nature of all of these concepts and seek to apply them in ways that assert the positive and participatory citizenship of women.

Human Rights

In the time that is left I want to make some very brief comments about two issues that are central to such an objective – human rights and gendered violence. The inclusion of human rights, including equality provisions, has become an accepted content of post-conflict arrangements, for example through a full listing of treaties as in Dayton or through specific references to particular provisions. However inclusion of human rights instruments is insufficient to guarantee to women the same protection of their rights as men. There must also be understanding of the concept of women's human rights, their incorporation into national law and a commitment to their implementation. At a minimum, if the state is not a party to the Convention on the Elimination of All Forms of Discrimination against Women, provision should be made for assistance to it to ratify or accede to the Convention – as has been the

case with both Afghanistan and East Timor. Further, civil and political rights should be understood in the terms put forward by the Human Rights Committee in its General Comment 28 on equality between women and men so that the ‘State party must not only adopt measures of protection but also positive measures in all areas so as to achieve the effective and equal empowerment of women.’ This requires identification of the factors which impede the equal enjoyment by women and men of each right specified in the Covenant, including economic and social subordination. From this perspective resettlement, rehabilitation, reintegration and post-conflict reconstruction – identified in 1325 as areas where the special needs of women must be given account - are misnomers for women. These concepts all assume an element of going back, restoring people to a position or capacity that previously existed. But this is not necessarily achieved by the goal of societal transformation, that is, what is sought is not restored dependence and subordination but rather an enhanced social position and standards of women’s human dignity and autonomy that may never have previously existed, but which may have been generated by women’s activities throughout the conflict.

Economic and Social Rights

Such an objective must also include full attention to the guarantees of women’s economic and social rights. But where peace agreements have included human rights, typically economic, and social rights are given less priority than the more market friendly civil and political rights, or are entirely excluded. For example at Dayton, the European Convention on Human Rights – primarily a civil and political rights instrument is made part of domestic law in Bosnia-Herzegovina, while the European Social Charter is not mentioned. Where mentioned at all economic and social issues may be placed in a separate section of the agreement from human rights. The guarantee of economic and social rights has been considered especially significant for women’s pursuit of citizenship on a basis of equality with men, not least because of the economic dependence and vulnerability to violence that is created by inequality in this respect. In the assertions of women’s priorities mentioned above economic and social rights were high – that is demands for

economic security, especially non-discrimination in access to education, to health care and to land. Employment is another priority – meetings with women from Iraq mention this as the overwhelming concern. The obstacles that women face post-conflict in realising economic security such as discrimination in employment and in access to credit, in the short term enhance their dependency on the international institutions who too often see them as ‘cheap service providers’.

Lack of economic security also limits women’s potential political participation and increases their vulnerability to the risk of being trafficked, which has become a feature of many a post-conflict zone, with its long term adverse effects on social acceptance. Further, demands for economic and social rights are at odds with programmes for economic reconstruction, including the privatisation of services, that reduces the availability of social safety nets. Thus guarantees for human rights are given only a limited meaning – attention to civil and political rights rather than the more far-reaching rights-based approach to economic development.

As is only too evident from Iraq, post-conflict is another misnomer and one with gendered consequences. Women continue to face particular threats to their security, through gendered violence that is committed in ways still connected to the conflict and its aftermath. The location may shift from military violence to criminal violence from the collapse of law and order but its incidence restricts women’s movement and their access to sites of reconstruction. Continued violence may be discounted – for example where the conflict has removed a regime notorious for its violent subordination of women and that objective was used as one of the justifications for war - as in Afghanistan. To acknowledge the many levels and forms of violence women now face would undermine the verdict of a successful international intervention. But what has been very apparent is that even where participation of some women in the post-conflict constitutional order has been guaranteed, for example in Afghanistan, or East Timor (due primarily to the leverage mentioned

earlier), security for women as a whole has not been enhanced.⁴To quote Ritu Sharma, executive director of a Washington-based advocacy group Women's Edge Coalition 'Afghan women are not doing as well as many want to believe. Lack of security and an increase in sexual violence against Afghan women have made it nearly impossible for them to get jobs or attend school'. Women and girls are being subjected to rapes, beatings, kidnappings and other forms of intimidation that are preventing them from going to their jobs or schools, ... or just going about their daily business. Thus paradoxically at the same time as the formal participation of women is increasing – that is implementation of at least some civil and political rights - the security of the majority of women was lessened as gendered violence has soared in the post-conflict environment.

Post-conflict gendered violence against women continues not just through public violence but also in the household through increased rates of domestic violence. Research consistently shows high rates of domestic violence in the aftermath of conflict. For example, in 2001 in East Timor (that is during the period of UNTAET) 40% of officially reported offences were violent crimes against women and statistics suggest that most reported cases to the police involved domestic violence. Such violence is committed by those suffering from post traumatic stress, by men returning to households headed by women during the war, by men facing dislocation and unemployment on return, by the continued presence of arms. The destruction of communities in the conflict and privatization as part of post-conflict reconstruction may also mean the loss of social structures that might previously have offered a safety-net against such violence.

One response is to ensure that provision is made to deal with violence that occurred to women during conflict – through one of the many models of transitional justice.

⁴ Di Otto, 'Securing the "Gender Legitimacy" of the UN Security Council: Prising gender from its historical moorings', forthcoming in, Hilary Charlesworth and Jean-Marc Coicaud (eds), *Faultlines of International Legitimacy* (Tokyo: United Nations University Press 2004).

Impunity signals that violence against women is not a high priority within the reconstructed state. However this is not sufficient and whichever criminal justice model is adopted, the need for other measures such as the provision of safe places for those who have testified, health care and counselling and other practical services to facilitate the reintegration of rape victims must also be provided. Post-conflict arrangements typically make provisions for the reintegration of soldiers – usually men – back into society, while rape victims or women who have been abducted are given no such assistance. Attention should be given to ways of exposing attitudes that condemn or ostracise women and men who have suffered sexual abuse. This is well expressed by an East Timorese woman:

‘Why is it that men who are tortured by the military forces are seen as heroes whereas women who are tortured (including rape) are seen as traitors?’

This double standard excludes women from rehabilitation measures – and also makes a deep-rooted statement about the gendered basis of citizenship within the newly constituted state – setting up paradigms of ‘good’ and ‘bad’ women even as reconciliation is sought between groups divided on ethnic lines. Focus upon addressing ethnic or religious differences that fuelled the conflict can obscure continued sex-based discrimination and stereotyping of this sort and places ongoing violence against women into a continuum that renders meaningless any notion of post-conflict. The agreement should expressly require the state to accept the obligation to exercise due diligence in the prevention, punishment, and eradication of violence against women, for example by the incorporation into national law of the principles and recommended measures contained in the 1993 General Assembly Declaration on the Elimination of Violence Against Women. For ongoing violence, measures such as safe places for reporting violence, secure refuges, training of police officers, judiciary, those offering social aid, housing officials and health personnel in dealing with violence against women should be given priority.

The UN and Protection for Women's Rights

There is another aspect that is deeply troubling. The presence of UN and other institutional - such as NATO - military forces is approved to secure post-conflict reconstruction. These may be backed by international civilian forces. The presence of such forces can provide a safe space for the civilian population in place of the conflict and fear of attack that preceded their mobilisation. Nevertheless the presence of international forces can have a detrimental impact upon the security of local women from two perspectives. First, there is some suggestion that increased violence against women within their own communities can be understood as a renewed emphasis on traditional values against the intrusion of western values through international intervention. There may be an unwillingness on the part of the internationals to insist that cultural traditions can never justify violence and instead a readiness to trade women's security against other more important political imperatives – constitutions and elections. [Amazing how a state that has intervened – used force, destroyed infra-structure - suddenly decides that insisting upon women's security is intervening in internal matters.] At the same time international forces comprising large numbers of unattached men create their own physical security concerns for women and can contribute to a still further reduced social status. As seen in Cambodia, Bosnia, Somalia, Mozambique and most recently in the DRC, the presence of international forces creates the potential for sexual abuse, increased prostitution including sex in exchange for food for the women's children and child prostitution rings - as reported this year in the DRC - sexual violence and connivance or even participation in trafficking.

Bringing charges against members of UN forces is complicated by the fact that they are posted for short terms and are unlikely to ever face a military investigation. Once the person is repatriated – the only disciplinary action that the UN can take - it no longer has legal authority to follow up the investigation and cannot ensure that a repatriated soldier will face prosecution. Even repatriation is not always carried out and disciplinary actions may be taken against those who alert others to the commission of such offences. The case of Kathryn Bolkovac, a member of the

international peacekeeping task force in Bosnia-Herzegovina is illustrative. She informed her employers that other UN personnel were involved in trafficking and prostitution of young girls in Bosnia-Herzegovina. She was demoted and then subsequently sacked while the employees in question were moved to other posts. None faced disciplinary action.

Steps can however - and must be taken - to ensure protection of the local community. For example, checks against recruitment of personnel with criminal records of violent behaviour or sexual harassment, especially where recruitment is carried out through private agencies; the provision of appropriate and regular training in gender relations and cultural mores, including awareness of the potential for social exclusion of women who suffer sexual abuse or have sexual relations with foreign men; acceptance of codes of conduct for international personnel, making sure that such codes are seen to be monitored and to lead to appropriate disciplinary action when violated; removal of immunity from criminal procedure in local courts for those accused of criminal activity, including sexual violence; safeguards against the re-deployment elsewhere on another international mission of anyone who has been dismissed for violations of the code of conduct.

However even if fully implemented these steps would not be sufficient to ensure women's autonomy for they are primarily protective. There is a broader concern that I have already touched upon in the context of human rights and in a sense it suggests that despite their obvious benefits, the objectives of 1325 - gender balance and gender mainstreaming – still offer only a limited vision. In his 2004 Report, the Secretary-General asserts the goal of gender balance within peacekeeping activities to be the most significant progress in the implementation of SC 1325. The leverage I referred to earlier has led – with some hiccups - to the formation of gender units and gender advisors within international forces. The Secretary-General reports that there are now ten full-time gender adviser positions in seventeen peacekeeping operations – and their mandate is to ensure gender mainstreaming within such operations. I do not want to decry the importance of such

initiatives but there are shortcomings. First, the inclusion of women does not extend to senior posts such as special representatives of or advisers to the Secretary-General – where currently 4 out of 63 are women; second, the inclusion of gender in post-conflict reconstruction is seen as a technical issue. This is illustrated by the Secretary-General's comment that 'gender units and advisers in peacekeeping operations are working to provide technical guidance to the heads of operations.' Technical assistance is accompanied by training and there is an impressive list of training initiatives and manuals included in the latest report. But offering technical assistance and training is in fact doing little more than 'adding gender and stirring' – it offers little to a thorough-going rethinking and reformulation of the position of women within society. Nor does it question the basic concept of security that 1325 envisages, that of military security – that military force is the appropriate instrument to secure a post-conflict society – and that inclusion of women within this model is the way to ensure women's active and full participation within post-conflict society. But finally this model of security does not investigate or challenge power relations within the state; it assumes an active, finite episode of military intervention in response to a security crisis and leaves undisturbed other forms of intervention such as the economic policies demanded by the IFIs, which have well documented detrimental consequences for women. The connection of security and military activity reinforces the values of militarism and the assumption that military activity is the appropriate way of constructing an orderly and stable society. Such militarism also imposes a particular construction of masculinity which determines how women are treated within the state. Focus upon military security is an impoverished view of security which repeats the stereotype of male protectors of women and fails to engage either women or men with the project of building global security based on true gender equality and human rights as a vision of economic and social justice. What is needed is a framework to promote a feminist conception of security encompassing legal security, economic security, social security, physical security and relational security. To quote Di Otto:

Unless women's participation also brings about a fundamental shift in thinking about peace and security, it risks repeating the gendered production of women as natural peace-makers (and its militaristic masculine converse) by engaging women in the limited project of aiding transition from armed conflict to a 'peace' that remains militarised and therefore insecure for everyone. For women's participation to make a difference in a substantive way, women *and men* must find ways to breathe life into the Resolution so that it can be used to reject the gendered discourse of militarism.⁵

Such a vision is of course ever further away as militarism is now the security obsession in the war against terrorism. I have already remarked on the instrumentalisation of women's human rights in the war against terror in the context of Afghanistan: paradoxically women's human rights are both discounted and promoted to further foreign policy objectives that have no connection with our rights.⁶ The war on terrorism is being used to justify curtailment of rights in what had been considered secure societies, and when we are all mid-conflict the concept of post-conflict reconfiguration of social relations becomes devoid of any content. Further, where there is no peace process – but rather de facto military occupation with the Security Council attempting to assert a role for itself – there is no legal framework or mandate for issues of gender equality and priorities are determined by the occupier. Although I have critiqued the limited vision of Security Council Resolution 1325 our task now is to ensure that we do not lose even that vision.

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⁵ Di Otto, 'Securing the "Gender Legitimacy" of the UN Security Council: Prising gender from its historical moorings', forthcoming in, Hilary Charlesworth and Jean-Marc Coicaud (eds), *Faultlines of International Legitimacy* (Tokyo: United Nations University Press 2004).

⁶ Ariane Brunet, 'Women's equal participation in conflict prevention, management and conflict resolution and in post-conflict peace-building, statement to the CSW, Panel I, March 2004.

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Democratic Dialogue

Democratic Dialogue is an independent think tank based in Belfast. It was established in 1995 to encourage fresh political thinking, broaden participation and to work in partnership with a wide spectrum of organisations in problem-solving. Democratic Dialogue is a charity. Its original intent was to produce regular substantial reports on key policy concerns, carrying forward the participatory ethos of the independent Opsahl Commission. In memory of the distinguished contribution made by Torkel Opsahl to Northern Ireland, Democratic Dialogue organises an annual Memorial Lecture in his name.

Appendix 1

UNITED NATIONS SECURITY COUNCIL RESOLUTION 1325 ON WOMEN, PEACE AND SECURITY

Security Council Resolution 1325 was passed unanimously on 31 October 2000. Resolution (S/RES/1325) is the first resolution ever passed by the Security Council that specifically addresses the impact of war on women, and women's contributions to conflict resolution and sustainable peace.

The Security Council,

Recalling its resolutions 1261 (1999) of 25 August 1999, 1265 (1999) of 17 September 1999, 1296 (2000) of 19 April 2000 and 1314 (2000) of 11 August 2000, as well as relevant statements of its President and recalling also the statement of its President, to the press on the occasion of the United Nations Day for Women's Rights and International Peace of 8 March 2000 (SC/6816),

Recalling also the commitments of the Beijing Declaration and Platform for Action (A/52/231) as well as those contained in the outcome document of the twenty-third Special Session of the United Nations General Assembly entitled "Women 2000: Gender Equality, Development and Peace for the twenty-first century" (A/S-23/10/Rev.1), in particular those concerning women and armed conflict,

Bearing in mind the purposes and principles of the Charter of the United Nations and the primary responsibility of the Security Council under the Charter for the maintenance of international peace and security,

Expressing concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and recognizing the consequent impact this has on durable peace and reconciliation,

Reaffirming the important role of women in the prevention and resolution of conflicts and in peace-building, and stressing the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution,

Reaffirming also the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts,

Emphasizing the need for all parties to ensure that mine clearance and mine awareness programmes take into account the special needs of women and girls,

Recognizing the urgent need to mainstream a gender perspective into peacekeeping operations, and in this regard noting the Windhoek Declaration and the Namibia Plan of Action on Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations (S/2000/693),

Recognizing also the importance of the recommendation contained in the statement of its President to the press of 8 March 2000 for specialized training for all peacekeeping personnel on the protection, special needs and human rights of women and children in conflict situations,

Recognizing that an understanding of the impact of armed conflict on women and girls, effective institutional arrangements to guarantee their protection and full participation in the peace process can significantly contribute to the maintenance and promotion of international peace and security,

Noting the need to consolidate data on the impact of armed conflict on women and girls,

1. **Urges** Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict;
2. **Encourages** the Secretary-General to implement his strategic plan of action (A/49/587) calling for an increase in the participation of women at decision-making levels in conflict resolution and peace processes;
3. **Urges** the Secretary-General to appoint more women as special representatives and envoys to pursue good offices on his behalf, and in this regard calls on Member States to provide candidates to the Secretary-General, for inclusion in a regularly updated centralized roster;
4. **Further** urges the Secretary-General to seek to expand the role and contribution of women in United Nations field-based operations, and especially among military observers, civilian police, human rights and humanitarian personnel;

5. **Expresses** its willingness to incorporate a gender perspective into peacekeeping operations and urges the Secretary-General to ensure that, where appropriate, field operations include a gender component;
6. **Requests** the Secretary-General to provide to Member States training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in all peacekeeping and peace-building measures, invites Member States to incorporate these elements as well as HIV/AIDS awareness training into their national training programmes for military and civilian police personnel in preparation for deployment and further requests the Secretary-General to ensure that civilian personnel of peacekeeping operations receive similar training;
7. **Urges** Member States to increase their voluntary financial, technical and logistical support for gender-sensitive training efforts, including those undertaken by relevant funds and programmes, inter alia, the United Nations Fund for Women and United Nations Children's Fund, and by the United Nations High Commissioner for Refugees and other relevant bodies;
8. **Calls** on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia: (a) The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction; (b) Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements; (c) Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary;
9. **Calls** upon all parties to armed conflict to respect fully international law applicable to the rights and protection of women and girls as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention Security Council - 5 - Press Release SC/6942 4213th Meeting (PM) 31 October 2000 on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court;

10. ***Calls*** on all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict;
11. ***Emphasizes*** the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, war crimes including those relating to sexual violence against women and girls, and in this regard, stresses the need to exclude these crimes, where feasible from amnesty provisions;
12. ***Calls*** upon all parties to armed conflict to respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls, including in their design, and recalls its resolution 1208 (1998) of 19 November 1998;
13. ***Encourages*** all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependants;
14. ***Reaffirms*** its readiness, whenever measures are adopted under Article 41 of the Charter of the United Nations, to give consideration to their potential impact on the civilian population, bearing in mind the special needs of women and girls, in order to consider appropriate humanitarian exemptions;
15. ***Expresses*** its willingness to ensure that Security Council missions take into account gender considerations and the rights of women, including through consultation with local and international women's groups;
16. ***Invites*** the Secretary-General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution, and further invites him to submit a report to the Security Council on the results of this study and to make this available to all Member States of the United Nations;
17. ***Requests*** the Secretary-General, where appropriate, to include in his reporting to the Security Council, progress on gender mainstreaming throughout peacekeeping missions and all other aspects relating to women and girls;
18. ***Decides*** to remain actively seized of the matter."

Appendix 2

UN SECURITY COUNCIL RESOLUTION 1325 - WOMEN, PEACE AND SECURITY- AND NORTHERN IRELAND

On October 31, 2000 the United Nations Security Council passed Resolution 1325 on Women, Peace and Security. For the first time ever, the Security Council turned its full attention to the subject of women and armed conflict and acknowledged the role of women as active agents in the negotiation and maintenance of peace agreements.

Resolution 1325 calls for

- Participation of women in peace processes
- Gender training in peacekeeping operations
- Protection of women and girls and respect for their rights
- Gender mainstreaming in the reporting and implementation systems of the United Nations relating to conflict, peace and security.

UN Resolution 1325 not only recognizes that women have been active in peace-building and conflict prevention, it also acknowledges women's right to participate – as decision-makers at all levels – in conflict prevention, conflict resolution, and peace-building processes. Security Council resolutions are binding on all member states of the United Nations. The United Kingdom and Irish governments are mandated to:

- Increase women's representation at all decision-making levels
- Fund and provide support for gender sensitive training
- End impunity and prosecute those responsible for gender-based violence
- Adopt measures to support local women's peace initiatives
- Involve women in all stages of peace processes

Statistics for Northern Ireland

- 16% of women in the NI Assembly
- 19% of women in local government
- 32% of women on public boards
- No women high court judges
- Two out of fifteen county court judges are women
- Two out of nineteen members of the Policing Board are women
- 16.5% women in the Police Service of Northern Ireland
- No women commissioners on the Parades Commission
- Specific provision for women's sector and for childcare to be deleted in extension to Peace II Programme

British and Irish Government commitment to Resolution 1325

“First it is important to remember that women are not solely victims of war. They also make tremendous contributions to conflict resolution, conflict management and peacebuilding...We should ...see them as potential participants, particularly in peace processes. For example, in our own national experience, women’s organisations in Northern Ireland play an ongoing, important role in the peace process. Second, and following on from that, NGOs in civil society are important players in promoting peace and reconstruction and in protecting women’s rights.”

Sir Jeremy Greenstock, Permanent Representative of the United Kingdom of Great Britain and Northern Ireland, in the Security Council on UK Intervention: Security Council Open Debate on Women, Peace and Security, 28 October 2002

“Conflict prevention is a huge field, but the role of gender is immensely important. We need to keep saying that until it is second nature. We must also remain committed to raising awareness of the positive role that women can play in peace building and reconciliation – not just seeing women portrayed solely as victims. We have heard today encouraging accounts of the positive impact that women can have.

The Council has a key role to play both in giving real meaning to the provisions of SCR1325, and holding both the UN system and ourselves to account.”

Sir Emyr Jones Parry, Permanent Representative of the United Kingdom of Great Britain and Northern Ireland, in the Security Council on UK Intervention: Security Council Open Debate on Women, Peace and Security, 29 October 2003

“The vital role of women in conflict resolution is recognised by UN Security Resolution 1325 which stresses the need to involve women in all aspects of peace-building and peace-keeping, and to have the perspectives of women integrated, as a matter of course, into conflict prevention activities.

The dividends and benefits of involving women in conflict resolution are clearly evident in Northern Ireland, where women played and continue to play a pivotal role in building peace and are essential contributors to the ongoing process of fostering reconciliation in Northern Ireland. “

Irish Government, Department of Foreign Affairs, 1 December 2003

Women's organisations around the world are working to hold governments accountable for the commitments they made in Resolution 1325. Implementation of Resolution 1325 in Ireland is an important part of the struggle to end war and to build sustainable peace.

If you are interested in finding out more, contact:

[1325 PeaceWomen E-Newsletter at http://www.peacewomen.org](http://www.peacewomen.org)