

African Women for Peace

Advocacy Magazine - Special Edition
September 2005



Gender Justice in Post-conflict Countries in
East, Central and Southern Africa



Centre for
Human Rights
UNIVERSITY OF PRETORIA



TABLE OF CONTENTS

	Preface	1
1	The role of the African Union machinery in promoting gender justice in post-conflict societies <i>Dr Monica Juma</i> <i>Senior Analyst, SaferAfrica, Pretoria, South Africa</i>	3
2	Integrating human rights in United Nations peace-building activities: Developing gender justice best practices <i>Katarina Mansson</i> <i>Raoul Wallenberg Institute for Human Rights and Humanitarian Law, Lund, Sweden</i> <i>Doctoral Fellow, Irish Centre for Human Rights, National University of Ireland, Galway</i>	7
3	Unequal before the law: Equality Now's Beijing + 10 campaign to end discriminatory laws in Africa <i>Faiza Mohammed</i> <i>Africa Regional Director, Equality Now, Africa Regional Office, Nairobi, Kenya</i>	11
4	Building capacity for a more peaceful future: The University for Peace experience <i>Dr Dina Rodriguez</i> <i>Director, Department for Gender and Peace Studies, University for Peace, San Jose, Costa Rica</i>	12
5	Women taking their place at the peace table: The Inter-Congolese Peace Dialogue <i>Dr Marjorie Jobson</i> <i>Training Co-ordinator, All Africa Women for Peace, Pretoria, South Africa</i>	13
6	Gender justice challenges and prospects in Darfur <i>Abdelbagi A. M. Jibril</i> <i>Executive Director, Darfur Relief and Documentation Centre, Geneva, Switzerland</i>	23
	African women's pledge to the African Union Pledging Conference on Darfur <i>26 May 2005, Addis Ababa, Ethiopia</i>	28
7	Gender justice? What's missing? : A Zimbabwean perspective <i>Prof Julie E. Stewart</i> <i>Director: Southern and Eastern Africa Research Centre for Women's Law , University of Zimbabwe, Harare, Zimbabwe</i>	28
8	Gender justice and the conflict in Northern Uganda <i>Eva Luswata-Kawuma</i> <i>Advocate of the Courts of Judicature, Kampala, Uganda</i>	33
9	A tangled web: Genocide, conflict, and gender justice in Rwanda <i>Elizabeth Onyango</i> <i>Human Rights lawyer and programme co-ordinator, African Rights, Kigali, Rwanda</i>	40
	Bibliography	45

PREFACE

We, the Heads of State and Government of Member States of the African Union, meeting in the Third Ordinary Session of our Assembly in Addis Ababa, Ethiopia, from 6-8 July 2004:

...

Concerned that, while women and children bear the brunt of conflicts and internal displacement, including rapes and killings, they are largely excluded from conflict prevention, peace-negotiation, and peace-building processes in spite of African women's experience in peace-building;

...

HEREBY AGREE TO:

...

2. Ensure the full and effective participation and representation of women in peace processes, including the prevention, resolution, management of conflicts and post-conflict reconstruction in Africa as stipulated in UN Security Council Resolution 1325 (2000) and to also appoint women as Special Envoys and Special Representatives of the African Union;

...

Extract from the Solemn Declaration on Gender Equality adopted by African Heads of State and Government on 6 July 2004.

During a country's transition to peace, unique opportunities emerge to promote gender equality and gender justice, particularly in the context of peace negotiations and post-conflict reconstruction processes and structures. Taking account of the needs, capacities and constraints of women in post-conflict countries, the United Nations Development Fund for Women (UNIFEM) seeks to promote their full participation in and contribution to peace processes and related decision-making bodies as well as the rehabilitation and reconstruction processes, including in the development of institutional policies and structures.

Given the importance of strengthening the legal foundations of a post-conflict society as a cornerstone of peace-building and restoring public trust, UNIFEM's programmes seek, through building strategic partnerships and technical support, to (a) enhance the focus on achieving gender equality in constitutional, legislative, and judicial reform and (b) facilitate women's equal participation and decision-making in those processes and institutions. To this end, UNIFEM has partnered with the Gender Unit of the University of Pretoria Centre for Human Rights to produce this special edition advocacy magazine to highlight the specific gender justice issues facing women in post-conflict societies in Southern, Eastern and Central Africa.

The articles in this magazine offer fresh and analytical perspectives on topics ranging from the role of women in the Inter-Congolese peace process to the gender justice dimensions of the conflict in Darfur. New opportunities are explored as we consider the role of the African Union in promoting gender justice in post-conflict societies and the development of gender justice best practices in integrating human rights in United Nations peace-building activities. Country-specific contributions provide valuable insights with regard to gender justice challenges in Zimbabwe, Rwanda and Northern Uganda.

The authors are scholars and practitioners with vast experience in, and knowledge of, the gender justice dimensions of conflict and peace-building. They bring first hand accounts of the realities and challenges faced by those promoting gender equality in post-conflict situations in Africa.

A Conference on Gender Justice in Post – Conflict Situations was organized by UNIFEM and the International Legal Assistance Consortium (ILAC) in September 2004. By giving visibility and context to gender justice issues in post-conflict situations in East, Central and Southern Africa, we hope that this publication will add to the momentum and rich debate generated by this Conference.

(For the Conference report, please see: http://www.womenwarpeace.org/issues/justice/gender_justice_conference.htm)

Hodan Addou
UNIFEM Regional Peace and Security Advisor
for East and Southern Africa
Nairobi, Kenya

Elize Delpont
Gender Advisor
Centre for Human Rights, University of Pretoria
South Africa



The role of the African Union machinery in promoting gender justice in post-conflict societies

Dr Monica Juma

Gender justice in post-conflict societies

Post-conflict situations pose a number of challenges to the reconstitution of justice – broadly taken to encompass the set of norms and principles that assign rights and duties, and guarantee appropriate distribution of benefits and burden among societal members. Effective justice ensures due process, engenders a sense of fairness and forms a basis for public law and order, whose breakdown is a major source of conflict in the first place. In other words, attainment of justice and reconciliation guarantees the rule of law and the protection of private and collective property. Challenges relating to retribution, restoration and/or healing in post-conflict situations are compounded when viewed through a gender lens. This paper flags out, in a summarised form, some of these challenges and suggests ways in which the African Union (AU) can utilise its mandate to promote gender justice in post-war countries.

Usually, justice systems and structures are among the first to collapse at the onset of conflict. This reality accentuates the level of injustice that women confront during active conflicts. Disruption and breakup of familial, social and community structures of protection as well as the involvement of men in prosecuting war, expose women to numerous levels of insecurity and injustices. Furthermore, efforts to deal with injustices committed during, or after, war are complicated by the heinous character and nature of violence perpetrated against women. In all major African conflicts from Liberia, Sierra Leone, DR Congo, Rwanda, Burundi, Northern Uganda, Southern Sudan to Somalia, women have been subjected to war crimes including rape, physical violence, assault, destitution and prolonged physical and psychological insecurity emanating from the loss of social networks and protection. In extreme situations, women have been targets of war, part of the war game and/or booty. No wonder statistics the world over indicate women to be the main victims of war. Attainment of justice in post-conflict situations therefore cannot escape dealing with gender specific crimes and injustices as a basis for consolidation of peace. Failure to do so meaningfully not only increases the vulnerability of women in 'peace' times, but also means violations against women could continue unabated.

Attention in addressing gender justice needs to focus at two levels: First are the issues in the normative realm that sets forth the norms, principles, standards and benchmarks that guarantee justice. In other words, what choice does a country emerging from conflict adopt in terms of the justice system? It is imperative that women effectively participate in determining the national choice; otherwise reconstruction runs the risk of excluding a large section

of the population. A second set of issues relates to the transformation of institutions and ethos in ways that enable women to take full advantage of opportunities that the reconstruction agenda presents. The AU has the potential to reinforce both these levels of engagement in all aspects and activities of post conflict reconstruction.

AU mandate and role in promoting gender justice

The AU has a central role in the promotion of justice, including gender justice, in post-conflict societies. Broadly, this mandate is derived from article 5(2) of the AU Constitutive Act, which provides for the establishment of a Peace and Security Council (PSC). This Council is a standing decision-making organ responsible for the prevention, management and resolution of conflicts, including post-conflict reconstruction. More specifically, the Council was created, to promote and implement peace-building and post-conflict reconstruction activities and to consolidate peace and prevent resurgence of violence, as well as to promote and encourage democratic practices, good governance and the rule of law, protect human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law, as part of the efforts for preventing conflicts (articles 3(c) and (f) of the Protocol Relating to the Establishment of the Peace and Security Council). This involves restoration of the rule of law, establishment and development of democratic institutions, consolidation of peace agreements, reconstruction of the societal and governmental institutions, implementation of disarmament, demobilisation and reintegration of refugees and internally displaced persons, humanitarian action and disaster management. The manner in which these activities are conceived and implemented has implications for the extent to which women can claim and access justice in post-war situations.

While the AU has a well-articulated mandate for post-conflict reconstruction, the Protocol only makes flirting references to gender-specific issues in post-war situations. Women are conceived as targets of intervention and lumped with other categories of 'vulnerable' groups, namely children and the elderly (Article 14(e)). Although positive interpretation of this provision could address issues specific to gender needs and injustice, this is not provided for explicitly and remains a matter of speculation.

The on-going work of crafting an AU framework for post-conflict reconstruction provides a great opportunity for the AU to promote gender justice. It should be recognised that war impacts women and men differently. The reconstitution of a society, including its justice systems and practices, may require new and innovative

frameworks and structures that differ from those in place before the outbreak of conflict. In other words, pre-war institutions may be incapable of addressing crimes committed during or after the war, and the consequences of such crimes. Experiences across the continent indicate a great desire to address gender (in)justice and inequality, especially in areas that have traditionally been of concern, such as participation in decision making, economic empowerment, issues of property and access to credit. While these are important and need to be pursued, it is critical to note that war transforms societies and communities seldom return to their exact pre-war order. Reconstruction should thus be considered an opportunity for the innovative reconstitution or creation of structures that open up new horizons for female empowerment and enhance gender justice.

Elements of post-conflict reconstruction

In crafting the framework, the AU should also be guided by the spirit of gender equity and the principle of gender empowerment across all the issue areas that constitute a comprehensive strategy for post-conflict reconstruction namely security, political and democratic transformation, socio-economic well-being, human rights and justice, and humanitarian relief and assistance.

Security

Within the African renaissance vision, security is a basic prerequisite for sustainable development. Conventionally, reconstruction in security comprises efforts to secure the society, its environment and the re-establishment of territorial authority of the state. Clearly, the provision of physical security is a core responsibility in recovery. However, the protection of women can only be attained through a nuanced conceptualisation of physical, societal and environmental security. So, for instance, border and immigration control and security could become issues of central concern if the abuse of women has metamorphosed into human trafficking across borders. In the same way, the implementation of a comprehensive and well-blended programme of DDDR would have to address issues relating to girl-child combatants or the needs (medical and otherwise) of girls that may have been subjected to abuses as bush or war wives, or are carriers or victims of diseases, including STDs and HIV/AIDS, acquired during the war. At the community level, women can be exposed to insecurity in a number of forms, thus turning women that were victims of war into victims of peace time. So, for instance, abuse in war time could be construed as an embarrassment, dishonour or shame to their families and communities. Children born from acts of rape or association with 'enemies' could become targets of attack, including death by family/community members who prefer to rid themselves of 'shame' and 'dishonour'. Furthermore, there is also great attraction to resort to traditional mechanisms to handle some justice and reconciliation issues at the local level. If not well aligned to human rights norms, such mechanisms may increase the vulnerability of women rather than empower them. Thus, depending on the character of war prosecuted, and injustices and crimes committed,

women's notion of security could differ markedly from that of men and state elite.

Political transition and governance

Political transition and governance issues have a direct bearing on gender justice. Political transition needs to be guided by the principles of inclusiveness (advocacy of pluralism), facilitation of political participation, and the linking of short-term measures to long-term perspectives (i.e. provide for national visioning). Given the history of marginalising women in political and decision-making activities, designing and implementing strategies that guarantee broad-based participation and leadership to determine the needs and priorities of a country collectively and insure ownership of the process is a titanic challenge in post-conflict situations. Almost exclusively, men prosecute the war, negotiate and sign peace agreements and take it as their responsibility to implement the agreement. This exclusion leaves gender issues and justice on the fringes of the reconstruction agenda.

The AU framework must take cognisance of this long-term challenge and guide countries emerging from conflict towards meaningful involvement of women in all processes of recovery, from the conception phase to implementation, monitoring and evaluation. Use of gender impact assessment tools could go a long way in ensuring corrective activities and alignments of reconstruction programmes and activities to gender needs. It is also critical that the framework pronounce itself on the need to explore decentralisation of both power and resources. Finally, the AU can use its leverage to pressure post-conflict countries to commit themselves to other continental governance instruments, such as the African Peer Review Mechanism, which provides an elaborate set of standards, measurements and indicators for good governance across all sectors of the country.

Human rights, justice and reconciliation

A third set of activities in which the AU framework can enhance the promotion of gender justice relates to human rights, justice and reconciliation. As indicated earlier, any society emerging from conflict has to make a critical decision about whether to go the way of restorative or retributive justice. Either of these choices has implication for the nature of the human rights, justice and reconciliation model a country adopts, but also determines whether issues relating to gender will be addressed adequately.

The AU PCRD framework should delineate benchmarks that ensure that a context-based approach is aligned to continental commitments and vision of justice and human rights. The process of determining this context should not only involve women, but should reflect their aspirations and preferences for dealing with impunity, reconciliation and compensation to women victims of conflict. Because most peace processes do not embrace women's participation nor deal with women's issues adequately, the need to open up the front of women's engagement in peace-building and reconciliation activities from the local to the national levels cannot be emphasised

enough. Reforms of the judiciary should also allow for special or new arrangements that respond to gender specific issues that arise from experiences of war. The restructuring of the judicial system goes hand in hand with improving access of the ordinary people, a majority of whom are women, to justice.

Socio-economic development

In the area of socio-economic development, the AU can offer a template that focuses with equal measure on macro as well as micro levels, i.e. development of policies, guiding processes towards socio-economic development, development of institutional frameworks, structures for implementation as well as capacity to ensure performance. The fundamental questions here relate to what to implement, how to implement it and the guarantee of an oversight capacity that aligns output to objectives. An assessment needs to be made of the impact and connection between macro development projects and social welfare activities. Given that socio-economic sectors touch on livelihood issues, women's participation in their determination is crucial. In addition to the larger macro-economic issues such as debt reduction, fiscal and financial regimes, etc., whose benefits do not accrue directly and immediately to women, focus should also be turned to quick social impact activities that link and contribute to long-term objectives such as rebuilding of social capital, support for informal sectors, linking the rural economy to the urban centres and access to credit and other facilities.

Integration of humanitarian relief and development

Key to successful post-conflict reconstruction is effective humanitarian relief assistance that bridges the gap between the cessation of conflict and rehabilitation. Usually, humanitarian assistance activities are not well funded at the onset of reconstruction. Yet the safe return, reintegration and rehabilitation of refugees, internally displaced persons and ex-combatants are dependent on this type of assistance. Furthermore, except for ex-combatants who are given preferential treatment, women form the majority of all the other categories. The lack of adequate humanitarian assistance has a direct impact of weakening the capacity of the community in general, and women in particular, because they are expected to accept 'back' those that are returning. The challenge here is to create coherence between the different programmes and actors dealing with relief and development activities. For instance, although Bretton Wood institutions are main players in reconstruction, their activities do not focus or link coherently to relief and rehabilitation.

International machinery as AU guarantors

AU efforts should be anchored by developments at the international level, where there is growing acknowledgement of the impact of conflicts on women, as well as recognition of their role in the promotion of peace, including improvement of access to and benefit from sound justice systems. One way of doing this, is for

the AU to adopt the UN Security Council Resolution 1325 and its recommendations as a guide to the continental framework on post-conflict reconstruction. This would assist in highlighting the threats that confront women as well as isolate key areas in which women can make positive contributions in the general peace and security agenda, including reconstruction.

The AU can also make use of international instruments of justice and human rights protection to backstop its work. The International Criminal Court (ICC) has declared rape and other sexual crimes against women to be crimes against humanity. The AU could invoke these standards and facilitate processes that bring perpetrators of war crimes to justice expediently. Attempts by women to seek justice from international mechanisms occur under conditions that are less than conducive. Usually based away from the local environments (except for the Sierra Leone Tribunal), these institutions are culturally and sometimes legally dissimilar to national systems, are male dominated, intimidate women and sometimes expose them to risks. Testimonials from women that participated in the Rwanda tribunal are instructive in this instance. The AU and regional organisations could ensure an enabling environment that supports women's search for justice when they turn to international mechanisms.

Darfur represents a test case in terms of how the AU deals with crimes against humanity committed there. Whereas the UN Report concluded that the crimes committed did not amount to genocide, there is ample evidence that women bore the brunt of the conflict and were victims of numerous war crimes. Given the unlikelihood of a special tribunal for Darfur, the AU could make a major contribution if it facilitated and fast-tracked women's access to international instruments that can deliver justice to the thousands of women victims in Darfur.

Challenges for enhancing gender justice

There are three major obstacles to the enhancement of gender justice in post-conflict situations. Perhaps the greatest is the manner in which recovery is conceived and executed. Any post-war situation is characterised by immense pressure to turn a country around. However, the vision of this recovery is still dominated by development and seurocrat perspectives, with the main actors being international (World Bank, Development donors, etc) and the national political and security elite. This mind set obscures other critical aspects of recovery, including justice, which remain addendums to the 'main' programmes, namely economic development and security. Issues of fairness, due process, distribution or governance are seen as 'soft' areas. This poses a paradigmatic challenge especially because it diminishes the value of a more integrative human security approach to reconstruction.

Secondly, the lack of a normative framework for reconstruction leaves countries to muddle through reconstruction without a template to guide national processes that determine their priorities and design strategies for recovery. This void is often filled by

international intervention in the form of expatriates or imposition of foreign models that may be irrelevant to the situation on the ground. More often than not these interventions fail to consolidate peace.

Thirdly, although women are increasingly playing critical roles in conflict resolution, peace building and post conflict reconstruction, they remain under-represented at decision- and policy- making levels at both the national and multilateral levels. Women remain marginalised from the onset of peace processes. From Burundi, Sierra Leone, Liberia, DR Congo and most recently in the Sudan, male securocrat types have dominated peace processes – this composition has undoubtedly shaped both the nature of negotiations as well as implementation practices. The need for adequate and effective women representation in thinking about, designing and implementing policies and programmes cannot be emphasised enough. If the experiences from the few peacekeeping missions where women have been deployed are anything to go by, then the involvement of women in post-conflict reconstruction, and especially in the area of justice which is a linchpin for co-existence and democratic practice, is an imperative.

Opportunities for the AU to promote gender justice

First, the AU has made some progress that should be consolidated as evidenced by its adoption of the Protocol on the Rights of Women. It has embraced the values of gender equality, democracy, human rights and good governance and made policy decisions to increase the participation of women at the continental, regional and national levels. The expansion of these values will be tested by the ability and commitment of the African Union to involve key constituencies, in this case women, in activities relating to the peace and security agenda in general and post-conflicts reconstruction specifically. Commitments need to be translated into frameworks and guidelines that ensure women contribute positively. In line with this, the AU can use its leverage to cascade these commitments to the regional and national levels. It could encourage member states to adopt parity with AU commitment on gender equality. This would greatly increase the opportunity for women to access and improve the justice in post-conflict situations.

Secondly, the AU could enhance gender issue within its mechanisms. Women should as a matter of right, rather than privilege, serve in key AU organs such as the Panel of the Wise, be appointed as special envoys or mediators and be offered an opportunity to engage in various processes of unpacking the different aspects of the peace and security agenda, including post-conflict reconstruction.

Thirdly, the AU can encourage women to take advantage of the provisions of the Protocol on Peace and Security to increase their influence in the Peace and Security Council. Using Article 8 of the Protocol, the AU could establish a unit that monitors genders issues in post conflict situations. It is imperative that such a committee or unit is linked to the PSC and other AU structures. One way of

attaining this immediately, would be to revive the defunct African Women Committee on Peace and Development and locate it within the AU structures rather than consulting it in an advisory capacity. The AU could also urge the Peace and Security Council to invite women groups, experts and organizations to address the Council on a regular basis, as provided for in Article 20 of the Protocol on Peace and Security. In addition to providing women with an opportunity to influence the decisions of the PSC, such an arrangement would keep the Council well-informed on the issues relating to gender in any recovery situation.

Conclusion

The promotion of gender justice in post-conflict reconstruction situations is critical because it provides a beacon for the consolidation of peace. It cannot be avoided in this phase when Africa is looking to ways for reconstruction and recovery. The full and effective involvement of women in the implementation of the peace and security agenda and the promotion of justice is critical to reconstruction and recovery efforts. As indicated elsewhere:

...the access and full participation of women in power structures and their full involvement in all efforts for the prevention and resolution of conflicts are essential for the maintenance and promotion of peace and security... (UN Security Council Statement on the occasion of the International Women's day, 8 March 2000).

Promotion of gender justice is an objective to which all stakeholders in Africa and beyond must rededicate themselves if Africa is to consolidate the gains made thus far.

Commitments need to be translated into frameworks and guidelines that ensure women contribute positively. In line with this, the AU can use its leverage to cascade these commitments to the regional and national levels. It could encourage member states to adopt parity with AU commitment on gender equality. This would greatly increase the opportunity for women to access and improve the justice in post-conflict situations. Secondly, the AU could enhance gender issues within its mechanisms. Women should as a matter of right, rather than privilege, serve in key AU organs such as the Panel of the Wise, be appointed as special envoys or mediators and be offered an opportunity to engage in various processes of unpacking the different aspects of the peace and security agenda, including post-conflict reconstruction.

Integrating human rights in United Nations peace-building activities: Developing gender justice best practices

Katarina Mansson

2

Introduction

At the time of writing, the United Nations (UN) is battling with one of its most humiliating experiences with respect to its activities in the field of international peace and security. Military peacekeepers of MONUC, the UN peacekeeping operation in the Democratic Republic of the Congo (DRC), have engaged in widespread sexual abuse of local Congolese girls and women. While it is a recognised fact that the deployment of peacekeeping operations tends to foster the development of prostitution and sexual exploitation in the host society,¹ the nature of the incidents in the DRC has proved particularly shocking and unacceptable. The fate of the women and girls in the heart of Africa raises a number of issues of utmost relevance to the theme of this article: that women and girls are disproportionately the main victims of conflicts, that human rights protection and promotion as a key element of UN peace operations must be strengthened and that the impact of a UN peace operation *vis-à-vis* the female population has a bearing on the success of the operation as such.

Why commence an article on the topic of gender justice best practices in UN peace-building with a worst practice? The main reason is to highlight that while progress has been achieved in protecting the rights of women in societies emerging from war and conflict, the gap between political commitments and efforts to implement them in the field remains huge. Already in 1981, the year entered into force, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), states were convinced that the full and complete development of a country, the welfare of the world and the cause of peace required the maximum participation of women on equal terms with men in all fields.² Yet the principles of equal rights and non-discrimination – core foundations of international human rights law – have been slow to break ground in the vocabulary and practice of peace operations. At least two explanatory factors can be identified: Firstly, human rights are a relatively novel aspect of peace operations. Secondly, and interconnected to the latter, peace operations during the past decade have developed from primarily military operations concerned with military functions to multi-functional operations where civilian tasks and personnel are equally important to fulfil the mission mandate.

As a consequence, women, in similarity with other special 'groups' in need of particular protection under the international human rights regime,³ have only recently received serious attention within the framework of UN peace-keeping and peace-building. Following an overview of how human rights are interlinked to the rebuilding of sustainable peace, this article will outline

how gender justice⁴ has developed through improvements both within the UN's *internal structures* as well as in its *external (outreach) activities*. The two areas are mutually reinforcing as the impact of the latter is dependent on the seriousness of the former. While emphasis will be on developments in the region at stake for this publication, experiences from UN peace missions in other parts of the world will be highlighted for illustrative purposes.

Setting the right(s) agenda: From *An Agenda for Peace* to UN Security Council Resolution 1325

One year after the launch of the first UN human rights field operation, the United Nations Observer Mission in El Salvador (ONUSAL), Boutros-Ghali launched *An Agenda for Peace* in 1992 upon a request from the Security Council to put forth recommendations as to how to improve the capacity of the UN in the field of preventive diplomacy, peace-keeping and peace-making. Peace-building was added to these activities by the Secretary-General, defined as 'action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict.'⁵ *An Agenda for Peace* sets out that respect for human rights is essential to the furthering of democracy and peace, which, in its turn, requires 'a deeper understanding and respect for the *rights* of minorities and respect for the *needs (sic)* of the more vulnerable groups of society, especially women and children.'⁶ Only five years later, with *A Program for Reform*, did the UN officially commit itself to integrate human rights into peace operations as to any other UN activity. Further momentum was gained with the *Brahimi Report* by the High-Level Panel on United Nations Peace Operations in 2000, which stressed that 'a human rights component of a peace operation is indeed critical to effective peace-building. United Nations human rights personnel can play a leading role, for example, in helping to implement a comprehensive programme for national reconciliation.'⁷

These declarations suggest that human rights, as universal minimum standards regulating the relationship between individuals and state authorities, are both a prerequisite for and consequence of peace. Human rights abuses and social inequalities are often the root causes of war and conflict: To (re)build peace, human rights protection and promotion is crucial. The inclusion of human rights components has been the UN's primary response in addressing human rights issues in post-conflict situations. It is beyond doubt that the human rights field operations which were deployed during the 1990s have contributed to strengthening national capacities to protect and promote human rights through extensive verification, monitoring, institution- and capacity-building activities.

The human rights field operations in El Salvador, Guatemala, Bosnia-Herzegovina and Cambodia, for instance, contributed to reform of the national police, promoted the establishment of institutions for the protection of indigenous peoples' rights and the creation of national ombudsmen and spurred the growth of national human rights NGOs.

However, it is as regrettable as it is surprising to find that two main publications on human rights functions of these and other peace operations almost completely omit any reference to the human rights of women.⁸ If mentioned, it is briefly within the context of legal reform or human rights education programmes for women and children: The UN peace operation in Guatemala (MINUGUA, 1994-1996) assisted the national legislature in drafting laws on the rights of children and domestic violence, and since 1993 the field office of the UN Centre for Human Rights⁹ in Cambodia worked closely with UNICEF on children's and women's rights, provided human rights training for women's groups and assisted in the drafting of codes regulating women's rights as well as trafficking in women and children.¹⁰

An exception to these so-called 'gender-blind missions'¹¹ was the joint UN/OAS International Civil Mission (MICIVIH) in Haiti. Coined as 'possibly the first to monitor gender rights', the human rights monitors of MICIVIH documented the rape-terror campaign from 1993 to 1994 committed by a paramilitary group.¹² The mission reported 66 politically motivated rapes between January to May 1994 and its monitoring work has ensured that rape is no longer a taboo subject in the country. In general, human rights missions have focused on civil and political rights and neglected the promotion and protection of economic, social and cultural rights and their impact on women. This is an important field where the UN can play a key role, for instance, by ensuring that any new legislation ensures the right of women to inherit land and property.

2000 was a watershed year in highlighting the interdependency between peace, human rights and gender equality. Four important documents were adopted: Firstly, the Windhoek Declaration and Namibian Plan of Action on Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations were issued by the Lessons Learned Unit of the Department of Peacekeeping Operations (DPKO). Secondly, the High Commission on Human Rights (UNHCHR) issued a gender mainstreaming policy statement. This was reinforced in 2002,¹³ when the Office of the High Commissioner (OHCHR) also concluded a Memorandum of Understanding with DPKO. Thirdly, the Security Council acknowledged in Statement 6816 that 'peace is inextricably linked with equality between men and women'. Finally, the Security Council adopted Resolution 1325.

These key policy documents, stressing the importance of adopting a gender-sensitive approach to every phase, function and policy of UN peace operations, saw a practical off-spring with the establishment of the first two gender units the same year in Kosovo and East Timor. In addition to these, ten full-time gender adviser positions in

17 peace-keeping operations had been established by October 2004, including those in Burundi, the DRC, Côte d'Ivoire and Sierra Leone. Why the situation of women was hardly reported on in peace operations of the early 90s was partly because these were not mandated to do so. The inclusion of special gender units, together with the calls from the High-Level Panel of December 2004 that 'human rights components of peacekeeping operations should be given explicit mandates and sufficient resources to investigate and report on human rights violations against women,'¹⁴ bring us a step closer in developing gender justice best practices in UN peace-building activities.

Promoting gender justice through gender just UN operations

Before turning to the present, certain best practices from the past deserve particular attention. Two UN peace-building operations in Southern Africa in the early 1990s stand out as exemplary missions: The United Nations Transitional Assistance Group in Namibia (UNTAG, 1989-1990) and the United Nations Observer Mission in South Africa (UNOMSA, 1992-1994). The key to success resided not in a deliberate UN policy of human rights integration or gender mainstreaming, but in personal convictions at the top-level of the missions that a large number of women personnel would enhance the likelihood of successfully fulfilling the aims of UNTAG and UNOMSA: End the violence and ensure peaceful elections. The experience from both missions is that UN women tended to be less concerned with hierarchy and more inclined to respect the local population and work together with them to achieve a peaceful resolution of the conflicts.

The high level of women in UNTAG's civilian component (50%) was due to the combination of a non-discriminatory recruitment exercise¹⁵ and the efforts of the UN Working Group on Equal Rights within the UN system to enhance women's participation in peacekeeping operations.¹⁶ A concrete example of how UNTAG had a bearing on the empowerment and promotion of equal rights of women and men was the information campaign undertaken by female staff of UNTAG to reach out to women at the local level to inform them of their right to cast a secret vote in the elections, independently of the choice of their husbands.

The catalytic role that female UNTAG professionals played in Namibia was replicated two years later when UNOMSA was deployed in South Africa. The mission was led by Angela King, the first ever female Special Representative to the Secretary-General (SRSG) and later author of the influential publication *Mainstreaming a gender perspective in multi-dimensional peace support operations* 1999.¹⁷ King argues that the high number of women in high positions in the UNOMSA encouraged confidence-building among local women and inspired them to better articulate their needs and rights. For example, encouragement of UNOMSA team leaders resulted in school teachers negotiating directly with the government, instead of through nominated men, to agree upon provisions which would allow them to work in schools located near their families. With respect to political participation of women,

UNOMSA workers provided 'role models to encourage women across party lines to clamour for and win the right to have two seats out of five occupied by women at the Constitutional talks.'¹⁸ An outcome of the determination of South African women, and, according to King, probably attributable also to the UN mission, was that by 1997 South Africa had 25 % women in parliament.

The experiences of Namibia and South Africa are indicative of the positive impact the *internal* gender-balanced structures within UN operations can have on gender justice in countries in transition. UNTAG and UNOMSA operated at a time when the rights-based approach was gradually adopted by the UN in its peace-building endeavours. Jointly, these two factors were determinative for the realisation of the Southern African women's political human right to take part in the conduct of political affairs, to vote and to be elected at genuine periodic elections which should be universal and equal suffrage and held by secret ballot.¹⁹

Policing human rights of women

Despite studies such as Angela King's, which point to the positive bearing of women in peace operations, the number of female peace-keepers in military and civilian police positions remain extremely low. As of November 2004, women constituted 1% of UN military personnel and 5% of UN civilian police (CIVPOL).²⁰ Human rights abuses of women are more likely to go unreported and non-investigated in areas which are patrolled by male CIVPOL only. A testimony of a woman rape victim in the ongoing conflict in the DRC bears witness of this: 'Many of the women who were raped like I was can identify their attackers, but find it difficult to report them to the police. ...we cannot talk of these things with men. If we only had female police in MONUC to whom we can report these horrible things that happened to us.'²¹

Although the context is notably different, the Gender Affairs Unit established by UNTAET in East Timor developed a best practice potentially worthy of application in the DRC. After establishing the fact that one-third of all criminal complaints received concerned domestic violence, the Unit launched an awareness campaign on domestic violence that culminated in the establishment of a special civilian police unit staffed by women to handle cases of rape, domestic violence and other gender related crimes. As in MINUGUA, the Gender Affairs Unit of UNTAET also worked together with regional experts and civil society to draft domestic violence legislation.²² Assisting in drafting national legislation in conformity with international human rights standards and ensuring the inclusion of gender-sensitive provisions is one crucial area where the UN can advance and promote gender justice in its external activities.

Trafficking of women and girls is another scourge common to conflict and post-conflict societies where unemployment runs high and the socio-economic conditions are dismal. The Balkans has been particularly hit. The Stop Trafficking Operations Programme ('STOP'), initiated by the United Nations Mission in Bosnia Herzegovina (UNMIBH)

and its Special Adviser on Gender Issues in 2001, has proved to be a successful countermeasure.²³ In co-operation with the local police, hundreds of establishments suspected of forced prostitution have been raided under UNMIBH guidance. In order to institutionalise this seemingly effective anti-trafficking tool, local police are also being trained by UN experts. To encourage girls to give evidence in court and enhance their security, UN human rights workers are present during prosecution of offenders. Such cooperative arrangements between UN agencies and domestic law enforcement agencies should be encouraged elsewhere where women are subject to similar ill-treatment.

Accountability for sexual and gender-based violence is a vital aspect of gender justice. UN CIVPOL, peace-keepers and human rights monitors can play a vital role in this regard by preventing, by their mere presence and interaction with locals, such abuses and help bringing to justice perpetrators. Human rights training for UN civilian police and military peacekeepers is essential to this aim. In this vein, it is worth pointing out that OHCHR will finalise its Manual on Human Rights for Military Personnel in Peace Operations and reissue its Manual for Civilian Police Components this year.²⁴ Potentially every UN field worker, regardless of gender, is a human rights officer him/herself. Adequate and professional training and good leadership are key prerequisites. According to the MOU between DPKO and OHCHR, it is the responsibility of the SRSG to ensure that all staff are aware of and abide by international human rights instruments.²⁵ Military and police are key actors in this regard as they have often been the main human rights abusers and UN personnel thus have an important responsibility to act as role models, particularly when engaging in training and re-establishing new national police and security forces. The UN must not allow its peace-building efforts to be spoiled by events such as those unfolding in the DRC.

The challenge ahead: From developing gender justice best practices to enforcing rights

Human rights integration in UN peace-building is not accomplished through hardworking personnel in human rights field components. Integration requires a fundamental change in mentality and concrete action throughout all agencies, programmes, divisions and units of the Organization. Just like 'human rights', gender justice is not something you can compartmentalise in a box sealed 'women's issues'. Calls for integration of human rights and gender mainstreaming in peace operations must be regarded as two sides of the same coin. Integrating a gender dimension will simply help ensure that a peace operation discharges its human rights and protection activities more effectively. It is recognised that women not only have 'needs' (see *Agenda for Peace* above), but rights like everyone else. Herein lies the very compelling potential and argument for the rights-based approach to promote the well-being and security of women in conflict and post-conflict situations: Not only are the international human rights instruments significant as benchmarks against which women can formulate their aspirations but vital tools with which women can claim

specific and concrete rights.

Having started on a dark note, I wish to end on a positive one by highlighting some important steps that have been taken towards enforcing human rights of women in different areas of relevance to UN peace operations:

Constitutional and legal reform: As part of the UN's efforts to assist the DRC towards the country's first democratically held elections and the establishment of a new government, MONUC's Office of Gender Affairs (OGA) will facilitate the integration of the principles of CEDAW into any new Congolese Constitution.²⁶ Such efforts could hopefully result in a constitutional guarantee of non-discrimination on the basis of gender, as happened in the East Timor.²⁷

Gender-based violence and justice: With support from MONUC, the Minister for Human Rights of the Government of National Unity and Transition of the Congo launched a multi-sectorial mission in which 119 women, victims of rape and other abuses by Congolese soldiers, have been able to state their cases before judges of the Military's Prosecutor's Department (*Auditorat militaire*). In Sierra Leone, efforts to integrate human rights protection in the administration of justice are reflected in the work of the Family Support Unit in the national Police Service. Responsible for crimes against women, the Unit succeeded in obtaining several convictions with prison sentences ranging from 6 to 22 years during the summer of 2004.²

Political participation: In the DRC, OGA has distributed the landmark resolution 1325 in four different languages across the country and demonstrations have been held requesting that a minimum of 30% of the seats in all transitional institutions be allocated to women in line with the resolution. As a corollary, over 40% of the members of the Independent Electoral Commission are women.²⁹

Human Rights Treaty Obligations: In Sierra Leone, the gender specialist within UNAMSIL's human rights section has initiated a working group to draft the overdue CEDAW state party reports with the participation of the relevant Ministries, UN agencies, human rights and women's organisations.³⁰ Such initiatives can foster dialogue and networking on gender justice between government institutions and civil society.

Demobilisation of ex-combatants: At a meeting sponsored by UNIFEM and Canadian CIDA in September 2004, Rwandese female ex-combatants urged to be included in peacekeeping operations because of their experience of warfare and its particular impact on women, and their interest in assisting women caught in conflict. Pursuant to the meeting, the Government of Rwanda has committed itself to vocational training and to enhance employment opportunities for former female ex-combatants.³¹ If their request is answered, this would entail a considerable improvement in the lives and status of Rwandese female ex-combatants who are among the poorest in the country as well as improve the gender-sensitive aspect of African peacekeeping.

These are all welcome good practices from various parts of Africa. The title assigned for this article was on

developing best practices of gender justice, and rightly so, because it suggests that gender justice is still in its developing phase with a long way to go to effective implementation and enforcement. The economic, social, political as well as cultural obstacles to this aim are numerous in any post-conflict society and require concerted and decisive effort from internal as well as external actors. With the new emphasis on women in peace, not only are references in UN reports on the human rights situation of women likely to increase but, most importantly, result in real improvements in the daily lives of women, eager to rebuild their own peace and security.

References

1. See the assessment by the independent experts Elisabeth Rehn and Ellen Johnson Sirleaf, commissioned by UNIFEM to issue the report *Women, War, Peace*, 2002, page 64.
2. Convention on the Elimination of all forms of Discrimination Against Women, preamble, para 12.
3. The seven core human rights instruments are, in addition to the Universal Declaration of Human Rights: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), Convention Against Torture (CAT), Convention on the Elimination of All Forms of Racial Discrimination (CERD), and Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. The two Covenants both have as article 3 a clause on the equality of men and women: 'The state parties to the present Covenant undertake to ensure that the equal right of men and women to the enjoyment of all civil and political/economic, social and cultural rights set forth in the present Covenant.'
4. Gender justice refers to the protection and promotion of civil, political, economic and social rights on the basis of gender equality. It necessitates taking a gender perspective on the rights themselves, as well as the assessment of access and obstacles to the enjoyment of these rights for both women, men, girls and boys and adopting gender-sensitive strategies for protecting and promoting them. Definition of International Alert, in *Gender Justice and Accountability in Peace Support Operations*, 2004, page 9.
5. Boutros-Ghali, B, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping* Document A/47/277 - S/241111, 17 June 1992 (New York: Department of Public Information, United Nations) 1992, para 21.
6. Ibid, para 8. Emphasis added by the author.
7. *Report of the Panel on United Nations Peace Operations*, A/53/305, S/2000/809, para 41.
8. Katayanagi, M, *Human Rights Functions of United Nations Peacekeeping Operations*, The Hague: Kluwer Law International, 2002 and Henkin, H A (ed), *Honoring Human Rights – From Justice to Peace*, Washington: The Aspen Institute, 1998.
9. Today the Office of the High Commissioner for Human Rights (OHCHR).
10. See Henkin, H A, (n 8 above) pp 58, 206, 210, 216, and Katayanagi, M, (n 8 above), pp 125, 128.
11. Olsson, L & Tryggestad, T L 'Introduction', Olsson, L & Tryggestad, T L (eds), *Women and International Peacekeeping*, London, Portland (OR): Frank Cass, 2001, page 2.
12. Henry F. Carey, 'Women and Peace and Security': The Politics of Implementing Gender Sensitivity Norms in Peacekeeping', in Olsson, L & Tryggestad, T L (eds), (n 11 above), page 57.
13. In 2002, this was made an institutional policy objective of OHCHR, recognising the fulfilment of gender equality as a precondition for the protection and promotion of all human rights. This policy requires OHCHR and its field presences to reflect gender concerns in the conceptualisation, implementation and evaluation of human rights policies, strategic planning and in setting priorities.
14. Report of the High Level Panel on *A More Secure World? Threats, Challenges and Change*, 2004, A/59/565, para 238.

15. According to article 8 of the UN Charter, the UN shall 'place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.'

16. See Olsson, L 'Gender Mainstreaming in Practice: The United Nations Transitional Assistance Group in Namibia', in Olsson, L & Tryggstad, T L (eds), (n 11 above), pp 97-110.

17. This publication, based upon case-studies of the operations in El Salvador, Bosnia, Cambodia, Namibia and South Africa, suggests that: (i) Local women confide more in female peacekeepers; (ii) Women negotiators understand and articulate the implications of peace processes better than men; (iii) Peace missions with high percentage of women have been successful; (iv) If at least 30 per cent of mission personnel are female, the local women more quickly join peace committees, which are less hierarchical and more responsive to women's needs. See Olsson, L & Tryggstad, T L (eds), (n 11 above), pp 53-54.

18. Angela King, 'Success in South Africa – impact of women in the peace process in South Africa', *UN Chronicle*, Fall 1997.

19. Article 25 of the ICCPR.

20. 'Promoting Gender Equality in Peacekeeping is Vital to Success – UN Adviser', at:

www.peacewomen.org/un/pkwatch/News/04/CLamptheyOct.Htm

21. Elisabeth Rehn and Ellen Johnson Sirleaf (n 1 above), page 70.

22. International Alert, (n 4 above), page 15.

23. See Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina, S/2002/618, para 18 and The Year in Review, United Nations Peace Operations in 2001, Voices from the Field, Bosnia and Herzegovina, 'UN Says "STOP" to Sex Trade', at www.un.org/depts/dpko

24. *OHCHR Annual Appeal*, 2005, page 104.

25. *Memorandum of Understanding*, DPKO and OHCHR, 5 November 1999, para 12.

26. *Activities of the Office of Gender Affairs (OGA) of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC)*, Kinshasa, 10 January 2003, p 13.

27. The East Timorese Constitution stipulates that a fundamental objective of the State is to 'promote and guarantee the effective equality of opportunities between men and women.' It further elaborates that 'women and men shall have the same rights and duties in all areas of family and political, economic, social and cultural life.'

28. Office of the High Commissioner for Human Rights, *Quarterly Reports of Field Offices - Africa Region*, 21 September 2004, p 38. Available at www.ohchr.org

29. See Speech by Ms Marie-Madeline Kalala (Minister for Human Rights of the Government of National Unity and Transition of the Democratic Republic of the Congo), delivered at 'Peace needs women and women need peace, conference on gender justice in post-conflict situations, co-organised by the United Nations Development Fund for Women (UNIFEM) and the International Legal Assistance Consortium (ILAC) 15 - 17 September 2004, New York City, available at:

www.womenwarpeace.org/issues/justice/gjc_indextospeakers.htm

30. *Gender Resource Package for Peacekeeping Operations*, Chapter 12, Gender and Child Protection, page 85, available at the website of DPKO: <http://pbpu.unlb.org/pbpu/genderpack.aspx>

31. 'Rwandan female ex-combatants can play an important role in peacekeeping', at:

www.peacewomen.org/un/pkwatch/News/04/Rwandanexcombatants.html

Unequal before the law: Equality Now's Beijing +10 Campaign to end discriminatory laws in Africa

Faiza Mohammed

3

Sex discrimination is a pervasive pattern that harms women in their daily lives around the world. In Africa, just like other regions of the world, several countries have laws that explicitly discriminate against women. When governments enact and maintain laws that specifically discriminate against women, they promote a second-class status of women in direct violation of most national constitutions and international law. For instance, when by law, a husband may object to his wife's exercise of a trade in Cameroon or a woman cannot own immovable property once married in Lesotho, governments sanction discrimination. When a woman is required by law to obey her husband or when the law does not consider an assault by a husband on a wife an offense, the state condones violence against women.

Equality Now has launched an intensive campaign calling on governments to eradicate laws that discriminate against women. In 1995, the United Nations Fourth World Conference on Women held in Beijing, otherwise known as the Beijing Conference, gathered 189 governments that pledged to 'revoke any remaining laws that discriminate on the basis of sex'. The Beijing Conference was a prominent international forum where governments

overtly committed to ensuring the advancement of a broad range of women's rights. In 2000, these governments reaffirmed their commitment to end discriminatory laws, '...preferably by 2005'. Despite these pledges, at the eve of the 10th anniversary of the Beijing Conference, governments continue to show little or no political will to execute their commitments. This is the year of reckoning for governments to fulfill their oaths to end sex discriminatory laws.

The fact that there are any laws – in fact so many laws – that discriminate against women 55 years after the adoption of the Universal Declaration of Human Rights, affirming that 'all human beings are born free and equal in dignity and rights', is unacceptable.

In the Sudan, recent laws mandate wife obedience. In Algeria and elsewhere a husband is allowed to beat his wife. In fact, in 1984 when the notoriously discriminatory Family Code was enacted in that country it was reported that parliamentarians debated for days on the length of the stick with which a man could 'discipline' his spouse. In Nigeria, the penal code also permits husbands to use physical violence to 'chastise' their wives as long as it

does not result in loss of sight, hearing, power of speech, facial disfigurement or other life-threatening injuries.

The litany of sex discrimination continues when in Kenya, Kenyan fathers can pass on citizenship to their children, but Kenyan mothers cannot do likewise. So too, the foreign national wife of a Kenyan man may acquire Kenyan citizenship. The same does not apply to a foreign national husband married to a Kenyan woman. Tanzanian marriage laws allow polygamy and permit marriage of 15-year-old girls, while the age of marriage for boys is 18. A labour law in Madagascar forbids the employment of women in night work except with special authorisation.

In spite of decades of women's rights activism around the globe, the extent of violence and discrimination against women condoned by governments around the world is staggering. Without protection under law, women

have no recourse when they face violence and discrimination.

Equality Now's campaign to end discriminatory laws is simple: Equality under the law means equality under the law. African governments must honour their commitment to the words and spirit of the texts they adopted in Beijing ten years ago by ensuring all women equality under the law – NOW.

To find out how you can join this campaign and get more information on discriminatory laws, including the ones mentioned above, please go to Equality Now's report *Words and Deeds: Holding Governments Accountable in the Beijing +10 Review Process*:

http://www.equalitynow.org/english/wan/beijing10/beijing10_en.html

Building capacity for a more peaceful future: The University for Peace experience *Dr Dina Rodriguez*

4

The University for Peace

The University for Peace (UPEACE) was established in 1980 within the framework of the United Nations (UN), pursuant to Resolution 35/55 of the General Assembly, with the mission to undertake post-graduate education, training and research on issues related to conflict prevention, security and peace. The University enjoys unique flexibility within the UN system as it is not subject to UN financial and administrative regulations and is guided by a small Council of distinguished scholars and experts in the field of education for peace.

In March 1999, Secretary General Kofi Annan decided that, in view of the major issues of peace and security confronting the world community and the UN, UPEACE should be rapidly re-vitalised and its activities extended to all regions of the world. He designated a new Council (the governing body of UPEACE, composed of 15 eminent expert members) and has recently agreed to become Honorary President of the University. A new programme of education and research has been developed after extensive international consultations and is now being implemented from UPEACE headquarters in Costa Rica. Education, training and research activities are being developed and launched in Asia and the Pacific, Central Asia, Africa and Latin America.

A high priority of the UPEACE program is to develop innovative educational materials on major peace-related issues and to disseminate these through a network of partnerships to universities throughout the world. A new generation of leaders, academics and experts can thus

be educated in their own countries on all the topics which promote mutual understanding between different nations and cultures, non-violence, security and peace. In this way, the efforts of UPEACE itself can be multiplied across the world, strengthening capacities particularly in developing countries to prevent and mediate conflict but also improving understanding in developed countries of the realities of the modern world.

The Department for Gender and Peace Studies

On 31 October 2000, the United Nations Security Council passed Resolution 1325, mandating that women be involved in all levels of peace negotiation, peace enforcement and peace building in the UN system. Later that year, the UN member states set their Millennium Development Goals, citing gender mainstreaming as a 'prerequisite for attaining the rest of the goals'. After several decades of research and advocacy work, the world community had finally made a commitment on paper to look at how violence, peace building, human rights and development affect men and women differently and to value the input, counsel and experiences of both sexes when crafting peace. Although these commitments are significant on paper, there is still much work to be done before these commitments are reflected in the actions, culture and decisions of the international community. The University for Peace Department for Gender and Peace Studies, established in January 2001, endeavours to train leaders to manage the mainstreaming of gender principles across the peace disciplines and

throughout the world.

The Department for Gender and Peace Studies uses state-of-the-art technologies to develop and disseminate knowledge to strengthen the capacity of a growing network of students and local partner institutions concerned with issues of gender and peace building. As gender issues begin to be recognised as an important aspect of each of the peace disciplines, it will be increasingly important for professionals in the gender field to not only have a solid foundation in gender issues and international standards, but also to have a detailed understanding of how gender questions impact and influence each discipline of peace studies. The programme aims to generate thousands of skilled and motivated men and women who fully understand the complex issues involved, can undertake high quality research and can develop and implement sound management and policy decisions to strengthen gender equality and build the foundations for peace worldwide.

Through the remarkable access of the UPEACE to eminent scholars and practitioners in all of the critical areas related to gender and peace building, the Department for Gender and Peace Studies has developed a Master's Degree programme in Gender and Peace Building. The programme consists of high-quality graduate level courses and curricular materials drawing on a wide international and multicultural base of expertise and knowledge. The courses aim to deepen students' conceptual understanding, extend their practical knowledge and build their quantitative and qualitative skills to analyse, manage, and empowers men and women to work for equality as they address the affects of conflict and violence.¹

References

1. For more information on UPEACE, including its knowledge dissemination activities in Africa visit www.upeace.org

Women taking their place at the peace table - the Inter-Congolese Peace Dialogue

Dr Marjorie Jobson

5

Introduction

Women suffer inordinately in times of armed conflict – a reality highlighted in the Independent Expert Report on the Impact of Armed Conflict on Women and their Role in Peace Building. This report was commissioned by UNIFEM and produced by Elisabeth Rehn of Finland in collaboration with Ellen Johnson Sirleaf of Liberia. The report was finalised in Helsinki, Finland, in March 2001, with the integration of advice on cutting-edge policy issues.

The report details that in war situations, women witness the destruction of their homes and communities and the devastating disruption of their own lives and those of close family members. Many women are raped in their homes or while they are fleeing, by men from government or rebel forces, by fellow internally displaced persons, and even by members of the military and humanitarian services, tasked with protecting them. Pregnant women have had their abdomens pierced with sticks or guns, while adolescent girls have been most at risk because they are believed to be safe targets as they are assumed to be virgins and therefore likely to be free of HIV/AIDS. While many women give birth to children as a result of rape, others seek out risky terminations of their pregnancies through 'back-street abortion' procedures, because reproductive health care services are usually non-existent in these situations. Some women survive through becoming sexual slaves, while those who escape and manage to return to their families may be rejected and treated with

disdain.

But, wherever there has been conflict, women have rallied together in spite of the odds to mobilise support networks for peace, reconciliation and social justice. For most women, the top priority is securing education or skills training with a view to becoming self-supporting and able to participate in community decision-making.

In dealing with issues of ending impunity and restoring justice, gender-sensitivity is critical in relation to the establishment of mechanisms for holding perpetrators to account; for investigating and prosecuting violations especially those involving sexual violence; and for managing a transition in such a way that women are not sidelined in the struggle for political power.

Participation of the Women's Caucus in the Inter-Congolese Peace Dialogue

It is against the background of the report on the Impact of Armed Conflict on Women, that this paper will set out to review and assess the participation of women in the Inter-Congolese Dialogue that took place as scheduled at the Sun City resort in South Africa's North West Province between 25 February and 18 April 2002. When the designated time period for the peace process was expired without an accord having been agreed on, it was decided that the parties should reconvene later that same year in Pretoria, as guests of the President.

The representation of women in the DRC Peace Dialogue

Given the experience of women's general exclusion from the peace table, strategic efforts were made to ensure that the peace processes for the DRC should take account of the perspectives of women. This did not happen through any commitment of the negotiators to include women in the process. Rather, it came about through the efforts of women themselves to ensure that they were not entirely sidelined in the process of the peace negotiations. In these efforts, Congolese women received support, resources and encouragement from UNIFEM through their regional office in Nairobi, Kenya, the African Women's Peace Committee, Femmes Africa Solidarite (FAS), and various diplomatic missions.

It was UNIFEM that assisted concerned Congolese women in meeting in Nairobi in February 2002 (17 – 19) to draft a declaration to inform the peace negotiation process and to formally establish a representative Women's Caucus which would attend and monitor the negotiations and lobby individual negotiators in the ICD. The Women's Caucus was thus comprised of one representative of each of the DRC's 11 provinces with consideration paid to the representation of women from the different sectors - government, the Rassemblement Congolais pour la Democratie (RCD), the political opposition and civil society.

The Nairobi Declaration stated the aspirations and needs of women clearly and concisely. It reminded the negotiators that 52% of the Congolese population is female and that women constitute 'an inescapable force in the restoration and the maintenance of peace and the development of our country'.

The Declaration highlighted the real costs of war on the entire population and especially on women who endure and suffer rape, forced prostitution, abductions, mutilations, killings, looting, psychological and mental traumas, HIV/AIDS infections and sexually transmitted diseases. It named those groups most vulnerable to the harm resulting from war - women, children (who may be forced to become child soldiers), the aged, the sick, the handicapped and displaced and refugee populations.

The women declared their determination to become active in peace-building, reconstruction and development in their country, given their roles as 'mothers of the nation' and their capacities as mediators within their families and as the custodians of the traditions and values of the people. 'This is our right, our duty and our responsibility', they declared.

The women then stated their conviction that women's rights are human rights and that women needed to be adequately represented in decision making if the Inter-Congolese Dialogue was to be effective. The basic requirements of Congolese women for their country included the following:

- that all hostilities should be halted and all foreign troops immediately withdrawn from the country;
- that the country should be reunified and its territorial

integrity respected;

- that CEDAW should be adopted as the basis for the elimination of discrimination against women;
- that women should be provided access to land and resources;
- that affirmative action should be instituted to guarantee the significant representation of women in decision-making;
- that gender-sensitivity should be mainstreamed across the Inter-Congolese Dialogue process;
- that women's organisations should be included in the implementation of all emergency humanitarian programmes;
- that demobilised child soldiers should be reintegrated and rehabilitated; and
- that the needs of women, children and other vulnerable groups should be prioritised in the agenda of the Inter-Congolese Dialogue to avoid impunity for all criminal acts.

Next steps in setting a civil society agenda for the Inter-Congolese Dialogue

At this point, women had established a set of priorities for the agenda of the ICD. Now it became the turn of civil society in general, given the reality that for too long those in power in the DRC had operated in a manner that had been unaccountable to the wider population. In effect, the political elite had used the resources of the country as their own personal property and source of enrichment. This was probably the greatest challenge facing the ICD, given the reluctance of such beneficiaries to share the benefits and resources of the country amongst all its citizens.

Towards mobilising civil society to create their agenda for the ICD, the Director of the Centre for Peace and Disarmament in Africa, Dr Jean-Jacques Purusi Sadaki, proposed a preliminary meeting of civil society representatives concerned for the securing of peace in the DRC, a few days prior to the commencement of the actual peace process. The objectives of this conference were to clarify the expectations of Congolese civil society in respect of the anticipated outcomes of the ICD and to establish benchmarks by which progress in the peace negotiations could be evaluated. There was an obvious need to create a process whereby civil society might be able to impact constructively on the ICD, given the vast personal vested interests amongst the official negotiators. It was recognised that these parties had the power to delay, disrupt or derail the peace negotiations.

Dr Purusi Sadaki approached All Africa Women for Peace and the Africa Institute of South Africa to assist him in organising the conference which was held between 21-23 February 2002, in Pretoria. It was entitled Building a Sustainable Peace in the Great Lakes Region: An International Conference on Armed Conflict in the DRC on the Eve of the Inter-Congolese Dialogue.

An international conference on armed conflict in the DRC on the eve of the Inter-Congolese Dialogue: Building a Sustainable Peace in the Great Lakes Region: 21-23 February 2002

The civil society pre-ICD conference was attended by around 250 participants, including representatives of the governments of the DRC and of South Africa and in particular, of the Departments of Defence and of Foreign Affairs; of the embassies of countries within the SADC region; of representatives of various UN agencies, including the UN High Commission for Human Rights, the South African Human Rights Commission, the University of Brussels in Belgium, the London School of Economics, and the NGO Africa Tomorrow; together with many representatives of civil society, both in South Africa and in the DRC.

The meeting commenced with an acknowledgment of the great suffering endured by the Congolese people due to the ongoing war in the country since 1970. The conflict had impoverished and killed millions of citizens of the country. Between 1999 and 2002 alone, an estimated three million people had died in the DRC and the country's rich resources had been ravaged by the militaries of the various countries involved in the conflict. At one time, the militaries of nine different African states had been involved in the conflict, leading to the war being called Africa's World War.

The war had caused deep divisions in the country and the meeting acknowledged that peace was an urgent requirement if poverty and suffering were to be ended and peace restored. This could only be accomplished, the meeting declared, if every delegate to the Inter-Congolese Dialogue placed the interests of the Congolese people as a whole above their own interests.

At the Civil Society agenda-setting pre-ICD conference, a Steering Committee was established to draft a set of resolutions towards the monitoring of the progress of the ICD itself. These recommendations included the demand that women's participation in the ICD should be guaranteed through their effective representation. To this end, the Steering Committee undertook to establish a working relationship with the chief negotiator of the ICD, former President Masire of Botswana, and to develop networks with all the stakeholders in the ICD process. A further agreement was that a support group should be mobilised to provide advice to the participants in the peace process; to monitor each day's progress; to lobby for the censure of any individual or groups that appeared to be sabotaging the process; and to give support to the participating women. The importance of women in the peace process was confirmed and endorsed at the conference, as it had been in the Nairobi Congolese Women's conference.

The Steering Committee made a range of commitments including one to work on developing a range of concrete projects in the DRC and the Great Lakes Region, both in the short term and for the longer term, in close co-operation with all the existing local, regional and international initiatives. All these projects, it was agreed, would focus on supporting and reinforcing peace and

development in the Great Lakes Region and on preventing conflicts. The following projects were proposed:

- The establishment of a unit to train women in knowledge and skills for peace-building, human rights implementation, advocacy and fundraising;
- The consolidation of a network of women at the grassroots level with vertical linkages to women in positions of influence and decision-making;
- The establishment of a programme on non-violence;
- The involvement of traditional leaders in conflict management and resolution;
- The adaptation and application of best practices from other successful experiences, such as the experience of the peaceful resolution of the South African conflict;
- The inclusion of a gender policy within all development programmes in the DRC; and
- The inclusion of awareness-raising and education programmes regarding the ethical and moral principles underlying all human rights and humanitarian work and efforts.

Having come through these preliminary civil-society initiated processes, delegates and observers to the ICD, moved to Sun City for the commencement of the peace negotiations there on 25 February 2002. An opportunity to draw attention to the necessity of including the perspectives of women in the process came with the decision to hold in abeyance the negotiation process for one day, International Women's Day, the twelfth day of the official peace process, so that this day could be dedicated to hearing the voices of women in respect of their needs and demands for peace and the creation of effective institutions of democracy and good governance.

The Inter-Congolese Dialogue commemorates International Women's Day, 8 March 2002 - International Women's Day

Given the recommendation on the effective inclusion of women in the peace dialogue, All Africa Women for Peace collaborated with the Women's Caucus and with UNIFEM at Sun City to prepare a day of action to highlight the consequences of the armed conflict in the DRC on women and children. The plans included the design and production of a T-shirt carrying a map of the outline of this large country at the heart of the African continent and the slogan 'Congolese Women United for Peace and National Unity'. Women from across diverse sectors and backgrounds in the DRC - from rebel groups and from government forces; from civil society and the churches - for one day, joined in wearing the same T-shirt which carried a message that they all shared the same goal of a united and peaceful DRC. For the first time, they co-operated in speaking in one voice.

A huge banner was prepared and hung across the back of the negotiating chamber, carrying the same message as the T-shirts, so that this message could be picked up by television cameras covering the proceedings and screened back in the DRC to the citizens of the country. Every delegate to the Peace Dialogue was handed a

small white flag carrying a phrase from the prayer, *Make me an instrument of your peace*. After each input by a woman to the proceedings, these flags were waved by the observing delegates to give a sense of endorsement to the presentations being made by different women. A full-colour pamphlet that had been produced by All Africa Women for Peace, at the request of women from the Women's Caucus, was distributed to raise attention to the key concerns of women in respect to the consequences of war. As the delegates to the ICD listened, women dramatised in the open circle in the centre of the room the experiences of women in the conflict. The day concluded with a series of press conferences on local and international radio and television. International Women's Day had brought a common focus amongst all the delegates to the consequences of war on the social fabric of the country and there had been an effective use of visual media through the diverse conveyance of messages.

The peace dialogue continued over a further 33 days. The fact that people were hosted at a remote resort more than 150 kilometres from any major cities, meant that delegates actually showed up for most of the sessions. The large plenary room was constructed in a huge circle, large enough to accommodate all the official participants (around 200), as well as accredited observers, resource persons and representatives of the media. This was a huge undertaking and needed a suitable and reasonably comfortable venue with expert facilitation and adequate translation services as well as a full complement of support services. The peace process was initiated, convened and managed almost entirely by Africans themselves – a fact that contributed towards the making of decisions that were more likely eventually to be respected and implemented.

While significant progress was made in the first part of the process, it became clear that there was still a fairly long road yet to walk. It was agreed that the parties would return home and return later in the year to 'walk the last mile'.

The peace dialogue reconvenes in Pretoria

In the interim period, women mobilised to deepen awareness of the ongoing processes towards securing a peace agreement, through a range of non-violent actions including protest meetings and marches in their home-towns and cities. Various trainings were offered to women's groups in conflict management and peace-building skills. By the time November 2002 approached, most women from the Women's Caucus had received training in facilitation, negotiation, mediation and arbitration.

The women prepared to travel to Pretoria as the Women's Caucus with additional support from self-paying individuals. It took a deep commitment to the vision of peace in the DRC for women to leave their work, their homes and their families for an unknown length of time to attend and monitor the proceedings of the peace dialogue. The meetings commenced in November 2002 at the Presidential Guesthouse in Pretoria, under the

guidance of three facilitators, one each from Eastern, Southern and West Africa.

A strategic planning meeting on building a Women's Peace Movement in Africa: 24–29 November 2002, Pretoria, South Africa

It was at this point that the three co-ordinators of different aspects of the work of All Africa Women for Peace, Rose Mpisi (from DRC), Lydiah Wambugu (from Kenya) and Marjorie Jobson (from South Africa), organised a strategic planning and training workshop for women peace-builders in Africa. Thirty-nine women participated, including the entire DRC Women's Caucus.

The workshop was planned for 24 and 29 November 2002, to coincide with International Day of No Violence against Women, the first day of the declared 16 Days of Activism against Violence against Women. The objective of the workshop was to dedicate the 16 days to activism for peace, rather than against violence – a much-needed transformation of the focus.

The workshop coincided with an enormously significant stage of the ICD negotiation process. Up until this point, women's views had not been given serious consideration in respect of situations of conflict and militarisation in Africa, and the women's issues that prevent peace had not yet been clearly articulated.¹ At this stage of the ICD process, women began inserting themselves into the agenda of many different peace negotiation efforts in Africa, in an effort to truly engender the agenda for peace in Africa. In this, they were assisted by a range of partners and critical allies: significant institutions on the continent, including the African Commission on Human and Peoples' Rights and the focus on the New Partnership for Africa's Development (NEPAD).

Building a women's peace movement in Africa

The strategic planning workshop hosted by All Africa Women for Peace focused on the embracing of diversity in movements towards democratic transitions in countries with longstanding histories of conflict.

Professor Michelo Hansungule, Professor of International Human Rights Law at the Centre for Human Rights, University of Pretoria, highlighted the fact that women had yet to use the available institutions and mechanisms that exist in Africa and in the international arena, to advance their rights. He pointed to the single successful complaint brought by an African woman to the African Commission for Human and Peoples' Rights.

Although the African Charter for Human and Peoples' and Human Rights in article 18(2) stipulates that women have to be protected at the national, regional and international level, women have been very slow in bringing complaints to these systems, largely because they remain ignorant of their rights and how they can be protected. Too many women remain locked in poverty while others regard human rights mechanisms with suspicion and distrust.

In relation to conflict situations, it is very important that women should start to play a more central role in ending conflict because they have seldom been the instigators of conflict. It is thus regrettable that no woman has yet been appointed to chair the Security Council at the UN.

Professor Hansungule pointed to the fact that in traditional societies, a norm exists that a man may beat or kill his wife, but never his mother. *'If every woman in Africa assumed the role of a mother of their nation, they would be treated differently by men'*, he asserted. *If the search for peace is left in the hands of men, there will never be peace in Africa*, he said. Peace treaties may be signed and ratified, but they will not be implemented. As one participant expressed, the activities of dictators can only be successfully opposed by women's movements and especially through non-violent actions which do not reinforce the endless cycles of violence. Women need to campaign for demilitarisation and for the ending of the use of landmines amongst other issues.

There was a proposal from the floor that an international movement of African women for peace in Africa be promoted through networking activities and through the empowerment of women for a culture of peace in Africa. To achieve this will require that women uncover and transform their own prejudices and stereotypes.

In an overview of peace movements in history, the group learned that effective peace movements have been those which had worked towards the embedding of a culture of peace through non-violent action, the use of international instruments for social change, and improvement in the quality of life of all people. A list of the characteristics of a peace movement was then developed and included the following:

- The message has to be one of 'peace' and its practice should be education for peace, respect for diversity and tolerance of different perspectives and opinions.
- The message should promote and inspire moral values.
- The media should not create fear of an enemy.
- The movement should recognise the role of spirituality and of the importance of personal development and self-care.
- Members of peace movements need to remember to keep connected to their hearts.
- It should work towards creating a sense of connection and partnership between people and respect and protection of the environment.
- It should be characterised by mutuality rather than by competitiveness.
- It should be concerned about the problems of women and children.
- Its participants should demonstrate commitment through dedication of their time to community activities and to work for a constructive change in the institutions of the society.

The General Secretary of UNESCO in South Africa, Dr Stranger Kgamphe, talked about the central role of women in advancing peace and peace education. He said that 186 countries had endorsed the UNESCO Peace Education Programme.

The workshop concluded with a review of the role that women had played in the transition in South Africa and their efforts to ensure that they were not sidelined with the coming of democracy in South Africa. This demanded that women worked in coalitions despite their differences, as had happened in South Africa, toward a common agenda for peace, well-being and prosperity for all. In respect of NEPAD, the critique was made that the chief objective of NEPAD, eradicating poverty, would not be achieved without the active participation of women.

Some outcomes of the strategic planning meeting for the way forward for women peace-builders in Africa

The first outcome was the realisation that women could come together and co-operate across their differences. They had demonstrated this ability through working together, despite coming from every faction of the conflict in the DRC - armed and unarmed, political and civil, Christian and Muslim, refugee and local, academic and those with no educational opportunities, as well as from countries in the wider Great Lakes Region - Rwanda, Burundi, Uganda and Sudan. The women in the group had represented a diversity of histories and experiences and yet had been able to construct a common agenda for peace-building in Africa. The elements of this agenda were articulated as the following.

- Women committed themselves to learning to use human rights instruments to advance a culture of peace in Africa and to build democratic institutions characterised by respect for the rule of law, good governance, gender equality and international equity. Women learned that they themselves were responsible for advancing jurisprudence in respect of women's interests on the African continent.
- Women acknowledged that there should be a counter balance to the United Nations Security Council and that they could work for the creation of a United Nations Peace Council with a focus on enhancing the security and protection of the human rights of individuals, rather than of states, as states are the major perpetrators of violence and human rights violations.
- Women learned that the Convention to End Racial Discrimination could be used to address conflicts based on ethnic or racial differences, because this treaty provides for the equal protection of all racial and ethnic groups. In Africa, ethnic and racial differences have been a major source of conflict.
- Women learned that they would have to work together in a focused and co-ordinated manner towards the adoption of the Optional Protocol on Women's Rights, if they were to claim their human dignity. Too many African states have prevented women from accessing their rights, often under the guise of culture and tradition, and for too long, women have simply accepted this situation.
- Women realised that any criminal tribunal to end impunity in the DRC would only come about through the activism of women in civil society, as women have been the majority of victims of the conflict and as men would be likely to award themselves amnesty.
- Women realised the necessity of recording their own histories of their involvement in advocacy and actions for establishing peace and human security in African

countries, given the reality that history is a very powerful tool in the reconstruction of societies and that histories are usually written by the victors who impose their history on others. Few histories have been written by women. For example, the story of the role played by the DRC Women's Caucus in the struggle for peace in the DRC is a history that needs to be recorded for posterity. The struggle for peace in the DRC saw a diverse group of women commit to a set of shared principles to achieve a shared goal – securing a peace accord in the DRC. The principles which the Congolese women came to share were the following: a commitment to transcend the conflict through becoming inclusive of all the interests represented; a commitment to implement the decisions that were taken together as a Women's Caucus; and a commitment to truthfulness. These commitments served as a framework to call other participants to account in respect of the negotiation process.

- Women were confronted with the reality that there can be no peace without human rights and that women are the main agents for building peace in Africa, because women know firsthand the devastating effects of conflict on family, community life and well-being. These are experiences that men are unable to speak about.
- Women committed to acting in solidarity with each other rather than continuing to allow the violent conflict to atomise and to isolate them from each other. They articulated the fact that it is feelings of isolation and threat that cause a hopeless paralysis amongst people. This paralysis can only be overcome through acts of solidarity, and it is acts of solidarity that women have shown themselves most willing to give. It is this willingness that provides hope for the continent.
- Women endorsed the value of cultural exchanges in overcoming harmful stereotypes that form the grounds for enemy-making.
- Women acknowledged the value and importance of spirituality in work for peace. They expressed a shared responsibility to prevent the abuse of religion to divide people, as had happened, for example, in Nigeria, where religious rioting had resulted from denigrating religious comments made by a journalist who was commenting on contestants in a beauty contest.
- Women were identified as critical role players in the movement to stem the 'Sixth Extinction' of life on earth. The collaboration between the female participants in the strategic planning meeting and scientists from the Gondwana Alive Society revealed that women are the critical stakeholders in stemming the extinction of life on earth. Women are most affected by the degradation of natural resources, as it is women who ensure the survival of their families and their communities through the use of these natural resources. Women also affect the resources of the earth as primary role players because they determine patterns of consumption across the world.
- Women were made aware that they are central to the activities of UNESCO and that they should see UNESCO as a critical partner in their peace education activities.
- Women realised the necessity of engaging with NEPAD, with its key objective of eradicating poverty in Africa, because women are the poorest of the poor in Africa and as has been said, poverty in Africa has a women's face.
- Women were confronted with the necessity of their

having to take responsibility for ensuring a gender perspective in peace-keeping operations. This could only come about through women's activism for gender-awareness education and training programmes for all roleplayers in peace-keeping operations.

- Women realised that they have to secure positions for women in decision-making structures, both during and after transitions, if substantive gender equality is to be secured.
- Women identified the great need for capacity building skills training workshops and opportunities. The rationale is that women have been most disadvantaged and their empowerment depends on their access to capacity building opportunities
- Women noted the difficulty of determining the reliability of media reports, given the reality that many journalists are not free and independent. Consequently, access to accurate and reliable information is a huge challenge for women in Africa and women need to identify appropriate sources of information.

The final stages of the Inter-Congolese Peace Dialogue

These reflections concluded the work of the strategic planning meeting, and the members of the Women's Caucus returned to their monitoring activities at the Congolese Peace Dialogue with renewed energy and new insights. Within the next few days, the members of the Women's Caucus deliberated together on which strategies from amongst those that had been discussed at the workshop could be applied to the ongoing and slow-moving ICD process.

A group decision was made firstly to picket all the access roads to the negotiation meeting room. As women became braver, they decided next to hold sit-ins in the negotiation plenary meeting room itself and eventually they adopted the strategy of two women standing up and coming alongside each man who stood to make a contribution to the discussions. Step by step the women became more resolute. For the women themselves, turning their learning into action brought new confidence and skills. They also experienced the process of making agreements with an agency of government, and that agency honouring its agreement to provide protection, as had the police officers of the South African Police Service when the women started their picketing activities. The women had not had such a positive experience of working with a government department in the DRC where government agencies had not yet developed systems of accountability to the general population.

Efforts to encourage and support the Congolese women were strengthened through interventions organised by the Spousal Office in the Presidency. Mrs Zanele Mbeki hosted a training workshop for Congolese women involved in the peace process at Esselen Park with key resource persons in areas such as leadership. These interventions further developed the skills and capacities of Congolese women peace-builders to contribute towards the realisation of peace in the DRC.

The final adoption and signing of the peace accord ending the prolonged conflict in the DRC, took place in

the early hours of the morning on 15 December 2002. Everyone present was aware of the impact that the actions of the women had had on the proceedings.

The way forward: Women designing and implementing strategies for building a durable peace in Africa

Out of the experience of working on joint plans to enhance the role of women in peace-building in Africa, several critical actions were identified. These were that women needed to:

- seek out sympathetic women from within diverse groups in Africa with whom they could build alliances or coalitions;
- create ways to bridge the gaps between politicians and civil society to increase the accountability of governments towards citizens in Africa;
- work out the nature of the institutional mechanisms which could best secure the status and substantive equality of women during and after a political transition;
- document these processes;
- develop sympathetic and gender-sensitive men as allies in the process; and
- develop women's personal capacity to be peace-builders and peace witnesses through strengthening the growing women's peace movement; through increasing media visibility for women's non-violent actions; and through facilitating women's access to the use of international instruments and mechanisms such as the African Commission on Human and Peoples' Rights.

A proposed programme of action for Central Africa

As the focus increasingly became the securing of peace in the Central African region, it was proposed that the way to peace in the DRC from the perspective of women in the DRC should be clarified through a field visit involving persons with gender expertise and including an international human rights lawyer and other technical experts. The research team would inquire of local actors in the DRC how they articulate (and take account of) women's aspirations.

The proposed purpose of a field research programme was to work for modalities to secure the long term empowerment of women as equal players in every sphere and sector of life in the DRC - political, civil, social, cultural and environmental. Its objectives were clarified as being:

- to provide an opportunity for an assessment of women's present status in society and the main problems they face, given the reality that women in many African countries have no or few mechanisms for stating their views. An important aspect would be the determination of which issues affecting women, prevent peace in the DRC;
- to conduct participatory research with women in the DRC, in both urban and rural settings, to develop a gender critique of the institutions and mechanisms that currently exist for women's protection and the advancement of their status in the society. This would require a review of national, regional and international mechanisms for the protection of women and the extent to which they had

been implemented, whether these mechanisms had been effective in meeting the needs of women and in ensuring justice for women, or whether conditions continued to provide for impunity; and finally

- to identify and evaluate programmes which are presently in place and how they have been affected by the levels of militarisation in the country.

Once this basic assessment process had been completed, it was envisaged that appropriate programmes would be designed to build the capacity of women in the DRC, in collaboration with partner organisations in the DRC. Based on the outcomes of the November 2002 meeting in Pretoria, it was clear that these programmes would need to include awareness-raising on human and women's rights as instruments of peace and of protection for women, and skills training in the specific areas, including conflict resolution mechanisms, humanitarian law and practice, and refugee law and its impact on women. Also, it would require a monitoring of the peace accord agreements by women in particular.

Next steps in the process of mainstreaming a gender perspective in the Congolese peace process

The proposed research visit was undertaken by field researchers from All Africa Women for Peace with support from the Development Bank of Southern Africa. A report of this research is available.

A second activity was the planning meeting held in Johannesburg between representatives of the DRC Women's Caucus, the South African Commission on Gender Equality and All Africa Women for Peace. As detailed by the representative of the DRC Women's Caucus, this structure comprises representation from Cause Commune (women in decision making); CONAFED (a gender and development organisation); UNAF, which focuses on poverty alleviation and the economic empowerment of women; WOPPA-RDC, which works towards women's inclusion in peace-building; REPOS, which focuses on women's health issues; FIFAD (*Foundation Internationale des Femmes Africaines pour Developpement*) and female representatives from political parties, women in parliament, female traditional leaders, women in religious organisations, and businesswomen.

The agenda of the planning meeting was the development of a process to secure women's positions during and after transition, through ensuring that women with a vision for gender equality secure positions of influence within strategic state structures and through planning a consultation process involving persons who assisted the establishment of gender machineries in different regions of the world and who are familiar with the challenges and difficulties involved in creating such mechanisms and institutions.

To this end, the following were proposed:

- An initial colloquium of women in academia from DRC and South Africa to brainstorm what would work to mainstream women in the transition in public office and

to plan for a larger gathering at which all sectors of women in the DRC were represented; and

- A national conference on mainstreaming women in the transition, to be held in the DRC, with the objective of securing gender equality through bringing together women from the organisations participating in the Women's Caucus and key resource persons from 'gender machineries' in other parts of the world to share information about: what has worked and what has not worked; what have been found to be the strengths and weaknesses of each system; how 'logjams' have been broken so as to open space for greater participation and more co-operation; how the independence of the different mechanisms can be secured. The resource persons should be those who have looked at different models and evaluated how things are working.

Conclusion

While there has been significant progress towards a durable peace in the DRC, a great deal of work remains to be done. Currently only four of the positions in the transitional government are held by women. There are important opportunities to develop deepening relationships between and amongst women in the Southern African region through the allocation of resources to support these activities, such opportunities should not be missed.

The SADC Declaration on Gender and Development, adopted in 1997, serves as the main framework for gender equality and women's emancipation in the region, because it commits heads of states 'to ensure equal representation of women and men in the decision making of member state structures at all levels, and the achievement of at least 30% target of women in political and decision making structures by 2005'. The report on Ten Years of Democracy in SADC, produced in 2004 a workshop hosted by IDASA with the Centre for Policy Studies and the Netherlands Institute for Multiparty Democracy, however, goes on to comment that most gender national machineries in the region are under-resourced; that they are not strategically located or given adequate status; that there is a general lack of commitment to gender parity by political parties; and that an often difficult relationship continues to exist between customary law and certain government policies on gender equality.

This last point continues to thwart progress in the DRC. Men occupying positions in the transitional government continue to assert that tradition takes precedence over the law and that women are subordinate to men.

Any gains that are made by women for women need ongoing protection because advances for women can be wiped out with a single court judgment. As happened in Zimbabwe when a full bench rejected 58-year old Vennia Magaya's claim for her rightful portion of her deceased father's estate. The Zimbabwean Supreme Court (comprising five male justices) in April 1999 ruled against Ms Magaya on the grounds that women are not equal to men (especially in family relationships), and used unwritten pre-colonial African 'cultural' norms as the basis

for their judgement. These are norms that dictate that women should never be considered adults within the family, but only junior males or the equivalents of teenagers. Such rulings overturn women's struggles over decades.

The promotion of relationships of support between women activists within the region is crucial to sustaining important struggles for a durable peace. We all know that peace is possible. We know furthermore, however, that it is not possible without women's full participation. As Thnejiwe Mthintso, first chairperson of the Commission on Gender Equality in South Africa, stated 'For me it's a matter of citizenship. If women are citizens, then they must be involved in all spheres of life.'

Towards this end, there has been a major transformation within the UN system which, prior to 1994, had no instruments on gender, as pointed out by Ms Angela King, head of UNOMSA (the United Nations Observer Mission in South Africa, 1994). Now all divisions and agencies of the UN have strong mandates to include a gender perspective, but these will not be included without the activism of women themselves.

References

1. This fact was highlighted by the Kampala 2002 Resolution on Women, Peace and Conflict, issued at the 8th International Interdisciplinary Congress on Women, in July 2002 which asserts the reality that women suffer inordinately in times of armed conflict and that their involvement in securing the way to peace is an absolute necessity.

Reflecting on lessons learnt from the perspective of the Women's Audit on Peace and Security, International Alert

International Alert recently developed an auditing framework to monitor the responses of the international community to women's needs in conflict and post-conflict situations and support for their peace-building initiatives. The report was compiled and written by Sanam Naraghi-Anderlini, a consultant in gender and peace-building and author of the UNIFEM publication, *Women at the peace table* (2000). The report describes the arenas in which women's perspectives and concerns should be included in activities related to peace and security.

This is a useful framework against which to evaluate the experience of the women participants in the Inter-Congolese Dialogue (ICD) process which resulted in the signing of a peace accord and agreement on the transitional process leading towards democratic elections in the country in December 2005.

According to the framework:

- Women's participation in all decision-making forums in relation to conflict prevention, conflict resolution, peace-building and post-conflict recovery programmes should be ensured with a target of 50% participation by women. Women's presence at the ICD came about through their own commitment and their direct efforts to be present at the peace table. While UNIFEM provided funding for one female representative from each of the DRC's 11 provinces to be present, many other women



were forced to fund their own participation. There was a deep-seated reluctance to include women in the process, largely as a result of widespread scepticism about the value of women's perspectives and capacities and ignorance about their contributions to and the vital roles that women play in preserving peace and in resolving conflict.

- All officials involved in peace promotion and maintenance activities should be provided with gender-sensitive training. This was a gap in the training of peacekeepers for their role in serving to protect women who endure multiple forms of victimisation in countries in conflict. Attempts were being made to rectify this situation by establishing a Gender Unit at the MONUC Headquarters in Kinshasa. The Unit was housed in a container as a temporary office space alongside the official headquarters of MONUC and on an official visit to the Unit, a meeting was held with two staff members of the Unit. It was not clear whether adequate financial and human resources had been allocated to this unit to ensure its effectiveness. The Unit was liaising closely with women in civil society and was providing support and mentoring services.

- Special efforts should be made to provide specific education and training to women in advocacy, leadership and conflict resolution. This was a role that was played very strategically by UNIFEM in supporting the efforts of women to meet together across their divisions to construct the Nairobi Declaration to inform the process of the ICD. It is not clear to what extent there has been ongoing support for capacity-building activities to enhance women's capacities to take advantage of existing opportunities to continue to play effective roles, since the signing of the peace accord.

- Gender-sensitive strategies should be developed in relation to the management of humanitarian crises. No apparent advance was made in this respect in the DRC situation, given the extreme marginalisation of women in the DRC and their situation as the major victims of the conflict. The Ministry of Women's Affairs was not viewed as a powerful institution in the country because of its major apparent focus on small-scale income-generating activities for women.

- Gender should be mainstreamed into immigration and asylum policies. The transitional government has been tasked with the building of institutions of democracy and governance. Given the level of breakdown of the state, it will take time to develop policies and programmes. It is crucial that women participate in these processes, but the present low representation of women in the Transitional Government does not argue well for securing equality for women in the DRC, where culture continues to be regarded more highly than law.

- The UNESCO Culture of Peace Programme should inform the activities of the women's sector in the country. The first UN agencies to become operative in the country were the UNDP and UNICEF. These agencies were leading the way in advancing the status of women in the society.

- Budgets on military equipment should be reduced. No clear information on this matter was available given the level of militarisation of the entire society and the lack of respect for the law. There were reports about the smuggling of weapons on the boats travelling along the Congo River. Existing law enforcement mechanisms remain relatively weak.

- Gender should be mainstreamed in all official reporting processes, especially in reports to the UN or other regional institutions. Women in the DRC used the Convention on the Elimination of All Forms of Discrimination Against Women as a useful framework for organising their

demands.

- Deliberate efforts should be made to protect women. This is a principle to which relatively little attention seems to have been paid.

Summary

The framework provides useful guidelines for evaluating the extent to which measures to end conflict and to advance peace are informed by a gender perspective.

As women constitute the largest group of victims of armed conflict, they have key roles to play in driving agendas for peace. They have proven their capacity to build support networks and mobilise the movement for peace, through a range of activities including disarmament, demobilisation of soldiers and reform of the security sector.

Women need adequate representation to ensure that equal rights and opportunities are provided to both women and men, and that women are involved in all decision-making activities, especially as countries begin the journey of social and economic recovery. Post-conflict recovery programmes should not only address the need for physical reconstruction of infrastructure and of the macro economy, but must also include the provision of healthcare and education, the strengthening of legislative initiatives, and efforts to address impunity.

Gender justice challenges and prospects in Darfur

Abdelbagi A.M. Jibril



Overview of the situation of women in Darfur

The Darfur region, western Sudan, currently faces a special period in its history manifested by the destructive armed conflict that galvanised the world since February 2003. According to available estimates, the conflict in Darfur left more than two million individuals homeless. They currently live as internally displaced persons (IDPs) in different parts of Sudan, while more than 300 000 were forced to flee Darfur into neighbouring countries such as Chad, Libya and Egypt. It is estimated that more than 3 000 villages previously inhabited by the sedentary African farmers of the region such as the Fur, Massaleet, Zaggawa and a host of other smaller tribes have been totally or partially burned and deserted.¹ The conflict, which literally destroyed all the socio-economic systems of the affected African populations, has left behind about 3,5 million war-affected and poverty stricken vulnerable host communities.²

In his introductory remarks on Wednesday 16 February 2005, before the UN Security Council on the report of the International Commission of Inquiry on Darfur (ICID),³ UN Secretary General Kofi Annan said: *'This report demonstrates, beyond all doubt, that the last two years have been little short of hell on earth for our fellow human beings in Darfur. And despite the attention the Council has paid to this crisis, that hell continues today.'*⁵

The situation of women and children victims of the armed conflict in Darfur is so acute and so urgent that it deserves the world's special attention and action. They represent the overwhelming majority of IDPs and refugee communities. They live in precarious conditions in makeshift shelters of branches and grass that barely protect them from the day heat or the night cold. They are starving without enough food, medication or sanitation.⁴ It can be argued that since the horrors of World War II and the 1994 Rwanda genocide,⁶ Darfur was the living experience of wholesale atrocities committed against a distinct group of people, with the lion share of the burden borne by women. The long litany of atrocities committed against women in Darfur includes, but is not necessarily limited to, killing, displacement, torture and physical assault, mutilation, maiming, war trauma and agony, humiliation, deliberate deprivation of food and life-saving relief material, abduction for sexual slavery, rape and gang-rape of women and girls.⁷ Many girl victims of rape and other atrocities in Darfur are as young as 8 and 10 years old. It was widely reported that the Janjaweed militia men⁸ have marked women and broken the legs and arms of rape victims - especially those held for sexual slavery - in order to prevent them from escaping.⁹ In this ordeal no one knows the exact numbers of women killed as a direct result of fighting during raids on their villages,

by the indiscriminate aerial bombardments of civilian targets or those who perished as a result of war-induced disease, hunger and agony for the loss of their loved ones.

An illustrative example of the widespread use of the abhorrent crime of rape as a weapon of war in Darfur was documented by the UN during an attack by the government-sponsored Janjaweed militia men on an African village where more than 100 women and girls were raped, including 41 schoolgirls and their teachers. To add insult to injury, most of these victims were raped, humiliated and shamed by up to 14 men in front of their relatives and communities. This incident took place on 27 February 2004, in Tawaila Village in Northern Darfur State. The UN also reported that in March 2004, about 150 soldiers and Janjaweed militia men abducted and gang-raped 16 girls in Kutum area in Northern Darfur State. These crimes unfortunately continue unabated as we write this piece to document the Darfur tragedy.

Why target women in Darfur

Since the beginning of the armed conflict in Darfur in February 2003, it became clear that women as the custodians of life and tradition are the prime victims of the government strategy to destabilise civilian populations in Darfur and dry up any possible sources of new recruits for the insurgents. Women in Darfur are targeted because they are the backbone of the region's largely subsistence economy. They are the ones who till the land, harvest crops, raise children and look after the daily chores. According to a World Food Programme report issued by the UN Integrated Regional Information Network (IRIN) on 26 December 2003, of the 135 000 Sudanese refugees in Chad, '40% were children under five and about 75% of the adult refugees were women'. The situation is typical in IDP camps inside Darfur. In the beginning of March 2004, a group of about 3 000 IDPs, mainly women forced to flee Darfur violence, have arrived in Khartoum and occupied a vacant building on the outskirts of town. On Wednesday 17 March 2004, the authorities forced them out of these buildings, despite their protest and the health conditions of some among them who were forcibly made pregnant by the army and Janjaweed militia men. Clashes with the security forces resulted in the death of two women and three men and wounded an unidentified number of individuals. On 14 and 15 January 2004 the then Governor of Southern Darfur State closed down two camps hosting about 10 000 IDP women and malnourished children, forcing them to leave their relatively secure refuge to an unknown fate in the wilderness.¹⁰



Racial dimension of the crimes committed against women in Darfur

As both the victims and the perpetrators of rape and other atrocities in Darfur share many common denominators, such as the practice of Sunni Islam, the use of Arabic as a *lingua franca* and relatively homogenous socio-cultural beliefs, one can plausibly argue that discrimination and racism are the driving forces behind the crimes committed against women in Darfur. They are not only victims of physical assaults, but they also suffer from overt discriminatory and racist wrath. The racial dimension that underpins the crimes against the people of Darfur comes to the fore in the scorched earth policy employed by the security forces and their allied militia men against civilian populations that are, more often than not, overwhelmingly women and children belonging to specific ethnic groups. Racism and discrimination were also noticed in numerous reports of rape and humiliation of women that are exclusively committed by males from certain ethnic groups against specific groups of women because of their ethnic or tribal origins. In this regard, the ICID's report issued on 25 January 2005 was especially authoritative and compelling. It graphically demonstrates a series of unimaginable war crimes and crimes against humanity that amount to genocide¹¹ systematically committed against women in Darfur.

Social, psychological and economic burden on women victims of rape in Darfur

In Darfur – as is the case in many other conservative Muslim tribal societies - rape leaves deep scars in the spirit and consciousness of its victims, their relatives and sometimes the entire community. The legacy of rape commences from the moment of this barbaric act and reaches its climax when babies are born out of rape, especially to teenage girls and unmarried women. The suffering endured by female victims of rape in Darfur goes far beyond the actual criminal act. Female rape survivors often suffer from severe psychological, mental and physical problems. They may be ostracised and often fall victim to unwanted pregnancies. They face deep social stigmatisation and economic hardships. Married female survivors of rape may be repudiated by their husbands, while unmarried ones may not be able to marry because they are disrespected or dishonoured by their communities. Women who are not able to marry or those who have been disowned by their husbands because of rape often become socially and economically vulnerable. Being single mothers, they usually lack the protection and economic support that men provide. In Darfur, where the armed conflict was largely triggered by competition among thriving human and animal populations for a land in ecological decline, female rape survivors and their children could face triple discrimination (black Africans, women, rape victims). Their children are more likely to suffer from malnutrition and disease. They are also less likely to pursue decent education. These sad realities mean simply that all the ingredients are in place to ensure that rape victims in Darfur and their dependents live in perpetual poverty and misery.

National mechanisms of redress for female victims of rape

The legal framework in Sudan, especially the 1991 Penal Code and its amendments, are based on the government's own interpretation of Islamic *Shari'a* Laws. In many cases - in particular in the treatment of criminal offences against women - the Penal Code is complicated and incompatible with universal standards of justice and/or internationally recognised customary law. Furthermore, Sudan enjoys the notorious distinction of being among the few countries that have categorically rejected adherence to the International Convention on the Elimination of All Forms of Discrimination Against Women. Sudan, therefore, is under no obligation to bring its domestic legislation in conformity with international standards. Sudan also holds negative views against the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. As such, women in Sudan have a meagre chance, if any, of enjoying their full rights and freedoms as guaranteed by the relevant regional and international human rights law. In the absence of adequate protection under national law, women in Sudan are practically prevented from seeking justice and redress for countless violations of their rights.

The dilemma of women victims of the crisis in Darfur is multi-faceted.¹² First and foremost is the government's ongoing policy to absorb the *Janjaweed* militia men into the police force of Darfur. The *Janjaweed*, as the main perpetrators of rape and destruction, are now charged with the unusual task of protecting their victims. They now commit atrocities with complete immunity and refuse outright to file rape cases. The law is also problematic for female victims of rape in Darfur. For instance, they find it practically impossible to identify their attackers by name and place of residence, which is a prerequisite for the police and courts to treat rape cases with due attention. Naturally, if this is the first time that rape victims come into contact with their aggressors, they are usually in a state of total panic and fear. The legal system requires that women identify their aggressors and that at least four male witnesses testify seeing the rape incident thoroughly, which is an impossible condition to fulfil even during peace times. Furthermore, Sudanese legislation does not provide for the punishment of war crimes or crimes against humanity and the 1991 Penal Code treats rape as any other criminal offence with a disproportionate punishment levied against the perpetrators. Ironically, on some occasions women impregnated by rape in Darfur have been accused of committing adultery and have been punished instead of the perpetrators.

Neglect of women in the peace process

Prospects for meaningful involvement of Darfuri women in negotiations for a peaceful resolution of the conflict that destroyed their lives are non-existent at present. Equally, one cannot but express dismay over the unlikely prospect that female victims of atrocities in Darfur will be able to raise their voices and demand justice, reparations and redress for the immeasurable agony, misery and injustices inflicted upon them for no reason other than their ethnicity and sex.

Present negotiations, both in the political arena and concerning humanitarian and security issues, are essentially between the government of Sudan and the insurgents, thus excluding other equally important actors in the region. Some segments of Darfur society - those targeted by the campaign of destruction and rape - and their civil society groups are not accommodated in the forthcoming process. Inability of these groups to contribute their knowledge and painful experience during the negotiations indicates that they will, indeed, be absent or ineffective in shaping their role in the post-conflict rehabilitation and reconstruction phase. Perhaps the most visible absentee victim group is women. Despite the fact that women are ubiquitously present among the prime victims of the current conflict and will be present as pawns in the post-conflict phase, they are conspicuously sidelined in the decision-making process. This is true as far as the negotiation plans for a settlement of the conflict in Darfur are concerned and, by consequence, during the post-conflict rebuilding phase.

At the 3rd World Conference on Women held in Nairobi in 1985, UN member states affirmed that: '... equality is important for development and peace because national and global inequities perpetuate themselves and increase tensions of all types'. The warring factions in Darfur are far away from grasping the relevance of this prophecy. While it is obvious that the conflicting parties in Darfur do not favour engaging absentee stakeholders in the political process, it could be helpful if the international community places strong emphasis on the importance of a multi-disciplinary approach that engages women and other indigenous partners to help end the Darfur crisis. The challenge is before female human rights activists from Africa and other parts of the world to persuade the warring factions in Darfur of the importance of involving women in the negotiations for a peaceful solution to the conflict.

Conclusion

The destructive armed conflict and associated humanitarian crisis in Darfur has left untold sorrow and misery on its victims, especially women. Heinous crimes against humanity were inflicted upon them, first and foremost rape and sexual violence. The carnage continues and the prospect for a speedy end to the war and eventually the return of peace and tranquillity are currently beyond sight. Nonetheless the time is opportune to working out a future strategy to ensure that justice will be done to woman victims of the Darfur conflict and help them assume normal life. This is essentially a long-term process that requires a multidisciplinary approach to address all the dimensions of the crisis. However, immediate measures should be taken to protect women in IDP camps from daily assaults when they go out to fetch food and firewood.

Despite immense hardship, the women of Darfur are courageous and resilient. Most importantly, they fully comprehend the extent of the tragedy and the challenges facing them. They need to be organised and empowered to make their faces seen and voices heard. This is the only way to ensure that women in Darfur play

their normal role in life when the conflict ends and the rebuilding phase starts. Rehabilitating female victims of the Darfur tragedy cannot be done effectively unless introduced within an internationally supported special affirmative action plan to rebuild their shattered lives and help them start afresh. As stated by ICID in its report, such a plan should involve an adequate and satisfactory reparation scheme that takes the form of *restitutio in integrum* (restitution of the assets pillaged or stolen), monetary compensation, rehabilitation including medical and psychological care as well as legal and social services, satisfaction including public apology, acknowledgment, acceptance of responsibility and guarantees of non-repetition.

References

1 Some but not all of the indigenous African groups that live in the Darfur region are the Areigna, Bagirma, Berti, Bergid, Bigo, Burgo, Burno, Binga, Dajou, Fur, Hawara, Hawssa, Kara, Massaleet, Mediob, Tama, Tunjur, and Zaggawa. The Fur is the largest African tribe in the region followed by the Massaleet and Zaggawa. On 18 December 2003, the representatives of these tribes signed a document affirming their rights in the region in response to the document that the Arab Alliance signed on 15 November of the same year. Since then the African tribes of Darfur increasingly consider themselves one entity.

2 All figures in this paragraph are based on calculations provided by representatives of the affected local communities as well as on the scene estimates conducted by independent researchers associated with the Darfur Relief and Documentation Centre (DRDC).

3 The International Commission of Inquiry on Darfur (ICID) was established by the UN Secretary General pursuant to Security Council Resolution 1564 of 18 September 2004, in order 'to investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable.' The ICID report to the UN Secretary General dated 25 January 2005, can be consulted at:

(<http://www.ohchr.org/english/docs/darfurreport.doc>)

4 Secretary General Kofi Annan's introductory remarks at the Security Council, UN Press Release SG/SM/9722 SC/8314 AFR/1110 dated 16 February 2005 at:

<http://www.un.org/News/Press/docs/2005/sgsm9722.doc.htm>

5 Sudan: WFP Warns of Potential Food Crisis published on 23 February 2005, by the UN Integrated Regional Information Networks <http://allafrica.com/stories/200502240541.html>

6 See Linda Melvern, *A People Betrayed, The Role of the West in Rwanda's Genocide*, Fourth Impression, 2004, New Africa Education Publishing, Claremont (South Africa)

7 For more on rape of women in Sudan see the comprehensive study of Tara Gingerich and Jennifer Leaning entitled *The Use of Rape as Weapon of War in the Conflict in Darfur, Sudan*, October 2004. The Study can be consulted at:

http://www.hsph.harvard.edu/fxbcenter/HSPH-PHR_Report_on_Rape_in_Darfur.pdf

8 The *Janjaweed* is a coined Arabic word used by the local people to refer to gangs of outlaws and robbers. These groups are usually composed of criminal elements from different nomadic Arab tribes of the region. The *Janjaweed* who are uneducated and barely civilised individuals were manipulated and politicised by the present government and by racist organisations in the region such as the Arab Congregation and *Gouresh Group*. They acquired international fame when the government started drafting the nomad tribes in Darfur to fight a proxy war on its behalf against the Sudan Liberation Army and Movement (SLAM) and the Justice and Equality Movement (JEM). Some nomad tribes of Darfur resisted the government pressure to join the *Janjaweed* ranks and take part in the ongoing conflict to the extent that it could be argued that all the *Janjaweed* are Arabs, but not all Arabs are *Janjaweed*.

9 For more on the use of rape as a weapon of war in Darfur see

AL Index: AFR 54/097/2004 dated 9 August 2004 entitled 'Sudan: Surviving Rape in Darfur' and AL Index: AFR 54/076/2004 dated 19 July 2004 entitled 'Sudan, Darfur: Rape as a Weapon of War: Sexual Violence and its Consequences.' These documents can be consulted at the following links:

<http://web.amnesty.org/library/index/ENGAFR540972004> and <http://web.amnesty.org/library/index/ENGAFR540762004> respectively.

¹⁰ These incidents were reported in the Sudanese local press. They were reported to DRDC through eyewitness accounts in Nyala and Khartoum.

¹¹ On 22 July 2004 both Chambers of the U.S. Congress adopted concurrent resolutions condemning the continuing atrocities in Darfur as 'genocide' and asking the international community to join with the United States to help bring an end to the humanitarian catastrophe under way there. The U.S. House of Representatives

passed its version (House Concurrent Resolution 467) in a vote of 422-0, with the U. S. Senate approving its version (Senate Concurrent Resolution 133) by voice vote.

¹² For more examples of the difficulties faced by the people of Darfur with regard to the administration of justice see the declaration of the Sudanese Minister of Justice in a meeting with Mr. Gerhart Baum, former UN Special Rapporteur on the Situation of Human Rights in the Sudan held in Khartoum in March 2003. For more details see the Report of the Special Rapporteur to the 59th Session of the UN Commission on Human Rights (E/CN.4/2003/42) dated 6 January 2003, page 17. This document can be consulted at:

<http://ods-dds-ny-un.org/doc/UNDOC/GEN/G03/100/60/PDF/G0310060.pdf?OpenElement>



African women's pledge to the African Union Pledging Conference on Darfur 26 May 2005, Addis Ababa, Ethiopia

We, the African women gathered under the African Union auspices to take forward the implementation of the AU Heads of State Solemn Declaration on Gender Equality, and in partnership with the UN agencies present at the Consultative Meeting (25-27 May 2005);

Pursuant to paragraphs 2 and 3 of the Solemn Declaration on Gender Equality in Africa, concerning ensuring the full and effective participation and representation of women in peace processes including the prevention, resolution, management of conflicts and post-conflict reconstruction in Africa as well as the prohibition of the recruitment of child soldiers and abuse of girl children;

Pursuant also to the UN Security Council Resolution 1325 and our continued support and solidarity with our sisters in Sudan;

Affirming our support and association with the Sudanese Women's Statement of Priorities and Recommendations made to the Oslo Donors Conference on Sudan;

We pledge our commitment to support the African Union Mission for Sudan and the African Union efforts on peace and security in other parts of the continent. In specific terms, we commit towards:

1. Promotion of the principles of democratic governance, constitutionalism and rule of law in Africa,

and ensuring gender equality especially in Sudan;

2. Providing technical support towards Sudanese Women's participation in the AU led Abuja peace process, based on our experiences in Liberia, Sierra Leone, Burundi, DRC among other countries;

3. Providing our expertise towards the training of AU peace keepers on protection of women from sexual and gender based violence;

4. Participating in the African Union proposed High Level mission of African women leaders to Darfur, Sudan, with cooperation and partnership with the UN Mission for Sudan and United Nations Development Fund for Women;

5. Supporting our sisters' efforts in Sudan and especially in Darfur to work for an end to conflict and impunity.

We undertake to strengthen our efforts to bring violators of rights of African women and children to account and to work with our governments to end impunity for gender based violence.

We urge the international partners at this pledging conference to continue and increase their support for AU Mission in Sudan and in particular, to assist the AU to fulfill its commitments under the Solemn Declaration on Gender Equality in Africa and the AU Protocol to the African Charter on Human and People's Rights of women and in the UN Security Council Resolution 1325, in the Darfur region.

Gender justice? What's missing?: A Zimbabwean perspective

Prof Julie E. Stewart

7

Introduction

This paper explores some of the successes and failures in attaining gender justice in Zimbabwe over the last 25 years – i.e. since Independence in 1980. However, identifying the successes and failures is just to indicate what has been taking place. The more significant task is to analyse what facilitates successes, what precipitates failures and what militates against positive change.

Gender justice? The reality of severely tilted scales

What does the term gender justice mean? It does not mean, I would suggest, justice only for women, because that lacks gender balance. It means, logically, justice between the genders: justice on a basis of equality, subject to variations required to deliver sex-based justice, equality of treatment or, in some cases, equality of outcomes between the male and female genders.

Although ideally any exploration of gender justice ought to involve a cross gender and cross sex investigation and

analysis of differential outcomes between the sexes and genders, it is accepted that currently the balance is tipped adversely against the female gender and sex. This inequality pervades women's lives both public and private; it produces differential outcomes under all forms of law, be it the general (received) law, customary law or the criminal and civil components of the law.

Gender justice v gender neutrality

Gender equality, equity and justice require as essential precursors level playing fields constitutionally, legally, politically, socially, bureaucratically and educationally, which makes it at least feasible for women and girl children to compete with their male counter parts.

Gender justice as an analytical tool must enable the exploration of the gendered or sexed consequences of seemingly gender or sex neutral laws or policies that in real life situations have sex or gender discriminatory outcomes.¹



For example, women are subject to different economic outcomes than men in the face of ostensibly gender-neutral laws that mediate the division of marital property upon divorce. The financial position of a woman may determine whether she is able to retain custody of her children after divorce. Section 7 of Zimbabwe's Matrimonial Causes Act (Chapter 5:13) purports to provide a gender-neutral framework for the division of matrimonial assets. The reality is that women are less able to quantify contributions to the joint matrimonial estate. Furthermore, women's contributions in the form of domestic and care work are given low value in the matrimonial settlements – thus male preference in the division of assets prevails.

There have been significant attempts by the judiciary to improve the rights of women married in unregistered customary law unions, so they may share in matrimonial property. Unfortunately, the barriers created by perceptions of customary rights to property being vested in males, and that wives 'work' for the husband's family, persist. Legislative intervention is urgently required to provide for gender equity and equality in this area, but the political will to tackle the male establishment and overturn male privilege is wanting.

Apparent equality: Gendered and sex realities

In Zimbabwe, if a woman kills or attacks a violent partner when he is vulnerable, in what she perceives as a form of self-defence, she is not able to invoke the defence of provocation. Although this may be her only real opportunity to prevent further violence, her actions lack immediacy and her responses are not as a male judicial officer might expect. The easiest option may seem to walk away from a violent relationship. However, women's real or perceived economic dependence, the pressure from families to endure the violence to save family face, to avoid return of *roora/lobola* and the notion that women have endured domestic violence for centuries, combine to trap women in dangerous domestic environments. Male responses are to retaliate immediately in the heat of the moment with counter violence when attacked. Women are unlikely to respond in such fashion – thus fearing another attack and caged by social pressures they attack or kill when the perpetrator of violence is most vulnerable – yet the provocation has been sustained and brutal, physically, mentally and probably economically. The defence of provocation is open, seemingly equally, to both sexes/genders.

Zimbabwe has had a draft of a comprehensive Draft Domestic Violence Bill, with regulations attached, for over four years. At every opening of parliament, women of Zimbabwe have been promised that a Domestic Violence Act will emerge from that parliamentary session. It still has not happened. Again, the promise of domestic violence legislation was trotted out. Two years, nothing. Women are confined to the use of a criminal process that they find ineffectual and unable to address the root causes of their problems. At present, either the matter has to be dealt with as an assault, or women seek a binding-over order, which has little impact on the perpetrator.

Gender justice frameworks: Do they exist?

There is no shortage of gender justice prescriptions that lay out the interventions that are needed to provide the preconditions for equality and equity between the sexes. The fundamental problem with frameworks such as the Convention on the Elimination of All Discrimination Against Women (CEDAW), Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Women's Protocol) and the Declaration on the Elimination of Violence against Women (DEVAW), is that they remain as exhortatory instruments at the international level, unless there is political or judicial will to facilitate their incorporation into national legislation or their utilisation in judicial determinations.

There have been advances that favour women; that address specifically female needs, that tantalise² women with the offer of equality, but which can be whisked away by sleight of hand because sex and gender equality are inadequately entrenched in the Constitution.

Gateways, barriers and divergences

National constitutions define the gateway for the admission or non-admission of international instruments into national legislation. Section 111B of the Zimbabwe Constitution requires international instruments to be formally incorporated into national legislation by Act of parliament, in most cases.

So far, none of the human rights and specifically focused women's rights international instruments have been favoured with legislative incorporation. This is not to say that there have not been legislative and judicial interventions that address women's specific human rights needs, but those gains remain vulnerable if there is an incomplete translation of the specificities of protection against sex and gender based discrimination into national legislation.

The Magaya Warning

The much cited and criticised decision of the Zimbabwe Supreme Court in *Magaya v Magaya* 1999 (1) ZLR 100 (S) clawed back the judicial advances that had taken place in a series of cases starting in 1984. These cases, relying on the letter and spirit of the Legal Age of Majority Act of 15/1982³ which conferred full legal capacity on all women regardless of race upon attaining the age of 18, advanced women's rights to inherit from their male relatives (*Chihowa v Mangwende* 1987 (1) ZLR 228 SC), and formed the basis of a successful challenge to the right of fathers to demand *lobola* and seduction damages for their adult daughters under customary law (*Katekwe v Muchabaiwa* 1984 (2) ZLR138(S)).

The reversal of the advances was possible because gender and sex equality were initially not directly addressed in Zimbabwe's post-Independence Constitution which provided that no law should be discriminatory 'of itself or in effect', but initially only referred specifically in section 23 to race, tribe, place of origin, political opinions, colour or creed as the basis of such unacceptable discrimination. Somewhat ambiguously section 11 of the

Constitution, the Preamble to the Declaration of Rights, included non-discrimination on the basis of sex as one of the entitlements of every person in Zimbabwe.⁴ Subsequently, section 23 of the Constitution was amended to include gender as a basis for non-discrimination, except where it was necessary by reason of the physiological difference between the genders.⁵ Denial of opportunities to move towards conditions for attaining gender justice in the sense of gender equality and gender equity continues because of the exemption from compliance with the non-discrimination requirements of section 23 extended to any law relating to adoption, marriage, divorce, devolution of property on death or other matters of personal laws,⁶ the application of customary law in civil disputes⁷ or rights in communal land.

Thus, despite significant progress under what might be styled the liberal Dumbutshena⁸ Supreme Court, which eagerly embraced the opportunities that were put before it to further sex and gender equality, the protection given to laws regulating the most intimate areas of daily life and thus male/female relations within the family, left the gate open for reversal of gains. The preferences for male property rights within marital relationships, preference for sons' right to inherit from their fathers, preference for males as guardians of marital children, meant that there could always be a reversal to a former discriminatory position, under a less liberally disposed court, as was the case in *Magaya v Magaya*.

Gender justice: Words or reality?

There are a large number of laws that prescribe equality and which meet, at least on a cursory examination, the requirement of non-discrimination on the grounds of sex or gender. So, for instance, sections 4 and 5 of the Immovable Property (Prevention of Discrimination) Act (Chapter 10:12) make it an offence to discriminate, *inter alia* on the grounds of sex, in the sale or lease of any immovable property or in the provision of finance for the acquisition of such property. Section 5 of the Labour Act (Chapter 28:01) outlaws discrimination on the basis of gender and pregnancy in the sphere of employment. These provisions can only pave the way for gender justice if the social and economic preconditions for women and girls taking up the opportunities of acquiring immovable property, seeking employment or university education have been satisfied. Regrettably, there are huge gaps to be filled in the attainment of equality in employment and equality in having the collateral or even the initial deposit to purchase immovable property. The University of Zimbabwe Act (Chapter 25:16) under section 5, as with the Acts establishing other Universities, prohibits discrimination on the grounds of sex in the offering of places to students and employment of staff, including academic staff.

Girls, staying in school to successfully complete their A levels is a necessary requirement for admission to most universities in Zimbabwe. However, post-primary education for many girls, especially in rural areas, is elusive. Parents may be reluctant to send sexually maturing girls to schools that involve long or risky daily commuting – risky in the sense that girls are seen as being sexually vulnerable,

which they are, but more importantly, from the perspective of the male parent or guardian, a girl who is damaged – falls pregnant – attracts lower *roora/lobola* (bride-wealth). Families may also determine that a girl child does not require an advanced education. Gender justice in terms of fairness and equality of opportunity is denied at the level of the family where the girl child is treated differentially and unequally compared to her male sibling.

HIV/AIDS

There is a gap between what is perceived to be needed and the necessary steps to implement support for families who are undertaking home based care of AIDS patients. There is a national AIDS policy, which purports to create a national strategy for the management of HIV/AIDS and to provide back-up support to families upon whom the bulk of caring for AIDS patients inevitably falls. But the reality is that the medical assessments to instigate the provision of such support are not available. Thus, there is no access to ARVs for many, and there are no home visits and advice services available from professionals to assist families caring for AIDS patients. Who does the caring in families? Already overburdened and possibly already ill, women and girls. The burden of care for those suffering from AIDS or orphaned by the disease falls on women, often elderly women – grandmothers. Generally these women lack the resources and energy to provide care, yet do so often with minimal, if any, assistance.

Gender justice: Sometimes

It is not all bad news – sometimes there are positive steps that bring the attainment of gender justice a little closer for some women who are able to benefit from legal interventions. In the case of *H v H* 1992 (2) ZLR 358 (H), Justice Bartlett found that rape within marriage was possible under Zimbabwean law. At the time the decision was handed down, there was a fear that this was another area where gains in the courts could and would be eroded by legislative interventions. The Supreme Court decision in *Rattigan and Others v Chief Immigration and Others* 1994 (2) ZLR 54 (S), which treated provisions that only permitted male citizens to confer residence rights automatically on their spouses as discriminatory and thus inoperative, attracted such intervention. Almost immediately the Constitution was amended and spousal conferring of citizenship was abolished – non-discriminatory but retrogressive in form and substance. The aftermath of *H v H* was the reverse. The potentially tenuous nature of the decision was overtaken by the provisions of section 8 of the Sexual Offences Act (Chapter 9:21), which makes non-consensual sex within marriage rape under the same conditions as for sex outside marriage.⁹

Firmly institutionalising gender justice frameworks is the way forward. Ensuring that judges and magistrates, regardless of sex, are gender aware and sensitive is a critical component of the gender justice quest. We need more *H v H* and *Rattigan* approaches – and no more *Magayas*. Constitutional back-up is required so that

potentially retrogressive judicial officers have no room to backtrack. Unfortunately, there has been a disinclination to amend section 23 of the Constitution to abolish the claw-back clauses and there is, at the present moment, a political hiatus around this issue.

Political arena

Institutionalising gender justice requires the necessary political, legal and constitutional mechanisms to be in place. Significantly, there is no critical mass of women in parliament to push the women's agenda.

There are no legal barriers to women's participation as elected representatives at any level of government. Women, however, do not feature in sufficient numbers as significant players in the political arena. There are no set quotas in national laws reserving seats for female candidates. Utilisation of quotas to promote women's participation in parliament is entirely dependent on the will of political parties contesting national elections. In the forthcoming national elections in Zimbabwe, set for 31 March 2005, the pledge was made that the ZANU(PF) constituency nominations would comprise 30% women. This continues to be a hotly contested issue within the party, with male candidates viciously and often intemperately haranguing all and sundry about the infamy of being passed over for a female candidate. Perhaps a limited form of gender redress of past representational gender injustices might be possible, but the likely outcome of the elections is that women will not comprise 30% of the parliament. Many female candidates are contesting marginal seats. Women are contesting other women. This presents a real chance of a woman winning, provided there is no stronger male candidate. Probable outcomes are that there would be around 16% to 20% females returned to parliament. Such numbers do not constitute a body that has to be catered to and have their demands addressed. There is a cross party women's caucus in the present Parliament, but it lacks the numbers or the clout to get legislation on the table, let alone through the house.

Further, female representation is not a guarantee of female legislative and budgetary needs being promoted in the house. Such candidates, when returned, have allegiances to the party and to the constituency electorate. This ought to mean that MPs have to ensure

that both male and female interests are considered, but the reality is more likely to be that local power blocks and commercial interests which are likely to be male command attention

Conclusion

Since Independence there has been an 'on again off again' national wooing of women and their votes. There is lack of appreciation of what amounts to gender justice. There is an even more troubling lack of understanding of what is needed to provide the mechanisms to deliver gender justice. Despite some notable advances, the bulk of women remain marginalised. Even if there is constitutional and legal reform there is still a long haul to make women aware of their rights, let alone to find the courage and the fortitude to pursue them.

References

1. In writing this I am not invoking questions related to sexual orientation which need follow neither one's given or chosen gender nor one's apparent physical sex.
2. The use of the word tantalize is deliberate – it invokes the myth/legend of Tantalus doomed to spend eternity within sight of food but unable to reach it – a fair analogy to the position that all but a handful of women find themselves in where there are promises of equity and equality and promises of gender sensitive redresses for criminal acts against them, but where it is politically, economically and practically impossible for them to attain or benefit from such promises.
3. The Legal Age of Majority Act No 15 of 1982 which reduced the age of majority from 21 to 18 is now section 15 of the General Laws Amendment Act Chapter 8:07.
4. Section 11 was amended in 1996 (Act 14 of 1996) to just generally canvass the notion of rights entitlements without any reference to specific grounds of discrimination.
5. I would argue that the wording is confusing, as gender as a social construct does not encompass physiological difference. Rather it should read 'sex'. But the substance remains the same.
6. Section 23(3)(a).
7. Section 23(3)(b).
8. So labelled in reference to Chief Justice Enoch Dumbutshena.
9. The Sexual Offences Act is due to be replaced by the Criminal Code, but although the Code has passed Parliament it had not, at the time of finalizing this paper, been promulgated. However, rape will remain a crime within marriage.

Gender justice and the conflict in Northern Uganda

Eva Luswata-Kawuma



Introduction

The war in Northern Uganda which began in 1986 soon after the National Resistance Movement (NRM) government came into power, has resulted in the near collapse of several districts in the northern parts of the country, especially the Gulu and Pader districts. This civil war has attracted an unprecedented military response from the government resulting in an eighteen-year conflict that has resulted in massive disruption of the economic, social and political life of the affected population and a violation of their human rights. The only surviving rebel group, the Lord Resistance Army (LRA) bears a great deal of the responsibility for the desperate situation in Northern Uganda. However, there have been confirmed reports that officials of the Uganda People's Defence Forces (UPDF), the formal state army, and other government related military security agencies have also committed multiple abuses of the rights of people in Northern Uganda.¹

A fact-finding team comprising of members of the Hague based Women's Initiatives for Gender Justice and members of a Kampala based woman's organisation Isis-Women's International Cross Cultural Exchange (Isis-WICCE) confirmed that women and children have in particular borne the brunt of this long and violent civil war. Owing to their physical, economic and social vulnerability, women and girls have endured serious violations, including physical violence, assault, abductions, killings, mutilations, rape, torture, sexual slavery and other forms of sexual violence and enslavement and physical and psychological insecurity with the destruction of families, livelihoods, infrastructure and the environment.² These conditions have in turn led to cultural fragmentation, abject poverty and vulnerability to preventable diseases, mutilation and death.

Other than being victims of this gruesome war,³ women involved in this conflict have risen to the challenge by assuming diverse roles, becoming negotiators, and most frequently community peace builders, an involvement which has at times been at the risk of their lives.⁴

The armed conflict in Uganda appears to be coming to an end. Relentless expeditions by the state military, spiced with legal concessions through amnesty legislation, sporadic ceasefires and more importantly, complex but prolific peace processes, seem to have born positive results. Key combatants on the side of the rebels are increasingly laying down their arms, and it is hoped that a peace agreement may soon be signed to bring a close to the long and destructive war.

The government of Uganda and other non-government

actors are therefore currently faced with serious decisions that will ensure that post conflict reconstruction promotes visions of a just society as subscribed to by women and men. Enhancement of gender justice begins from the premise that war impacts on gender differently and moves on to recognise critical areas of concern that traditionally have resulted in the subordinate position of women in society. State and non-state conflict interventions will therefore require an analysis from the point of view of gender negotiations in decision making, around resources, concerning livelihoods and everyday life regarding bodily integrity and sexuality and within the context of violence and conflict.

Although not yet very well documented, the participation of women in various peace processes and post conflict reconstruction in Northern Uganda is present. However, despite their strength and veracity in these processes, women continue to be marginalised from many of the official initiatives to address the war. On the other hand, gender responsive interventions of non-governmental organisations (NGOs), community-based organisations (CBOs) and other bodies are still in their infancy and lack the much-needed support from government. This paper attempts to investigate challenges faced by the government in addressing the situation of women living in conflict areas and makes suggestions that will ensure gender justice responsive interventions in post-conflict Uganda.

Women's position in state-sponsored peace processes

The Constitution of Uganda affords equal rights to women with men of opportunities in political, economic and social activities⁵ and the right to participate in affairs of government individually or through representation.⁶ Although such provisions indicate equal opportunity and participation for women in all official initiatives to address the war, in reality, the rights of Ugandan women have merely been formulated as part of mainstream human rights with no corresponding consensus about the meaning of justice in relations between men and women. As an illustration, the Amnesty Act of 2000 was enacted to provide for an amnesty for Ugandans involved in acts of a warlike nature in various parts of the country. The instrument comprises a mere 16 sections that have virtually no bearing on the needs of vulnerable groups like women. It established an amnesty commission and demobilisation and resettlement team, the latter drawing programmes for, and the former monitoring programmes of demobilisation, reintegration, resettlement, sensitisation, and appropriate reconciliation mechanisms in the affected areas. There is still no meaningful representation of women in both these forums.

The official 'face' of women's participation has mainly been in the person of Ms Betty Bigombe, the principle negotiator in the government's team brokering peace with the LRA. Her involvement in the process dates back to the early 1990s when she still held the portfolio of Minister for the Pacification of the North in the NRM government. Between 1993-4 she spearheaded the government's peace process and was permanently stationed in the war area. However, Ms Bigombe faced serious social-cultural constraints as a young woman trying to address an issue clearly dominated by men. Both the rebel factions and groups in Acholi land (on the side of both the government and the community) that were brokering peace were predominately male. Ms Bigombe was clearly seen as a female working outside a pre-determined social structure in which men, and not women, are supposed to excel. Her efforts were frustrated when the negotiated ceasefire broke down only after six months of its inception. She was eventually dropped from the cabinet.

Not surprisingly, in late 2004, the government recalled Ms Bigombe in renewed attempts for 'peace talks' with the rebels. Her efforts these past four months have resulted in a quick succession of positive events, in particular well documented meetings between the state negotiators and rebel commanders, and the surrender of high-ranking members of the rebel factions. However, the intervention of Ms Bigombe should not be seen as state strategy towards gender justice. Her appointment hinged more on her past ability as a skilful negotiator. Her good knowledge of the culture and politics of the area, as well as the fact that she is an Acholi herself, helped to capture the trust of the LRA who perceive her as a fair negotiator/mediator. It is such factors (and not the fact that she is a woman with an agenda for gender justice) that may have informed the government to make the appointment.

Again, apart from Ms Bigombe, women are still significantly absent from the formal peace processes initiated by the government. Although women hold the portfolio for State Minister for Defence and State Minister for Security, their duties are mainly concerned with the general welfare of the army and the military machine. In addition, the government has set aside four ministries for peace resolution and management in active and post war areas.⁷ Unfortunately, none of them have a clear policy on gender justice and the government still relies on the Local Council (LC) structure in which it occupies one-third of the membership and a specific seat is reserved for women. It is hoped that peace management will be channeled through these structures. Yet, the government has made no attempt to train women leaders in peace initiatives, especially those that address injustices that women usually suffer in conflict and post-conflict situations.

Women's human rights in camps for internally displaced people.

On 2 October 2002, sighting imperative military reasons, an oral army order was passed directing civilians living in the villages of the Pader, Kitgum and Gulu districts to leave their homes within 48 hours and to converge into

designated areas in which government security and safety was ensured. This exodus has over the years resulted into the displacement of an approximately 800 000 needy persons originating from the three northern districts.⁸ A large percentage of these needy persons are women.

The Uganda policy on internal displacement provides that the ministries of defence and internal affairs 'will ensure' adequate safety and security of internally displaced persons.⁹ The guiding principles specifically state that internally displaced persons 'shall be protected, in particular, against attacks against their camps and settlements'.¹⁰ Civilians do not appear to be secure in the 'protected camps' which are regularly attacked by the LRA. A study by Human Rights Watch released that only about 80 soldiers guarded the estimated 45 000 population of Pabbo camp, the largest in Gulu District.¹¹ It is apparent from various investigative reports that the conditions under which women and children are kept in IDP falls short of the envisions in article 17 of the Additional Protocol II to the Geneva Conventions 1977 (which addresses the protections the warring parties must provide for civilians in internal conflicts) and Uganda's own laws and policies on displaced persons.

Apart from the obvious loss of life, conflict in Uganda has had an astronomical impact on the social, economic and cultural rights of women and children. The war has displaced entire communities who have lost their homes and means of a livelihood, resulting in abject impoverishment of the entire population. Available statistics indicate that 98% of women displaced in the insurgency in Kumi and Soroti moved with their families, as opposed to 81% of men, indicating that the primary responsibility of catering for children in times of conflict rests on women. This has increased the burden of women in home construction and searching for water, fuel and food.¹²

Sexual violence, including rape and defilement,¹³ has drastically increased in the conflict, with adolescent girls at greatest risk. A survey found that in Gulu, girls identified rape and defilement as the fourth most important concern behind insecurity, abduction, murder and displacement.¹⁴ The apparent increased incidence of rape is associated with the increased presence of the UPDF and vulnerability of the displaced population. Girls are vulnerable to sexual assault when they venture out of the camps to work in the fields of their original homes, or to collect firewood and water. Human Rights Watch reported more than 27 women and girls were raped by UPDF soldiers in Kitgum and Pader Districts between June and December 2002.¹⁵

In many cases, women reported the crimes, but the offenders are rarely prosecuted. In most cases, they are simply transferred.

In other cases, women and young girls have been forced to marry, usually as a means of obtaining security for themselves and their families.¹⁶ On average, 44.9% of respondents in Katakwi district report to have been victims of rape and gang rape. As a result women have been vulnerable to a host of serious health and psychological problems, which may take many years to heal. Coupled with this, the intimidation, abduction and conscription of

women into the armed forces has resulted in a massive violation of their human rights.

The Women's Commission for Refugee Women has reported that amongst the IDPs in Northern Uganda are an estimated 44 000 'night commuters' in the three most affected districts. The night commuters are mostly children, adolescents and women who flee their villages or IDP camps each night for town centres seeking safety from LRA attack. Although representing only a small portion of the IDP population, the situation of these people illustrates how inadequate protection by state functionaries has led to increasing violence against children and adolescents. Women and girls are most vulnerable to abuse and reports of sexual harassment and rape along transit routes and in sleeping spaces in the town centres have been frequent. These night commuters therefore remain at a high risk of exposure to infectious diseases, HIV/AIDS and early pregnancy. Sleeping conditions at the safety centers are deplorable and access to sanitation and clean water at several of the centers either remains scarce, or has become altogether absent.¹⁷

On 12 February 2005, the Ugandan government launched her national IDP policy, lauded as Africa's first and only the third in the world. The 40-page document has as its mission the duty to 'ensure that IDPs enjoy the same rights and freedoms under the Constitution and all other laws like all other Ugandans'.¹⁸ The New Vision Newspaper of 24th February 2005, reports that the government hopes to alleviate the effects of internal displacement by designating responsibilities and setting up a multi-sectoral, multi-disciplinary intervention structure that will ensure timely protection and provision of assistance to IDPs. The institutional framework of the policy is based on the co-ordination of several ministerial departments and committees to deal with policy formulation, internal displacement matters, planning and co-ordination and human rights.¹⁹

The policy gives some attention to the rights of women and children. For example, equal rights between men and women in issues of identification and registration is given to a special category of women (expectant mothers, mothers with young children, female-headed households) with regard to property rights and clothing. Women and girls are also assured full and equal participation in education programmes and special attention is paid to the health needs of women, including access to female health care providers, proper reproductive health care and appropriate counselling for victims of sexual abuse and other abuses. However, the policy is only in its inception stage and the concerted effort of state and non-state actors is critical to ensure it is successfully implemented, especially with regard to the rights of women and young girls.

Interventions by the International Criminal Court

The announcement on 29 January 2004 by the International Criminal Court (ICC) Prosecutor, Luis Ocampo, that he would begin investigations into the crimes committed in Uganda is a welcome prospect,

giving victims a chance to receive vindication for the atrocities they have suffered. Women and girls who have been victims of all forms of sexual crimes will have an opportunity to participate in proceedings in which key offenders will be indicted and punished.²⁰ Uganda ratified the ICC statute on 14 June 2002 and parliament has already drafted and is discussing a bill to give the full force of law in Uganda to the ICC statute. The ICC has already begun its work by sending its personnel to carry out interviews with victims and ex-combatants.

Although the crimes attributed to the LRA are a clear manifestation of crimes against humanity, many NGOs have drawn the attention of the ICC to crimes committed by Ugandan government troops. Human Rights Watch reports that violations by the UPDF include extra-judicial killings, rape and sexual assault, forcible displacement of over one million civilians and recruitment of children under the age of 15 years into government militias.²¹

Meanwhile, northern communities have prioritised the need for peace to return before intervention of the ICC. They have on some occasion complained that they know very little of the ICC operatives and its functions and have blamed it for being insensitive to their views and perceptions of the conflict. However, the emphatic view of most women is that a process of justice, even through the ICC, to address crimes committed against them cannot be ruled out.²²

Female initiatives for gender justice by human rights and community based organisations

Currently, Uganda has a well-developed vibrant and effective NGO community working towards the realisation of human rights of women in all spheres of life. It is evident that NGOs in Uganda are slowly developing strategies for addressing women human rights violations against women in war-torn districts of Uganda. NGOs have concentrated on issues pertaining to the social, economic and cultural rights, interposing these with rights to a sustainable environment and development. Most of their initiatives have taken the form of investigative tours through conflict areas and IDP camps, institutional support and public demonstrations.

Isis-WICCE and People's Voice for Peace have used participatory research to document people's experiences. This process has helped to empower the participants with a deeper understanding of the nature, pattern and dynamics of the armed conflict, knowledge that the women's peace movement has used to strengthen its capacity. Documentation projects have also generated information for advocacy and lobbying work.

The National Association of Women Organisations in Uganda issued a report in October 2003, analysing the evolution of the conflict and the role of women and children in the peace-building process. Of significance, the report highlights the work of Ms Bigombe during the earlier attempts by government to broker peace with the rebels. On the other hand, the Kacoke Madit (KM) (big meeting) initiative has mainly drawn the awareness and support of Ugandans living in the diaspora through

international conferences.²³ Their appeal has been for peace and reconciliation through negotiations rather than violence.

Other NGOs and CBOs have concentrated more on the immediate needs of women living in IDP camps and former abductees returning home for reintegration into the communities. For example, World Vision, the Kitgum peace initiative, the Lira Women's Peace Initiative and People's Voice for Peace in Gulu have put up rehabilitation centres to cater for returning young girls abducted by the LRA forces. Most of these girls are pregnant or already young mothers and a good number have been found to be HIV positive. They receive trauma counselling, education and services to deal with their reproductive health. The women and girls also receive instruction on how to start and maintain income-generating projects that should sustain them upon reintegration into the community. A partnership of international NGOs and agencies, including the Association of Volunteers in International Service, European Commission's Humanitarian Aid department, Swedish International Development Co-operation Agency and Oxfam, have set up night commuter shelters to ease the problem of inadequate sleeping spaces.²⁴

Many women have preferred to remain with their families and used their roles as caregivers to support peace in their homes and communities. However, women are increasingly joining public efforts to promote peace. For example, during 1989, the Gulu District Women's Development Committee mobilised other women in a peaceful demonstration, a first of its kind. Wearing rags and singing funeral songs, the women marched through Gulu town, demanding an end to the violence. Although there are no available statistics to substantiate the outcome of the demonstration, a period of relative calm followed which provided an opportunity for various agencies to resettle displaced populations.

Oywa has further reported that in addition to signalling their disapproval of the LRA's behaviour, Acholi women have moved beyond simple moral appeals to try to influence government policy and the practices of UPDF troops in the region.²⁵ In 1996, a delegation sought an audience with President Museveni, army commanders and top government officials to articulate their concerns and demand a peaceful solution to the conflict and prevention of further violence. An audience with Museveni was denied, but the more positive responses of military authorities, Local Councils (LCs) and the Resident District Commissioner for dialogue and development of joint strategies have greatly improved civil-military working relationships. Women have tried to prevent the excesses of UPDF soldiers by monitoring and reporting violations. Acholi women have also served on the LC committees in an effort to demand that their concerns are taken seriously. These leadership roles have demanded extra courage because of the high risk of reprisals from LRA fighters and, paradoxically, risk of the UPDF claiming that high profile women are LRA collaborators.

Women's efforts have also taken on an international dimension. When the LRA abducted girls from St Mary's

School in Aboke in October 1996, the Concerned Parents Association was formed to campaign for their release. Under the stewardship of the school's Deputy Headmistress, Sister Rachele Fassera, they initiated a high profile advocacy campaign that received attention worldwide and influenced the agenda in negotiations around the conflict. However, the strategy for the release of the Aboke girls has had some criticism, as the thousands of children abducted before 1996 received no such attention. According to Oywa, the strong government support for the campaign has in fact helped to strengthen popular belief in a 'conspiracy of silence' and a lack of political will to end the conflict in Northern Uganda.²⁶

Women have also been active in forming or joining community-based organisations and local NGOs intended to address the consequences of the war by promoting reconciliation, reintegration and regeneration. To that end, between 1989-90 women worked with elders and traditional leaders to establish a reception centre for ex-combatants. This initiative ended when the government began transferring returning combatants from the camp to Kampala, a move which created so much anxiety that many of those who had previously surrendered disappeared back into the bush to continue fighting.

The conflict, and particularly population displacement, have undermined many traditions of social support. Oywa has further reported that women's groups are working with others to revive cultural institutions and to prepare the community for reconciliation and re-integration. Working through local cultural institutions with activities such as prayer meetings, peace education, songs, proverbs, poetry and story-telling, women's groups have helped to build community support and respect.²⁷ Most of these activities are a conscientious response by women to address all the consequences of the conflict and as a result, develop a truly sustainable peace originating from the heart of the grassroots.

Along with women oriented initiatives, the religious, cultural and some NGO leaders expressed concern about the retributive nature of justice in the formal justice systems, terming it as inappropriate for the Acholi people. The Isis-WICCE report clarified that the Acholi system of justice is premised upon the offender owning up to the crimes committed, forgiveness by the victims, compensation offered by the offender's clan to the victim and the ultimate experience of remorse and shame by the offender. The researchers confirmed that, though very few in the region could explain how the system actually works or how it could provide justice to women victims of sexual violence.²⁸

Forward looking strategies for the implementation of UN Security Council Resolution 1325

The recommendations of UN Security Council Resolution 1325 are clear. State parties coming to terms with conflict should ensure that gender issues are accounted for in all aspects of conflict prevention, peace-keeping and post-conflict reconstruction. This would, of course, require a definite policy at the highest level in the administration. The newly launched IDP policy of the government is an



ideal opportunity to integrate and consolidate all previous interventions to protect and rehabilitate war victims. The policy needs to address some important issues which lack emphasis, especially the rights of women as a special category in respect of food, security, shelter, water and sanitation, these being crucial areas where women's participation is more significant than that of men and children. Also, efforts should be made to implement the policy in the very near future.

The national IDP policy of the government has cemented the traditional support of UN agencies, bilateral and multilateral aid missions, international organisations and NGOs. Seeking such support is well placed because these organisations have already been involved in initiatives at the national, regional and international level and therefore have the experience and connections to give support to the government's efforts to integrate women in peace processes of any kind. However, the input of these organisations should not as a rule supercede that of the state. This is because the obligation to ensure safety and rehabilitation is first and foremost the duty of the government of Uganda.

The amnesty law should be improved in a manner that would augment human rights of women. It should draw inspiration from existing international instruments and resolutions that aim at protecting women's rights during and after armed conflict, for these have already set normative standards that have stood the test of time.

The entry of the ICC into the crisis has generally been regarded as a positive international legal intervention. However, such intervention should be conducted with utmost transparency, with serious attempts at disseminating the nature of its operations and the implications of its sanctions. Its operatives in the field should be conducted in a manner sensitive and respectful of the existing peace initiatives, and due respect given to the local culture, the needs of women, victims and survivors of the conflict. ICC investigations should be independent so as to prosecute offenders from both sides of the conflict. Further, advocacy strategies to bring the pending ICC bill in full compliance with the Rome Statute of the ICC, with particular attention to its retroactive applicability since 1986 and the inclusion of its gender mandates, should be stepped up.

The crisis in both Northern and Western Uganda has had a significant foreign component. LRA rebels have continuously sought refuge in Sudan and the defunct ADF rebels appeared to have had sympathies in Western DRC and Northern Rwanda. The conflict therefore has a dimension spanning into parts of the Great Lakes Region. The work of both the government and the concerned civil society should therefore be mindful of collaboration between neighbouring countries and the value of establishing sub-regional mechanisms to promote peace and prevent recurrence of conflict.

Taylor has rightly noted that real human security should advance gender justice, i.e. the main discourse on security should not de-link women's experiences of violence within the household (at macro level) from that of institutionally

based violence.²⁹ In other words, the violation of women's bodies through direct physical violence should not be separated from violations of their social, economic and civil rights. Further debates on peace should be able to capture women's experience in the dominant discourse, which will entail opportunities to enable women to move from the margins to the centre. Women can no longer be viewed as mere victims and passive beneficiaries of state or patriarchal benevolence, but as a group having agency. Therefore, the issue of a power vacuum for women at critical levels of administration and in decision making should be addressed. Women placed at such levels (preferably if they themselves have lived during the conflict or worked there) should result in more meaningful decisions being made to enhance the livelihoods of the targeted population.

Women living in war-torn areas in Uganda have suffered multiple deprivations due to both state and non-state action. Such women will thus need both protection and empowerment. Protection shields people from dangers and empowerment enables people to develop their potential and become full participants in decision making. Taylor has further advised that education, information, public discussion and a supportive democratic environment are necessary for empowerment, which should ultimately allow women to take charge of their lives. Capacity building for both grassroots women and those placed in decision or policy-making positions will enhance their knowledge. Women will require training in political skills, including communication, mediation and negotiation, treatment of stress and trauma and counselling and in early warning methods.

Finally, support for alliances between grassroots, national, regional and international women's groups should be encouraged to improve vibrancy in the movement, and as a result lend serious support to initiatives meant to support any forward looking strategies.

Conclusion

The Ugandan government's efforts at peace, reconciliation and reconstruction need to be consolidated by serious interventions that will promote gender justice. It is important that the women's activism is supported and their political demands acknowledged at every step, from peace negotiations to power-conflict elections and the restructuring of society. Exclusion of women from any peace process will hinder the attainment of a full and sustainable peace. It is also important that negotiations for gender justice should not only defend what has been achieved, but a struggle to enlarge the transformation to eradicate oppression, domination and the unfair distribution of power and the means of survival.

References

1. See Human Rights Watch report on Human Rights Violations by Uganda Government Forces (2003): <http://www.hrw.org/reports2003/Uganda0703/>
2. Women's initiatives for gender justice in collaboration with Isis-WICCE and Uganda women activists press release 23/11/04 at:

><http://www.peacewomen.org/resources/Uganda/womenuganda>

3. Thousands of women have been abducted and forced to swell the LRA rebel factions. Women also form part of the government army.

4. Oywa, R Acholi Civil Society Initiatives Women's contribution to peace building in northern Uganda at:

<http://www.cr.org/accord/Uganda/accord//women.shtml>

5. Article 33(4).

6. Article 38(2).

7. The Ministries of Disaster Preparedness and Refugees, Ministry in charge of Northern Uganda Rehabilitation, Ministry of Karamoja Affairs and Ministry in charge of the Luwero Triangle (they are all under the office of the Prime Minister).

8. According to World Food Programme a about 70% of the total population. See Human Rights Watch report (2003) Human rights violations by: Ugandan government forces at:

<http://www.hrw.org/reports/2003/Uganda0703>

9. The National Policy on Internal Displacement prepared by the Office of the Prime Minister Department of Disaster Management and Refugees. (*Preliminary report*)

10. Principle 10(2)(d).

11. See Human Rights Watch report as in n 1 above.

12. Isis-WICCE documentation of Teso women's experiences of armed conflict (Pt 1) 1987-2001.

13. In Uganda rape or sexual abuse for girls under the age of 18 years is legally categorized as defilement.

14. Women's Commission on Refugee Women and children, Against all odds: surviving the war on adolescents, promoting the protection

and capacity of Uganda and Sudanese adolescents in northern Uganda (New York: Women's Commission on Refugee Women and Children, September 2001) in Human Rights Watch report (as in n 8).

15. Human Rights Watch report (as in 1).

16. Of the 102 respondents in Katakwi district 8% reported they had been forced into marriage.

17. *Resilience in the darkness: an update on child and adolescent night commuters in northern Uganda*. Women's Commission for Refugee Women and Children and Adolescents Project:

18. New Vision Newspaper 25/2/05.

19. The National Policy for Internally Displaced Persons-Uganda.

20. For the first time in history the offences of rape, sexual slavery, enforced prostitution, forced pregnancy, and other forms of sexual slavery have been included in the definition of war crimes and crimes against humanity.

21. Human Rights Watch Press release 'change for impartial ICC Investigation into serious crimes a welcome step' at:

<http://hrw.org/english/docs/2004>

22. As in n 2 above.

23. KM has organized three major conferences in London in 1997 and 1998 and in Kenya in 2002.

24. As in 17 above.

25. As in n 4 above.

26. As in n 4 above.

27. As in n 4 above.

28. As in n 2 above.

29. Taylor V 'Putting human security at the top of the agenda' Feminist Institute of the Heinrich Boll Foundation.



A tangled web

Genocide, conflict and gender justice in Rwanda

Elizabeth Onyango



Introduction

Justice is a preoccupation of women in Rwanda. In the aftermath of the 1994 genocide, Rwanda was a country torn apart by conflict, grief, anger, fear and suspicion. With huge numbers of men either dead or in exile, it also brought sharp demographic changes, for women now made up some 70% of the population. While rebuilding their own lives and helping to reconstruct the country, they also had to search for a common ground as women. It was a difficult, if not impossible, task for the genocide had touched them - as individuals, families and communities - in ways that were conflictive and mutually antagonistic.

Justice lies at the heart of Rwanda's painful past, but is also a necessary precondition for its future as a society at peace with itself. A situation unprecedented in the world, where an extraordinary percentage of the population was drawn into the genocide, called for a rigorous, consistent and visible application of the law in order to tackle the deep-seated culture of impunity which underpinned the casual attitude to systematic slaughter. But justice also had to be seen as fair in order to heal a society shaken to its core, and to set strong foundations for the rule of law, tolerance and peaceful co-existence. Justice represented - and still does - a complex and unique set of challenges for the government and people of Rwanda.

Women also face a battery of everyday injustice and discrimination, including violence, domestic abuse and denial of property rights, but this paper is focused on the attempts to tackle justice in the wake of the genocide.

Close to a million Rwandese are estimated to have been killed within the space of three months, from 7 April to 4 July 1994. While most of those killed were Tutsis, some Hutus lost their lives because they were seen to be Tutsi sympathisers. The few survivors scattered across the country were mostly women. The logic of genocide meant that men were the primary target of the killings. Rape was systematic and pervasive, affecting even girls as young as six, the elderly and pregnant women. Gang rape and sexual slavery were common. Some women were taken by force into the refugee camps in Zaire and Tanzania. Josette from Butare spoke for many when she said: 'I was raped by a lot of people, and at different times. I can't think how many times. I didn't dare look at them.' *Broken bodies, torn spirits: Living with genocide, rape and HIV/AIDS*, published by African Rights in April 2004, thanks to the support of UNIFEM, offers a harrowing account of the lives of 201 rape survivors, detailing the ongoing consequences and highlighting their immediate needs.

But women were not merely victims or bystanders, paralysed by fear or indifference. Many took an active part in the killings, sometimes taking up arms themselves or inciting others, including their sons and husbands, to hunt and kill Tutsis.¹ Others looted or destroyed their property, refused them sanctuary or helped to flush them out of hiding. Though their involvement was less deadly and direct than men, women from all walks of life distinguished themselves in the genocide, shattering the myth of women as guardians of peace, and the illusion of female solidarity. Educated women in particular - doctors, nurses, teachers, politicians and civil servants - acted as true warriors in the service of genocide. The only woman on trial at the International Criminal Tribunal for Rwanda (ICTR), Pauline Nyiramasuhuko, was, ironically, the Minister for Women and Family Affairs. Imprisoned together with her son, she encouraged him and his militia to rape women and told her audiences 'not to spare anyone, not even the foetus or the old'.² The other female cabinet member, Agnès Ntamabyariro, was the Minister of Justice. A former magistrate, now imprisoned in Rwanda, she criticised the population for 'contenting themselves with killing only a few old women'.³ Even nuns have been convicted. Gertrude Mukangango and Juliette Kizito were sentenced to 15 and 12 years respectively in a Belgian court for their involvement in the massacres in their convent in Sovu, Butare province.

Out of this bleak picture comes a glimmer of hope. Sula Karuhimbi, an elderly woman with few resources, exploited her reputation as a healer to ward off the militia from her small house in Gitarama where a number of people had sought shelter. In Kigali, Thérèse Nyirabayovu, a midwife, and her two daughters, risked their lives for strangers. 'I didn't save Tutsis because they were related to me, nor out of friendship', Thérèse explained. 'I did it because I saw it as my duty to save fellow human beings in danger.' Sister Félicitée Niyitegeka was so determined to protect the refugees in Gisenyi, who had turned to her for help, that she chose to die alongside them, refusing the pleas from her brother, a senior military commander, to abandon them.⁴

Justice remains a driving force in Sula's life, for she sees 'denouncing génocidaires' as her contribution to building a better Rwanda. Like all those who lived to tell the tale, she is a rich source of information about what happened in 1994. But unlike many of her neighbours, she regards her freedom as imposing a duty to uncover the truth about the genocide, the process that forms the backbone of the *gacaca* justice mechanism currently in operation in Rwanda.

The pursuit of justice

Eleven years on, Rwanda is still wrestling with the imperative of justice. Burdened with more than 100 000 men and women behind bars, many of them imprisoned for years, and courts straining under the weight of pending trials, Rwanda looked to alternative means to clear the backlog. Delivering justice in a nation where up to a million people were killed in a hundred days, often with machetes, is a daunting task, but the government of Rwanda was committed to ending a tradition of impunity for crimes against Tutsis and those Hutus who were seen as Tutsi sympathisers. Overwhelming numbers of civilians, including women and even children, took part in the genocide, along with militia men, soldiers and policemen. With scant human and financial resources and a collapsed justice system, the government recognised that to prosecute genocide suspects using conventional judicial mechanisms alone would be economically disastrous and politically untenable. Thousands of prisoners would die of old age before their cases reached trial.

Divided lives: When the men are in prison

Given the number of genocide suspects in prison, most of them men, thousands of Rwandese women live their lives in the shadow of prison, bringing food, necessities and news to their men. They find themselves the sole breadwinners, and often at the mercy of their in-laws and little in the way of protection, especially if it is a common law marriage, as Faith Uwimana, a social assistant at Gikongoro central prison, highlighted.

Some men go to prison without having solemnised their marriage. Their families do not see the woman as the legal wife and want to take over the husband's property. When the wife or one of the children falls ill, the in-laws do not help. She is left alone in this big family. The brothers of this husband sometimes demand sexual favours from her. If she refuses, she is in trouble.⁵

Keeping mum: The confessions and guilty plea procedure

The initial genocide law, passed on 1 September 1996,⁶ sought to speed up the pace of trials. Suspects would be categorised according to the seriousness of their crimes and would receive reduced sentences if they made full confessions and, in the hope of encouraging reconciliation, acknowledged their crimes. Category One suspects, accused of the worst atrocities, or of planning, organising and inciting the killings, could not take advantage of this law unless they confessed before they were officially placed in this category. See African Rights, *Confessing to genocide: Responses to Rwanda's genocide law*, June 2000. The rate of confessions gradually grew, but was relatively low among women prisoners.

According to Jeanne Aisha Nyirakamana, in Miyove women's prison, 'most women who killed know that they will never be denounced.'⁷ A fellow detainee at Miyove added that the community as a whole is protective of female genocide suspects.

Women do not confess precisely because they are women. A woman is incapable of saying that she has killed someone because, as soon as she admits her guilt, her community would undoubtedly throw her out. A woman who can defy

the laws of nature can no longer be considered a woman.⁸ Like men, women prisoners blamed intimidation from educated prisoners, and insufficient knowledge about the procedure, for their poor response. Initially, they were also doubtful about reduced sentences and suspected that the law was merely a ruse 'to get large numbers of prisoners to confess' as Donathia Uwimpaye in Gitarama Central Prison said.⁹ Those who confessed often admitted theft, but denied violence, and many of the men deny rape which carries the heavy sentence of a Category One crime.

For survivors, the system represented a distilled version of justice, and many were harsh in their judgment. Josiane, a businesswoman in Kigali, shared this view with many survivors. 'People should be punished for what they did during the genocide; we should not be looking for ways of letting them off lightly.'¹⁰

The law on confessions revealed a partial truth about the genocide, but it did not accelerate justice. It sometimes slowed down the process, as confessions had to be investigated and verified. Encouraged by these revelations, and inspired by a traditional grassroots form of justice, *gacaca* justice was developed. *Gacaca* courts were set up progressively throughout the country, taking the bulk of the cases out of the national courts and on to the hilltops, where people are supposed to gather and collectively acknowledge and condemn the genocide, under the guidance of a group of locally elected judges, known as *inyangamugayo*, 'people of integrity'.

Gacaca justice: Fresh hope?

Survivors, few in number, and aware of the reluctance to expose relatives, neighbours and friends, have serious hesitations about *gacaca*, but see it as the last opportunity to obtain a measure of justice. Hearings are held in the open and security cannot be guaranteed. Despite violent incidents and threats, women survivors are speaking up. Rachel, forced to live with a prominent killer in 1994, was a witness to several meetings and murders. 'With *gacaca*, we're going to spill the beans, even if the judges include the killers. We don't have any confidence in them, but what can we do?'¹¹

In January 2003, a Presidential decree called for the provisional release of prisoners who had confessed - though not those in Category One - minors aged between 14-18 in 1994, the elderly, the chronically ill and 'other people accused of ordinary crimes'. The decree dashed survivors' hopes. For Euphrasie, the knowledge that she will have to live alongside the men who raped and tortured her is, she said, 'a source of immense anguish'. She is particularly furious at the decision to release elderly prisoners 'because they are the men who encouraged the younger ones'.¹²

Some released prisoners have sought to discourage witnesses from testifying. In Gikongoro province in November 2003, several survivors were killed; the perpetrators included recently released detainees. The impact on survivors is palpable. Dorothee prefers to remain silent: 'It's not in our interest to speak up'. Some are too bitter to co-operate any longer with the justice system,

like Nola in Umutara province. She was raped by seven men and had identified the men who had killed her husband. 'Following the example of the state, I've had to stop pursuing my assailants.'¹³

After a long period of inactivity, the trial phase of *gacaca* finally began in March this year in over 8 000 courts across the country. Despite intimidation, the accusations have accumulated, touching even prominent political figures like government ministers and parliamentarians. Fearful of prosecution, people have been fleeing into neighbouring countries.

Approaching the *gacaca* courts presents a painful predicament for many Rwandese. Gisèle, a widow and the mother of four from the Gikongoro area, would like to come forward and testify about the genocide in her area, but is apprehensive about doing so.

People do not come to the *gacaca* trials to avoid being taken for killers. If those responsible for *gacaca* can convince me that testifying will not be equated with taking part in the genocide, I will do so comfortably.¹⁴

Gisèle, in common with most Hutus, also calls for a public forum to address allegations of human rights violations by the Rwandese Patriotic Army (RPA), which fought to stop the genocide. Irene, among the first group of people to train *gacaca* judges, said the judges were largely unimpressed by distinctions to highlight the organised and unique nature of genocide.

I explained that acts of vengeance had not been drawn up and directed by politicians as had been the case for the genocide.¹⁵

A lack of openness in discussing this issue has left Gisèle and many others angry and doubtful about the fairness of the justice system.

Yet, *gacaca* acts as a balm for some wounds. Some genuine confessions have come to light, alleviating a burden of guilt and shame, men and women who committed massive violations have been denounced and communities have been forced to shine a search light on themselves. One survivor, who has come up against obstacles in the national courts and the ICTR, is pleased that *gacaca* offers her another avenue to come to terms with her past.

I do not want to end up like my sister who does not want to talk. I do not want to go mad.¹⁶

Bringing perpetrators to justice – the special case of rape and sexual violence

Rape, a deeply personal violation, is understandably a difficult crime to prosecute. Many women are not prepared to come forward in public and face further humiliation. Régine in Butare draws moral support from her membership in an association for victims of sexual violence. But the taunts of neighbours, who accuse them of 'bragging' about rape and who point them out as 'AIDS victims', is a constant source of distress.¹⁷

The *gacaca* law of 2001 listed rape in Category One with the most serious crimes, The Organic Law of 26 January 2001, setting up 'Gacaca Jurisdictions' and organising prosecutions for offences constituting the crime of genocide or crimes against humanity committed between 1 October 1990 and 31 December 1994, a commendable move to acknowledge and punish sexual violence, and one for which women parliamentarians had to lobby hard. This achievement has given some women the courage to talk about their ordeal and identify their perpetrators.

But speaking out is hard for survivors who live in isolation and amongst the relatives of those who tormented them in 1994. Adèle's neighbours bully her 'because I have denounced their husbands'.¹⁸ Justice is a particularly divisive issue for Hutu women whose Tutsi husbands and children were murdered, sometimes by their in-laws. Providence has been alienated by her paternal family. 'They say that I have imprisoned their people and they can not help me'.¹⁹

Many women were raped by strangers, or by men who are still in exile. Delays in court are frustrating, compounded by insufficient information on the progress of cases. Catherine has lodged complaints against three of the nine men who raped her. She has heard nothing since, and made an appeal for 'a lawyer to reinforce our voice'.²⁰

Despite setbacks and reservations, the *gacaca* trial phase is underway and many women are active participants. It remains to be seen how the cases play out in the national courts and the precedence they set.

The International Criminal Tribunal for Rwanda

The ICTR, based in Arusha, Tanzania, was established to try the key planners and perpetrators of the genocide. But after a decade, it has only handed down 21 convictions and three acquittals. Although the speed of trials has recently improved, its record on rape and sexual violence remains poor. The Tribunal broke new ground in defining rape as a crime against humanity,²¹ thereby raising hopes and expectations. But by the end of 2002, prosecution of sexual crimes had almost ground to a halt; charges were dropped even when there was strong evidence, ironically at a time when a woman, Carla del Ponte, led the ICTR as prosecutor for Rwanda. Under her stewardship, prosecution of sexual crimes slipped from the agenda. Several embarrassing incidents left some female witnesses wondering whether *they* were on trial. A public campaign, led by the Coalition for Women's Human Rights in Conflict Situations, helped to ensure that del Ponte's mandate was not renewed. See *Letter to Prosecutor Carla Del Ponte, International Criminal Tribunal for Rwanda - Montreal, March 12, 2003* - Coalition for Women's Human Rights in Conflict Situations. A new prosecutor, charged specifically with the Tribunal in Arusha, was appointed and the sexual assaults investigation team was revived.

So it was surprising when, earlier this year, the prosecutor sought to drop the charge of rape against the former



military commander of Butare and Gikongoro, Lt Col Tharcisse Muvunyi. The evidence that rape was widespread in Butare, where Muvunyi was stationed, and committed by soldiers under his direct command, has been widely documented, nor is there a shortage of willing, informed and credible witnesses. The motion was rejected by the presiding judges.²² But the damage has been done, and was merely the last episode in a long catalogue of disappointments with the ICTR. Actions like these, coupled with poor communication between the survivors and the court, have corroded what little confidence Rwandese women had in the Tribunal.

This is particularly regrettable, because it takes enormous courage for women to travel to Arusha to testify about sexual violence, given the personal nature of the offence and the threats they often face on their return to Rwanda. One woman described the moment she came face to face in court with the former *préfet* (governor) of Ruhengeri province.

When I first saw Kajelijeli I was scared. The way he was well dressed and looking healthy made me think that he was the boss and running the whole place. Perhaps he could get me killed afterwards. It was a big room. The only person close to me was the interpreter. Everyone else was far away.²³

Nothing could have prepared her for the barrage of questions thrown at her during the cross-examination. For many witnesses, the insecurity they experienced in Arusha was a painful throwback to the traumatic events of 1994.

Conclusion

On a brighter note, women now hold 48,8% of parliamentary seats, under a new Constitution that guarantees them at least a 30% quota in political institutions, 50% of Supreme Court judges - including the president of the court - are female. The head of the National Service for Gacaca Jurisdictions is a woman, as is the Minister of Justice. For Rwandese women, grappling

with justice in the cauldron of the genocide, the full impact of the presence of women in these positions has yet to be measured. The genocide itself is proof that the mere presence of women in positions of political leadership is insufficient protection against injustice. Given the diversity of interests at stake, it would be naïve to expect unity of purpose or action. But it is not unreasonable to hope that women leaders will keep their minds focused on exploring constructive solutions to the myriad conflicts that brought about the genocide and its multiple consequences.

References

1. See African Rights, *Not So Innocent: When Women Become Killers*, August 1995.
2. *Ibid*, p. 91.
3. *Ibid*, p. 108.
4. For details, see African Rights, *Rwanda: Tribute to Courage*, December 2002, pp. 33-41, 126-137, 257-276.
5. See African Rights, *Women Taking a Lead: Progress Towards Empowerment and Gender Equity in Rwanda*, October 2004, p. 28.
6. The Organic Law on the organisation of prosecutions for offences constituting the crime of genocide or crimes against humanity committed since 1 October 1990.
7. *Confessing to Genocide*, p. 21.
8. *Ibid*, p. 22.
9. *Ibid*, p. 15.
10. *Ibid*, p. 101.
11. *Broken Bodies, Torn Spirits*, p.72.
12. *Ibid*, p.73.
13. *Ibid*, p. 74.
14. Interviewed by African Rights for a Draft paper on Suggestions for a National Policy of Genocide Commemoration, 31 May 2004.
15. African Rights, *Gacaca Justice: A Shared Responsibility*, January 2003, p.24.
16. Interviewed in Kigali, 29 October 2002.
17. *Broken Bodies, Torn Spirits*, p.63.
18. *Broken Bodies, Torn Spirits*, p.64.
19. *Ibid*, p.72.
20. *Broken Bodies, Torn Spirits*, p.73.
21. *The Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, 2 October 1998.
22. *Prosecutor v. Tharcisse Muvunyi*, Case No. ICTR-2000-55A-PT, *Decision on the prosecutor's motion for leave to file an amended indictment*, 23 February 2003.
23. Interviewed in Kigali, 29 October 2002.

PHOTOGRAPHS

Cover	Sudan	Darfur, woman in clinic in Um Dukum (Copyright - Lineairfoto.com)
Pg 2	Somalia	Returnees at Dami camp, Hargeysa
Pg 21	Democratic Republic of Congo (DRC)	Refugees from Ituri District wade through swamp as they arrive in Rwabisengo, Bundibugyo District.
Pg 24	Sudan	IDP women on outskirts of al-Junaynah, Western Darfur.
Pg 27	Sudan	UN Secretary-General Kofi Annan listens to tribal leaders in zam zam 'camp'.
Pg 29	Zimbabwe	Women waiting for food distribution.
Pg 37	Uganda	Women fleeing Barlonyo.
Pg 39	Uganda	[Uganda] An IDP woman cooking food at Bobi camp near Gulu.
Pg 43	Rwanda	Woman survivor.

Acknowledgments for these pictures to:

IRIN-Integrated Regional Information Networks (OCHA) United Nations
P.O.Box 30218, Nairobi, Kenya
www.irinnews.org

BIBLIOGRAPHY

United Nations Publications

The Impact of Conflict on Women and Girls. UNFPA Strategy for Gender Mainstreaming in Areas of Conflict and Reconstruction (UNFPA, 2002) available online at: <http://www.unfpa.org/publications/detail.cfm?ID=29&filterListType>

Women, Peace and Security: Study submitted by the Secretary-General pursuant to Security Council Resolution 1325 (UN 2002) available online at: <http://www.un.org/womenwatch/daw/public/eWPS.pdf>

Women, Peace and Security: UNIFEM Supporting Implementation of Security Council Resolution 1325 (UNIFEM 2004) available online at: <http://www.womenwarpeace.org/supporting1325.pdf>

Women at the Peace Table: Making a Difference (UNIFEM, 2000) available online at: http://www.unifem.org/filesconfirmed/8/226_peacebk.pdf

Women War and Peace: The Independent Experts Assessment (UNIFEM, 2002) available online at: http://www.unifem.org/index.php?f_page_pid=149

Rehn, E. and Sirleaf, E J. (2002) Independent Expert Report on the Impact of Armed Conflict on Women and their Role in Peace Building

NGO/International Organization Publications

Karame K (ed) *Gender and Peace Building in Africa Training for Peace Programme*, Norwegian Institute of International Affairs (NUPI), the African Centre for the Constructive Resolution of Disputes (ACCORD) and the Institute for Security Studies (ISS) 2004

Strickland R and Duvvunty N *Gender Equity and Peacebuilding: From Rhetoric to Reality – Finding the Way* Canadian Peace-Building Coordinating Committee 2003

Strengthening Governance: the Role of Women in Rwanda's Transition, Elizabeth Powley September 2003 Women Waging Peace Policy Commission available at: <http://www.womenwagingpeace.net>

Women Building Peace in Africa: The Case of the African Women Committee on Peace and Development Femmes Africa Solidarite in collaboration with African Women Committee on Peace and Development 2004

Women Facing War International Committee of the Red Cross 2001 available at <http://www.icrc.org/eng/women>

All Africa Women for Peace Report on the International Conference on Armed Conflict in the DRC on the Eve of the Inter-Congolese Dialogue: Building a Sustainable Peace in the Great Lakes Region

All Africa Women for Peace Report on the Strategic Planning Workshop on Building a Women's Peace Movement in Africa All Africa Women for Peace Research Proposal on Engendering the Peace in the DRC, 2003

Gasa, N. (2004) Conference Report on Southern Africa Ten Years after Apartheid: The Quest for Democratic Governance, Hosted by IDASA, CPS and NIMD

Hansungule, M. K. (2004) Polygamy and Human Rights, Unpublished Paper for a Collection of Interviews of People's Experiences of Polygamy in South Africa: Research conducted by Ms Britta Thege and Dr Ingelore Welppe with Dr Marjorie Jobson & Ms Shirley Henderson, Institute for Women's Research and Gender Studies, University of Kiel, Germany

Books

Timmons D *The Sixth Clan – Women Organize for Peace in Somalia: A Review of Published Literature* University for Peace 2004

Journal Articles and Book Chapters

Baines E 'Les Femmes aux Mille Bras: Building Peace in Rwanda' in

Mazurana D, Raven-Roberts A, Parpart J, Lauze S eds. *Gender, Conflict and Peace-Building* Rowman & Littlefield Publishers Inc 2004

'Confronting the Aftermath of Conflict: Women's Organizations in Postgenocide Rwanda' in K Krishna ed *Women and Civil War: Impact, Organizations, and Action* Boulder CO: Lynne Rienner Publishers 2001

'Gender, Human Rights, and Peace Agreements' Chinkin C *Ohio State Journal on Dispute Resolution* 2003

Generally *Conflict Trends Volume 3, 2003: Women, Peace and Security* (ACCORD and UNIFEM) (including 'Counting Costs and Listening to the Gains: is the United Nations Security Council Resolution 1325 Responsive to Africa's Challenges?' and 'International Justice, Conflict & its Response to Gender Based Violence' available online at

Hale S 'Liberated But Not Free: Women in Post-War Eritrea' in Meintjies S, Pilay A, Turshen M eds *The Aftermath: Women in Post-Conflict Transformation* Zed Books 2001

Jacobson R 'Gender, War, and Peace in Mozambique and Angola: Advances and Absences' in Mazurana D, Raven-Roberts A, Parpart J, Lauze S eds. *Gender, Conflict and Peace-Building* Rowman & Littlefield Publishers Inc 2004

Mackay A 'Mainstreaming Gender in United Nations Peacekeeping Training: Examples from East Timor, Ethiopia, and Eritrea' in Mazurana D, Raven-Roberts A, Parpart J, Lauze S eds. *Gender, Conflict and Peace-Building* Rowman & Littlefield Publishers Inc 2004

Mohamed A 'From Instigating Violence to Building Peace: The Changing Role of Women in Darfur region of Western Sudan' *African Journal on Conflict Transformation* Vol 4 no 1 2004

Olsson L 'The Namibian Peace Operation in a Gender Context' in Mazurana D, Raven-Roberts A, Parpart J, Lauze S eds. *Gender, Conflict and Peace-Building* Rowman & Littlefield Publishers Inc 2004

Vincent L 'Engendering Peace in Africa': A Critical Inquiry into Some Current Thinking on the Role of African Women in Peace-Building *African Journal on Conflict Transformation* Vol 2 No 1 2001

Wilson JZ 'State-Making, Peacemaking, and the Inscription of Gendered Politics into Peace: Lessons from Angola' in Mazurana D, Raven-Roberts A, Parpart J, Lauze S eds. *Gender, Conflict and Peace-Building* Rowman & Littlefield Publishers Inc 2004

Websites

Femmes Africa Solidarite
www.fasngo.org

Office of the Special Advisor on Gender Issues and the Advancement of Women
www.un.org/womenwatch/osagi

Mano River Women's Peace Network
www.marwopnet.org

PeaceWomen Project
www.peacewomen.org

UNIFEM
www.womenwarpeace.org

Women's International League for Peace and Freedom
www.wilpf.org

Women Waging Peace
www.womenwagingpeace.net

Women Building Peace
www.womenbuildingpeace.org

THE CENTRE FOR HUMAN RIGHTS

The Centre for Human Rights of the University of Pretoria was established in 1986. The Centre is an academic department of the Faculty of Law and focuses on human rights law in Africa. In addition to the wide range of publications on human rights law in Africa that are brought out on a regular basis by the Centre - *Human Rights Law in Africa*, *African Human Rights Law Reports*, *African Human Rights Law Journal* and *Constitutional Law of South Africa* - the Centre also offers masters programmes on human rights and short courses on good governance issues, that are attended by students, academics, government officials, practitioners, civil society leaders and others from across the African continent. The Centre also organises the annual African Human Rights Moot Court Competition.

Centre for Human Rights
Law Faculty, University of Pretoria
Pretoria, 0002
Tel: +27 12 4203810; Fax: +27 12 3625125
www.chr.up.ac.za

UNIFEM

UNIFEM is the women's fund at the United Nations. It provides financial and technical assistance to innovative programmes and strategies that promote women's human rights, political participation and economic security. UNIFEM works in partnership with UN organisations, governments and non-governmental organisations (NGOs) and networks to promote gender equality. It links women's issues and concerns to national, regional and global agendas by fostering collaboration and providing technical expertise on gender mainstreaming and women's empowerment strategies.

This publication has been partially funded by the Royal Netherlands government. The views expressed in this publication do not necessarily represent those of UNIFEM, the United Nations and any of its affiliated organisations.

East and Horn of Africa Regional Office
P.O. Box 30218 Nairobi, Kenya
Nairobi, Kenya
Tel: +25420-624383/86; Fax: +25420-624494
www.unifem-easternafrika.org
www.unifem.org

Central Africa Regional Office
P.O. Box 445, Kigali, Rwanda
Tel: +250-575381 or 576906; Fax: +250-575381
www.unifem.org

Southern Africa Regional Office
7 Naivasha Road
Sunninghill, South Africa
Tel: +27 12-6035033; Fax: +27 11-6035107
www.unifem.org