

**THE UNIVERSITY OF MELBOURNE
FACULTY OF LAW
Legal Studies
Research Paper No. 92**

2004

**Securing the 'Gender Legitimacy' of the UN
Security Council: Prising gender from its
historical moorings**

Dianne Otto

This paper can be downloaded without charge from the
Social Science Research Network Electronic Library at:
<http://ssrn.com/abstract=585923>.

Securing the “Gender Legitimacy” of the UN Security Council: Prising gender from its historical moorings

Dianne Otto*

Forthcoming in: Hilary Charlesworth and Jean-Marc Coicaud (eds), *Faultlines of International Legitimacy* (Tokyo: United Nations University Press, 2004)

The Security Council recognize that peace is inextricably linked with equality between women and men ...[and] that the equal 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.

Ambassador Anwarul Karim Chowdury (2000)¹
President, UN Security Council

The belief that women are an important force for peace was promulgated over 20 centuries ago by the Greek philosopher Aristophanes in his play *Lysistrata*, where his female characters decide to withhold sex from their warrior husbands until they agree to peace.² Aristophanes' trope of women's antipathy to war has proved to be enduring, both in the public imagination and in women's peace movements. Women have continued to organise in pursuit of peace,³ often across “enemy” lines, as did *Lysistrata*, though not always across other lines of difference like those of class, nationality, race, ethnicity, and sexuality.⁴ The long history of women's peace activism testifies to the power of perceived “gender”⁵ commonalities to inspire many women to take a position against war. In keeping with this heritage, women's peace activists supported the establishment of the United Nations (UN) in 1945 because it has, as its primary purpose, securing and maintaining international peace and security through peaceful means. Despite this apparent congruence of purpose, the UN's collective system for securing the peace has remained tenaciously state-centred, militaristic and male-dominated,⁶ and frustratingly resistant to the anti-militaristic ways of thinking that have been at the heart of local and international women's movements for peace.

In light of the continuing aversion of mainstream military and diplomatic institutions to feminist notions of international peace and security, recent feminist efforts to engage with the UN Security Council might well be dismissed as a futile attempt to employ the “master's tools” to dismantle the “master's house.”⁷ However unlikely, these efforts have born fruit, as evidenced by the Statement of the Security Council President on International Women's Day in 2000, linking gender equality “inextricably” with peace,⁸ which was followed several months later, on 31 October, by the Council's unanimous adoption of Resolution 1325 on Women, Peace and Security.⁹ The Resolution calls for, *inter alia*, the increased participation of women in decision-making related to the prevention, management, and resolution of armed conflict.¹⁰ Since its adoption, the Resolution has been the focus of continuing engagement between women's peace advocates and the Council. Significantly, at the grass roots level, the Resolution has provided important new leverage for local women's groups to claim a role in peace negotiations and post-conflict decision-

making, although these efforts have still faced strong resistance at the macro level of institutional decision-making where post-conflict reconstruction is shaped.

But what has Resolution 1325 to do with the “legitimacy” of the Security Council? My view, as I explain in Part I, is that the adoption of the Resolution was due to the fortuitous coincidence of the increasing awareness of the devastating consequences for women of the spreading militarisation that has followed the Cold War, and the persistent questioning of the Council’s legitimacy during the 1990s leading to calls for its reform. Feminists also contributed to the reform movement, calling for procedural changes to address the Council’s need for “symbolic validation” and substantive reforms that appeal for a radical rethinking of the “justice” of the Council’s approach to security. The Resolution can therefore be understood as one of a range of measures adopted by the Council in an effort to tackle its legitimacy deficit – specifically, its “gender legitimacy.” While the Resolution’s endorsement of the increased involvement of women in decision-making opens new spaces for promoting feminist forms of security, based on gender equality, social justice and a rejection of militarism,¹¹ it also runs the risk of lending an unintended gender legitimacy to militarism, just as women’s participation in the colonial “civilizing mission” helped to make imperialism possible.¹² My interest is in examining whether Lysistrata’s progeny can use the Resolution to build a gender legitimacy that is based on an emancipatory discourse of feminist security, or whether women’s participation will be limited to the traditionally feminised work of reintegrating over-militarised men. The latter outcome would serve to reinvigorate the gendered opposition of peace-maker and warrior that legitimates militarism and provides the foundation for the laws of war and, consequently, would work against a form of gender legitimacy that is concerned with emancipation.

In Part II, I examine the content of Resolution 1325, comparing it to the aspirations of women’s peace movements and the commitments to women’s participation that have been made in earlier multilateral instruments, notably General Assembly resolutions and the Platform for Action adopted by states at the 1995 Fourth World Conference on Women. This examination reveals many troubling disciplinary propensities and dangerous silences, as well as some emancipatory possibilities in the Resolution.

In Part III, I examine the impact of the Resolution in the first few years of its “life,” in the UN system and at the local level. Using the examples of Afghanistan and East Timor, I find that there has been slow but measured progress towards increasing the participation of women in formal decision-making processes in the immediate post-conflict period, and that this progress has been in large part due to the extensive mobilisation of local and trans-national women’s peace networks. Yet paradoxically, at the same time as the formal participation of women was increasing, the security of the majority of women was deteriorating as gendered violence soared in the post-conflict environment. I also examine the extent to which the involvement of women in decision-making has led to formal commitments to women’s rights and equality, not just in the transitional period, but in a long-term, structurally-embedded and sustainable way. Unfortunately, the new constitutions in both Afghanistan and East Timor fall well short of the calls from local women’s groups for the full and effective protection of women’s rights. I suggest that ways must be found to use the Resolution to push beyond the procedural goals of increasing the numbers of women in formal decision-making, to promoting feminist conceptions of security that are concerned with the substantive gender legitimacy, or justice, of post-conflict reconstruction. Such a leap requires destabilising the militarised and imperial gender stereotypes that

have played such a central role in maintaining the secondary status of women by, *inter alia*, rejecting the disciplinary idea that women have special peace-making propensities, in order to also engage men in the project of building global security based on gender equality, human rights and social justice.

I conclude that the measured success of the Security Council's promotion of the increased participation of women in formal peace-making processes has improved its gender legitimacy in the narrow formal sense of enhancing the symbolic validation of its work. However, unless women's participation also brings about a fundamental shift in thinking about peace and security, it risks repeating the gendered production of women as natural peace-makers (and its militaristic masculine converse) by engaging women in the limited project of aiding the transition from armed conflict to a "peace" that remains militarised, and therefore insecure for everyone. For women's participation to make a difference in a substantive way, women *and men* must find ways to breathe life into the Resolution so that it can be used to reject the gendered discourse of militarism, which supports the idea that war and masculine aggression are intertwined and inevitable. Only then will the Council's deficit in gender legitimacy be reversed in an emancipatory way.

In critically examining Resolution 1325 and its impact on the gender legitimacy of the Security Council, I do not, for a moment, want to undermine any of the efforts to work for peace that are associated with it. The issues are urgent. Everyday, women's lives, families, neighbourhoods and communities are being destroyed by the brutalities and humiliations of armed conflict. As Noeleen Heyzer, Executive Director of the UN Development Fund for Women (UNIFEM) notes in her foreword to a study that was undertaken as a result of the Resolution, "the nature of war has changed. It is being fought in homes and communities – and on women's bodies in a battle for resources and in the name of religion and ethnicity."¹³ There is no doubt that this situation, now being made even worse by the new "war on terror," makes it imperative that women's peace advocates find better ways to influence those who make the decisions that can have such devastating consequences. My goal is to help to maximize the emancipatory potential of these efforts, which are taking place in a climate of deepening militarisation, and the intensification of hostility to women's equality that accompanies it.¹⁴

THE LEGITIMACY PROBLEMS OF THE UN SECURITY COUNCIL AND ITS RESPONSE

During the Cold War years, the issues pertaining to the Security Council were more focussed on its inability to act in the face of bi-polar superpower stalemate than with the legitimacy of the few enforcement actions that it did take.¹⁵ Unfortunately, more recently, US unilateralism has again threatened to paralyse the Council,¹⁶ and there is the risk that questions of legitimacy will be put aside once more. However, in the short period between the end of the Cold War and the most recent by-passing of the Council with the US and UK-led invasion of Iraq,¹⁷ a dramatic change to the Council's state of inaction took place. The end of the Cold War led initially to an unprecedented level of cooperation between the Council's permanent members in response to Iraq's invasion of Kuwait, which prompted many to predict that the Council was poised to finally fully assume its Charter responsibilities to maintain international peace and security and, to that end, act decisively in the event of threats to the peace.¹⁸ However, as the Council's interpretation of its chapter VII powers of enforcement became rapidly more expansive,¹⁹ concerns about the legitimacy of its

actions began to mount. This expansiveness included interventions into what were essentially domestic disputes in Somalia,²⁰ Haiti,²¹ and Angola,²² the assumption of unprecedented legislative powers in the establishment of the Iraqi Compensation Commission and the ad hoc international criminal tribunals for the former Yugoslavia and Rwanda,²³ the adoption of quasi-judicial powers in delineating the border between Kuwait and Iraq,²⁴ and the bald promotion of US and UK interests in demanding the extradition of two Libyan suspects in the Lockerbie bombing,²⁵ to name just a few. It was not long before the initial enthusiasm for the revitalised Council gave way to growing concern about its legitimacy, which led to many proposals for its reform.²⁶

Some of the concern about legitimacy concentrates on the question of the legality of the authority assumed by the newly active Security Council.²⁷ While legality bears an important relationship to legitimacy, my focus in this paper is on legitimacy in a broader sense, as it emerges from the many proposals for Council reform. The dominant concern of reformers has been with legitimacy of a procedural kind, notably the lack of representativeness of the Council's permanent and non-permanent membership²⁸ and the lack of transparency of its decision-making,²⁹ including its lack of consultation with local and international nongovernmental organisations (NGOs).³⁰ This group of concerns can be understood as the need for signals or rituals that provide "symbolic validation" of the Council's authority, one of the components of legitimacy that Thomas Franck identifies as explaining the "compliance pull" of international norms and institutions.³¹ A second concern of reformers has been the legitimacy of the Council's operations in a substantive sense. Proposals from this camp have called for a fundamental rethinking of the Council's militarised approach to security and a reorientation towards promoting human-rights and social-justice as the primary means of securing the peace.³² Franck would argue that this group of proposals is concerned with justice or fairness, and that this is different from the concept of legitimacy, at least in the international community of states where order receives priority over justice.³³ However, substantive legitimacy, or justice, has become increasingly important since the end of the Cold War, and international institutions are now expected to observe and reflect contemporary notions of justice in order to be perceived as legitimate.³⁴ This view is borne out by many of the proposals for Council reform. Concern with justice adds a progressive dynamic to questions of legitimacy, something that "right process" criteria lack.³⁵

During the same period as the controversies associated with Security Council activism were mounting, women were mobilising internationally to expose and protest the violence directed at women during armed conflict, and in transitional and post-conflict societies. In particular, the experience of the brutality directed at women during the fighting in the former Yugoslavia was bringing about a sea change in the way that such violence had previously been understood.³⁶ It was no longer tenable to dismiss gendered violence as an unavoidable, though regrettable, side effect of war.³⁷ Violence against women was clearly being used as a tool of armed conflict, and it was that this was by no means a new phenomenon.³⁸ At about the same time, women who had been forced into sexual slavery by the Japanese army during the Second World War were also coming forward to speak of their experience, despite the humiliation and shame that had kept them silent for so long.³⁹ These revelations led women's peace activists to join with women's human rights advocates, drawing attention to the high levels of violence against women during times of war and peace, and uncovering compelling connections between militarism and militarised cultures and the sexual abuse of women.⁴⁰ They called for reforms to international humanitarian law that

would recognise gendered crimes as war crimes and lobbied for action that would bring an end to the impunity that had hitherto been enjoyed by perpetrators of crimes against women during armed conflict. These efforts both reflected and extended nearly a century of activism by a diverse and tenacious women's international peace movement.⁴¹

It did not take long for this agenda to overlap with that of Security Council reform as reports from women alleging rape and sexual exploitation by peacekeepers in Cambodia, Mozambique and Bosnia, and by forces involved in the Council's enforcement action in Kuwait, made it clear that militaries acting under the imprimatur of the UN were no different.⁴² Anne Orford notes that these, and other negative consequences for women that have flowed from the Council's operations, including its sanctions regimes, were totally ignored by mainstream analyses of these events. She concludes that the apparent efficacy of the international security system relies on the silences of women, and other marginalised groups, whose security and social status deteriorates as a result of Council interventions.⁴³

The ensuing feminist proposals for reform of the Security Council cover some of the same ground as other proposals, but they add important new dimensions by exposing the many gendered assumptions that have gone by unremarked. For example, the hoary question of the Council's composition and its disputed representativeness had, during the Cold War, focussed mainly on addressing the disenfranchisement felt by post-colonial states in Africa and Asia,⁴⁴ to which, in the post-Cold War era, the issues of expanding the permanent membership and/or changing the veto arrangements were added.⁴⁵ Feminists have broadened these concerns by drawing attention to the male-dominated membership of the Council, and linking this to its militaristic approach.⁴⁶ Given the Council's poor record of addressing women's concerns, feminist commentators have proposed that "democratization" must include women's participation in decision-making about security issues, within the Council as well as in peace negotiations and peace building processes.⁴⁷ While it is hardly surprising that the diplomats on the Security Council, who have secured coveted ambassadorial posts in New York, are mostly men, the absence of women points to the need for creative responses, such as strengthening the Council's consultative and advisory links with women's peace groups.

However, the argument for increasing women's participation should not be taken to endorse essentialist ideas about men and women thinking differently, although this is often how such arguments are framed. Rather, calls for increased participation by women should be understood as one strategy, among many, that may help to challenge the gendered ways of thinking that presently dominate security analysis.⁴⁸ The goal of women's participation, from an emancipatory feminist perspective, is to set in train a reevaluation of the marginalised ways of thinking that suggest alternatives to militarism, which are by no means unique to women. Although one means that of dismissing non-militarised approaches is to characterize them as "feminine" or "wimpish,"⁴⁹ which associates them with women in the public imagination. Ultimately, a fundamental change in the way that security is understood by all participants, men as well as women, is necessary. This reevaluation is a question of justice, which I will return to below.

A second procedural concern for reformists has been the lack of transparency of the Security Council's decision-making. Since the end of the Cold War, the Council has become considerably more secretive, to the point that its public sessions are little more than a rubber-stamping of decisions that have already been made, including decisions under chapter VII, which are binding on all member states.⁵⁰

Presidential Statements have been used much more frequently to convey a consensus that has been reached in closed sessions.⁵¹ This secrecy, combined with the absence of institutional checks on the Council's powers,⁵² has made lack of transparency a pressing concern. As Michael Reisman observes, "[d]ecisions that appear to go further than at any time in the history of the United Nations are now ultimately being taken, it seems, by a small group of states separately meeting in secret."⁵³ A related concern has been the Security Council's lack of openness to a broader constituency than UN member states, especially to international civil society.⁵⁴ Dwight Newman has argued that new forms of popular participation need to be developed by, for example, the establishment of a UN forum for civil society that has guaranteed access to the Council.⁵⁵ However, he is silent about the importance of ensuring women's equal participation in civil society initiatives, overlooking the concern that international civil society risks replicating the gendered, racial and neo-colonial hierarchies of the international community of states.⁵⁶

The particular contribution made by feminists to the problem of lack of transparency has been to highlight the lack of mechanisms whereby local communities, whose "security" is most directly affected by the actions of the Council, are able to be consulted by the Council. Nor are there procedures for people to seek redress for actions that impact adversely on them. Orford, for example, has proposed the creation of a body that can monitor complaints of sexual abuse by peacekeepers and ensure that the Council is kept informed about them,⁵⁷ and Jennifer Murray has urged that the UN investigate allegations of trafficking by civilian police officers in UN peacekeeping operations.⁵⁸ Accountability mechanisms such as these need to be specifically included in the mandates of UN peacekeeping operations. This would be consistent with feminist approaches to security, which emphasise the importance of empowering marginalised groups, especially in the context of providing military "protection" which can all too easily deny human rights needlessly, in the name of military necessity.

In addition to these process-related issues, feminists like Hilary Charlesworth and Christine Chinkin have been concerned with the Security Council's "impoverished" understanding of international peace and security that "focuses on militarism and power supported by force;"⁵⁹ that is, with the "justice" of its determinations and actions. Their central argument is that it is the militaristic and state-centred notions of peace and collective security, adopted by the Council, which reproduce hierarchical ideas about gender, which have resulted in many of its actions increasing, rather than decreasing, the insecurity of women and other marginalised groups.⁶⁰ For example, gross and systematic human rights abuses suffered by women, as in Afghanistan under the Taliban, have never been identified by the Council as constituting a threat to international peace and security because women's rights are not considered to be an important component of state security interests.⁶¹ President Bush's belated engagement with the question of women's rights in Afghanistan was well after the US military intervention, and his purpose was to shore up waning domestic support for the continuing occupation, rather than to promote the rights of women as an end in themselves.⁶² Similarly, the impact that Council actions might have on women's status and safety has not been a relevant consideration in determining what measures the Council will take and for how long, as the catastrophic economic sanctions against Iraq illustrate, because it is accepted that military security can be traded off against human rights.⁶³ Nor have women's rights and well being been a central factor in the design and implementation of post-conflict reconstruction, as evidenced by the flagrant violations of women's human rights in the newly

“liberated” Kuwait after the first Gulf War.⁶⁴ These examples illustrate the way that military assumptions ignore or silence the human rights and social justice concerns that lie at the heart of feminist notions of security. As a result, militaristic paradigms of collective security entrench and normalise women’s inequality. If Chowdury is correct that peace and gender equality are “inextricably linked,” then world peace will never be realised while military approaches remain dominant.

From a feminist perspective, international peace and security needs to be understood in terms of human rights and social justice, described by Reem Bahdi as “relational security,”⁶⁵ rather than in terms of military security and national interest. Insecurity can be caused by a wide range of international as well as local influences including international economic institutions intent on promoting economic liberalisation,⁶⁶ transnational corporations that violate human rights and employment standards, repressive states, neo-colonialism, fundamentalist fanatics, unsustainable development policies, and environmental insecurity, which also have many gender-differentiated effects.⁶⁷ The continuing failure, worldwide, to ensure women’s substantive equality works to sustain, rather than resist, all of these causes of insecurity. Women’s inequality not only reflects disempowering ideas about vulnerable and dependent women, but also reproduces, in contradistinction, ideas about men that normalise militarism as an expression of protective masculinity. This conservative discourse of gender weights the credibility of approaches to peace and security according to their association with masculinity or femininity; put simply, (manly) militarism is valorised while (feminine) pacifist ways of thinking are considered cowardly. There is an urgent need to overcome these gendered impediments to thinking about security, in order to pursue the idea that security can best be fostered through the empowerment of women, and other marginalised groups, and the promotion of human rights and social justice. The Council’s post-Cold War movement towards a broader reading of the causes of international peace and security is a double-edged sword. Its enlarged mandate opens the distinct possibility that militarism will be extended into even more aspects of our everyday lives, while it also raises the prospect that more multidimensional understandings of security could emerge.⁶⁸ As philosopher Michel Foucault observed, while certain ways of thinking can have hegemonic effects, they also have within them the possibilities of resistance and transformation.⁶⁹ The challenge for feminists is whether links can be made between the Council’s expanded agenda and non-military, emancipatory ideas about international peace and security.

In response to mounting criticism, the Security Council has made various attempts to address its procedural legitimacy problems. While the discussion about altering its composition has not yet led to any agreement about change, the Council has adopted some new procedures and practices designed to increase its openness and expand its consultative reach. The President of the Council, in delivering the Council’s 2000-2001 Annual Report to the General Assembly, said that the Council had held many public meetings to improve its transparency and facilitate the participation of a wider group of UN members.⁷⁰ The Council has also initiated a new practice of making field visits to areas of conflict, which has had the effect of sensitising members to the profound realities of the everyday civilian experiences of armed conflict.⁷¹ With respect to its relationship with NGOs, an NGO Working Group on the Security Council, established in 1995 at the initiative of the Global Policy Forum, instituted what has become a regular dialogue between Council members and about thirty NGOs.⁷² Earlier, in 1993, Venezuelan Ambassador Diego Arria initiated an informal dialogue with NGOs, a procedure that has been used more frequently

since 1999 and is known as an Arria Formula meeting.⁷³ The “dialogue,” although in private and off the record, involves Council vetting of the country situations that will be discussed and the reading of prepared texts, which many NGO participants have, not surprisingly, found to be unduly formal and constraining.⁷⁴ That Council members feel the need for this level of formality, even in informal discussions, does not send encouraging signals about its amenability to more open procedures. Nevertheless, these new practices go some way towards symbolically validating the activities of an otherwise closed and secretive institution.

The Security Council has even made efforts to address some of the substantive, justice concerns that have been raised by adopting a series of thematic resolutions that highlight the problems faced by civilians⁷⁵ and children⁷⁶ in the context of armed conflict. I read these resolutions as an attempt by the Council to ameliorate concerns about its post-Cold War activism by developing protections for some of those who have suffered as a result of the spread of militarism, the Council’s own interventions, and even its failure to intervene in some instances, as in Rwanda. The resolutions, as the result of considerable NGO efforts, make it clear that the Council considers the protection of civilians, particularly women and children, to fall within its competence.

The five resolutions relating to children in armed conflict are most instructive about the emancipatory possibilities that the Council might be stretched to, beyond its protective military mode. Each resolution builds on those that precede it, developing an increasingly detailed agenda that extracts more substantial commitments from the Council. For example, the resolutions move from an initial focus on the need to protect children, to an approach that progressively promotes their empowerment by requesting “the involvement of children, where possible, in [peace] processes,”⁷⁷ then calling for parties “to consider, when possible, the views of children in those processes,”⁷⁸ then asking that parties ensure that “children affected ... are involved in all disarmament, demobilization and reintegration processes.”⁷⁹ This progression moves children out of a paternalistic military framework into a potentially transformative paradigm of children’s rights and dignity, which is reinforced by the references to promoting a culture of peace and non-violent conflict resolution in the third resolution.⁸⁰ Also in the third resolution, the Council establishes a significant accountability mechanism by requesting the Secretary-General to compile a list of parties that recruit children or otherwise use them in armed conflict in violation of international law.⁸¹ In the fourth, the Council places continuing pressure on the listed parties by requesting that the Secretary-General report on their progress towards ending the recruitment or use of children in armed conflict and proposes the appointment of Child Protection Advisers.⁸² Finally, in the latest resolution, the Council requests the Secretary General to urgently devise ‘an action plan, for systematic and comprehensive monitoring and reporting mechanisms.’⁸³

It is also instructive to note that the resolutions on civilians and children are not gender blind. They do recognise that women and girls have specific concerns and issues. However, most of the references to women classify them as a “vulnerable group,” undifferentiated from children.⁸⁴ This approach reveals the gender conservatism of the Security Council’s new social agenda, repeating the traditional stereotypes that construct women as, like children, dependent and defenceless, and therefore in need of (manly) military protection. This, along with the few references to women in earlier Council resolutions which, while welcome, represented women only as victims of sexual violence,⁸⁵ would seem to foreclose the possibility that the Council might recognise women’s agency in their own protection and in the resolution

of armed conflicts, which the women's peace movement has so tirelessly advocated. That is, until the adoption of Resolution 1325 on 31 October 2000.

THE ADOPTION OF RESOLUTION 1325 AND ITS CONTENT

Laying the groundwork for the adoption of Resolution 1325 commenced at least as long ago as 1915, when the Hague Congress of Women brought women together from all sides of World War I in an effort to bring the war to a quick conclusion.⁸⁶ The women decided to send delegations to speak with the warring governments⁸⁷ and established the first international committee devoted exclusively to bringing about peace, which became the Women's International League for Peace and Freedom (WILPF) in 1919.⁸⁸ Over 80 years later, encouraged by Chowdury's Presidential Statement, the WILPF initiated the formation of a coalition of women's peace groups and international human rights organisations, the Working Group on Women, International Peace and Security (NGO Working Group) in 2000.⁸⁹ The coalition initially set out to convince the Security Council to hold an Open Session on the issue of women, peace and security, aiming to utilise one of the new procedures designed to improve its transparency.⁹⁰ In the view of WILPF activist Felicity Hill, their efforts were aided by the Council's field visits to areas of conflict⁹¹ and a lucky coincidence of supportive members "inside" the Council who formed a critical mass.⁹²

The day before the Open Session, an Arria Formula meeting was held during which Security Council members met with NGO representatives and women from areas of armed conflict.⁹³ At this meeting, the NGO Working Group urged the Council "to draw, *to the utmost*, on the insights, experience, indeed expertise, of women and civil society in matters of daily human security, conflict prevention, resolution, reconciliation and reconstruction."⁹⁴ The next day, at the Open Session, over 40 governments made statements in support of a resolution that would promote the incorporation of a gender perspective into much of the work of the Council. A striking feature of almost every statement was the emphasis on women's participation in peace negotiations, in addition to recognising women's suffering as victims of war, although this can also look like the promulgation of another stereotype - that of women as "natural" peace-makers, as evident in Canada's statement:

We must also ensure that our focus is not restricted to issues of the victimization of women – vital as it is to grapple with them. We must also address ourselves to the positive contribution that women ... can and do make to conflict prevention and post-conflict peacebuilding.⁹⁵

It was the Namibian statement that took the progressive lead by suggesting, not only that women's equal participation was urgent, but also that the "mindset, especially of men, must change and give way to new thinking and a new beginning for the UN in the field of conflict resolution and peacekeeping."⁹⁶ Also unparalleled was the applause from the spectators in the gallery, noted by the US Ambassador Nancy Soderberg as the first time she had heard applause in the chamber of the Council.⁹⁷ It would seem that feminist activism had indeed moved from the margins of military diplomacy to one of its inner sanctums; that perhaps the earlier recognition of women as victims of war may have opened the door to their empowerment.

Resolution 1325, which was unanimously adopted a week later, bears many marks of the international women's peace movement and responds to some of the legitimacy concerns raised more recently by feminists. The Resolution's starting point is the need for the increased participation of women in decision-making related to the prevention, management and resolution of disputes, in international institutions as

well as in field-based operations.⁹⁸ In making this stand, the Resolution attributes political agency to women in the realm of military affairs, an agency that was called for as long ago as 1931 by the League of Nations⁹⁹ and has been reiterated since then in numerous soft law instruments, including General Assembly resolutions¹⁰⁰ and commitments agreed to at world conferences on women.¹⁰¹ In this representation of women, the Resolution marks a break in the long tradition of the Council of casting women only as a vulnerable group, or as victims of sexual violence, in the context of armed conflict. The Resolution has opened an opportunity for women's voices to be heard but, as with *Lysistrata* where the men eventually returned to war, it brings with it the dilemma of how women's perspectives will be engaged; whether as a transitory disciplining force in the immediate post-conflict period or as an opening to emancipatory change.

In a limited way, the Resolution also responds to calls for the Council to be attentive to the gender-differentiated consequences of its decisions.¹⁰² Following the lead it took in the children's resolutions, the Council reaffirms its "readiness" to consider the potential impact on the civilian population, especially women and girls, of measures short of the use of force taken under article 41.¹⁰³ But significantly, the Council makes no commitment to extend such considerations to its use of forceful measures taken under article 42. In fact, this exclusion of "feminized" concerns from combat decision-making is reminiscent of the exclusion of women from combat roles by many armed forces. In both instances, a gendered distinction is maintained, despite its clearly illusory nature when it comes to keeping actual women away from the "front line" of battle, which gives gender the appearance of a remarkably stable set of dichotomies. This kind of line-drawing preserves core military decision-making – about whether to use force, and how – for those who are well-versed in military (masculinist) ways of thinking, who are understood, "naturally," to be men.

The Resolution's silence on the question of women's involvement in combat-related decision-making also makes it possible to read the Resolution's urging of participation by women as for "them," those chaotic "Third World" states that pose a threat to themselves and the international community, and not for "us," the ordered and law-abiding states of the North.¹⁰⁴ While it is important to recognise that developing states like Namibia, Bangladesh and Jamaica were the primary promoters of the Resolution, and this was clearly not their intention, the silence about women's involvement in combat-related decision-making, despite the general reference to involving women in dispute "management," remains a liability. For example, only a small number of women's peace groups in the US used the Resolution to argue for women's participation in the US Administration's decision-making about how to respond to the terrorist attacks on New York and Washington DC, and this proposal was never taken up.¹⁰⁵ While the US sees itself as a special case, which detracts somewhat from the general applicability of this example, the paradigm of "them" and "us" is clearly dangerous territory for feminists, raising troubling issues about what it is that women's participation will serve to authorise. The imperial dangers posed by the Resolution's silences on combat-related decision-making risk reinstating the colonial trope of the "native victim subject" who needs rescuing by the US and its coalition partners, if not the Council, which without great care can come to include her more privileged "sisters" from the West,¹⁰⁶ notably the unlikely Laura Bush. Participation on these terms is clearly not emancipatory.

If women's participation is conditioned on repeating the gendered and raced stereotypes that underpin imperialism and militarism, it will be impossible for it to destabilise military ways of thinking. For example, if the message taken from the

story of *Lysistrata* is that women's calls for peace are shaped by their "natural" predisposition to maternal and domestic values, which makes them incapable of really understanding the weighty issues of war and peace, their contributions can be dismissed as uninformed, even comical, and the gender hierarchies of militarism will remain intact. In this scenario, the difference that women can make is limited to exerting a domesticating influence during the transition to peace, which is a role women have always been expected to assume. Once this is accomplished, women have usually been required to withdraw from political engagement and return to their domestic roles, leaving the men free to return to combat when they please. As Orford cautions, "feminism can end up facilitating existing projects and priorities of militarized economic globalization in the name of protecting and promoting the interests of women."¹⁰⁷

On the other hand, the Resolution does express the willingness of the Security Council to ensure that its missions consult with local women's groups,¹⁰⁸ and urges that peace agreements support "local women's peace initiatives and indigenous processes for conflict resolution."¹⁰⁹ While this commitment is also focussed on the post-conflict period, again avoiding the idea that women (feminised ideas) could be involved in decisions about the use of force, it nevertheless opens a different reading of *Lysistrata*, whereby the non-violent strategies engaged by women to bring an end to war may be powerful enough to destabilise militarism and bring the "warriors" home permanently. Empowering local women's peace groups to take the lead would not only help to counter the imperial dangers I have referred to. It would also open new spaces for promoting alternative approaches to dispute resolution at the local level and suggest a reevaluation of the importance of women's political participation. The engagement with local women's peace initiatives is therefore at the heart of the emancipatory potential of the Resolution because it is concerned with empowering grass roots women. It would also go some way towards addressing the Council's lack of accountability to a constituency that is at the receiving end of the Council's actions.

The Resolution goes on to deal with many aspects of peace-keeping missions. The Security Council commits itself to improving the gender sensitivity and responsiveness of peacekeeping operations and urges member states to do the same through improved training for both military and civilian personnel.¹¹⁰ It calls on all those involved to ensure that peace agreements adopt a "gender perspective," which, in addition to supporting local women's peace initiatives, includes addressing the special needs and protecting the human rights of women and girls.¹¹¹ The Council also calls on all parties to respect international law, including human rights law, pertaining to the rights and protection of women and girls, and to take special measures in relation to gendered violence.¹¹² In addition, the Council acknowledges the recent developments in international humanitarian law that have made visible the gendered dimensions of the most serious international crimes, and urges the exclusion of these crimes from amnesty agreements.¹¹³

However, the Resolution does not establish any of the local accountability mechanisms that have been called for by feminists, which would help to improve the transparency of the Council's decision-making and its accountability to those directly affected by its actions. This too has been a long-term goal of the international women's peace movement, which, as early as the 1915 Hague Congress, deplored the "odious wrongs" perpetrated against women in times of war and called for an end to impunity.¹¹⁴ Yet there still is no international body that can monitor and investigate complaints of sexual abuse, trafficking or other gender-related crimes committed by those employed in peacekeeping missions. Nor has the Council established

mechanisms to monitor the overall implementation of the Resolution. The Council's reluctance to "enforce" the Resolution contrasts with its willingness to establish accountability mechanisms to bring the recruitment of children for military purposes to an end.¹¹⁵ While the Resolution is clearly committed to ensuring that gendered crimes committed during armed conflict are never again swept under the carpet, the Council does not take the further step of asking the Secretary-General to compile a list of complaints alleging that peacekeepers are acting in violation of the same international humanitarian and human rights law that it calls on the parties to armed conflict to respect. Are we to surmise that children's rights are more important to the Council than those of women?

Although the Security Council clearly responds to some of the issues associated with its procedural legitimacy in Resolution 1325, it is harder to find evidence of a substantive reconsideration of the Council's approach to international peace and security, beyond its support for empowering women's peace groups at the local level. To its credit, the Resolution does present diverse representations of women - as peace-makers and bearers of human rights, as targets of armed conflict and victims of gender-based violence, as former combatants, civilians, special representatives, envoys, military observers and civilian police, as refugees and internally displaced people, and as human rights and humanitarian personnel. This diversity is a significant advance on earlier international humanitarian law instruments, which were concerned almost exclusively with (male) combatants,¹¹⁶ and the few references to women were aimed at protecting them from attacks on their "honor"¹¹⁷ or "outrages upon personal dignity."¹¹⁸ The Resolution therefore demonstrates a nascent awareness of many of the multiplicity of issues that emerge when armed conflict is viewed from the point of view of women's gendered experience.¹¹⁹ Such diverse representations of women could help to unsettle the tenacious gender hierarchies that sustain militarism, by casting women in a range of active roles, including as leaders, combatants and human rights defenders. They could also help to destabilise the persistent line between the public world of military and political affairs, where aggressiveness, emotional detachment and competitiveness are valued as "masculine" attributes, and the private world of home and family, where the "feminine" values associated with nurturing and sustaining life are said to belong. Disturbing the sense of permanency that has been attached to gender differences would constitute an important step towards attaining security in a feminist sense.

Yet, when the Resolution is measured against the aspirations of the international women's peace movement to demilitarise the way that security is understood, it is wanting in significant respects. The most glaring problem is its narrow reference to disarmament, in the limited context of post-conflict reintegration of former combatants.¹²⁰ General disarmament was of "essential importance" to the 1915 Hague Congress and has been a prominent feature of women's peace activism ever since.¹²¹ Even the Council's own responsibilities under the UN Charter, to establish systems to regulate arms,¹²² do not rate a mention. The Resolution's silence on this matter is especially glaring when it is compared with the undertakings states made in the Beijing PFA, to reduce excessive military expenditure and control the availability of armaments.¹²³ The UNIFEM study, carried out as a follow-up to Resolution 1325, picks up on this point and urges the Council to implement its Charter obligations.¹²⁴ However, the basic problem is that the permanent members of the Council are also the world's largest arms producers, therefore there is unlikely to be any change until militarism becomes more widely discredited. Nor does the Resolution give any indication that the Council might be ready to rethink its approach

to security in other ways by, for example, emphasising the importance of developing non-violent forms of conflict resolution or of fostering a culture of peace, despite the resounding endorsement of such strategies in the Beijing PFA.¹²⁵ These absences attest to the Council's continuing commitment to militarism and to the gender stereotypes that sustain it. As the Under-Secretary for the marginalised UN Department for Disarmament Affairs has observed, "[w]hen women move forward, and when disarmament moves forward, the world moves forward. Unfortunately, the same applies in reverse: setbacks in these areas impose costs for all."¹²⁶

In sum, while there are some welcome commitments to women's equality in the Resolution,¹²⁷ it falls a long way short of Chowdury's recognition that women's equality and peace are "inextricably linked." Unlike the approach taken in the resolutions concerned with civilians and children, there is no suggestion that the Council is ready to consider that gross and widespread violations of women's human rights, outside the context of armed conflict, might properly be considered a threat to international peace and security.¹²⁸ Nor does it embrace the insight that women's full and equal enjoyment of all human rights is perhaps the best strategy that can be found to advance human security over military security. Nevertheless, the commitments to women's equality that are made in the Resolution provide important leverage for women's peace activists. Opportunities for women's participation can be used to urge a shift in the thinking, as well as in the membership, of decision-making bodies, and references to women's rights can be utilised to insist that this participation is not transitional, but continues as a foundation of the post-conflict society. The Resolution's final provisions, requesting the Secretary-General to carry out studies on "the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution,"¹²⁹ can be treated as an accountability mechanism insofar as the studies provide further opportunities for feminists to build on the foundation of the Resolution, although no completion date was included in the Resolution, which posed the distinct possibility that they would never appear on any future agenda of the Council. Needless to say, much depends on the ability of women's NGOs and peace groups to breathe emancipatory life into the Resolution.¹³⁰

THE "LIFE" OF RESOLUTION 1325

There can be no doubt that, since its adoption in October 2000, Resolution 1325 has provided a highly productive focus for feminist activity, both within the UN system and outside it, in peace negotiations and post-conflict reconstruction.¹³¹ The NGO Working Group, based at the UN in New York, has worked tirelessly to publicise the Resolution by maintaining an informative web site,¹³² producing a fortnightly email newsletter,¹³³ making the Resolution widely accessible,¹³⁴ and organising many consultations and workshops to promote its use. All this activity has helped to foster links between women's international, national and local peace activism, and has created important opportunities for sharing information and working together towards agreed ends.

Particularly striking has been the eagerness of local women's groups, in the midst of conflicts and post-conflict reconstruction, to embrace the Resolution and the possibilities it offers. The NGO Working Group's newsletter reports that the Resolution has provided leverage for women's groups in Afghanistan, Angola, Bosnia and Herzegovina, Burundi, Chechnya, the Democratic Republic of the Congo, East Timor, El Salvador, Guatemala, Iraq, the Mano River Union countries (Guinea,

Liberia and Sierra Leone), Nepal, the Southern Caucasus (Armenia, Azerbaijan and Georgia), Somalia and many other places,¹³⁵ to assert their participation in peace processes, though not always with success. Women have successfully used the Resolution to support the appointment of a Gender Advisor in the UN peacekeeping mission in the Democratic Republic of the Congo, to build a women's network in Kosovo, Macedonia and Albania, and to establish women's community media in Melanesia.¹³⁶ But the successes in achieving effective representation in formal decision-making processes remain the exception rather than the rule, despite the Council's clear injunction that their inclusion is to be ensured.¹³⁷ Nevertheless, the global picture of women's peace activism is one of vibrancy and empowerment. Women's peace groups have used the Resolution to foster trans-national networks that have helped to bolster and support local and international efforts to promote feminist approaches to peace and security, despite their continuing marginalisation by the formal processes of peace settlements and reconstruction.

Within the UN, largely as a result of clever strategies devised by NGOs to keep the Resolution on the Council's agenda, the Resolution has been reaffirmed by the Security Council in annual activities, including follow-up Arria Formula meetings,¹³⁸ Open Debates¹³⁹ and Presidential Statements.¹⁴⁰ The Council also held a further Open Session on 25 July 2002, this time on Conflict, Peacekeeping and Gender.¹⁴¹ An Inter-Agency Task Force on Women, Peace and Security, including nearly all UN agencies, has been established to promote the integration of gender perspectives into all the peace and security work of the UN bureaucracy, and an intergovernmental group, called the Friends of Women, Peace and Security, has come together to support implementation.¹⁴² As a result of an intensive lobbying campaign by women's groups, the Department of Peacekeeping Operations finally created the position of Gender Adviser in 2003, whose role is to support gender initiatives in peacekeeping missions.

Two important studies were eventually produced as a result of the Resolution, although they took 2 years to be completed, which left implementation of the Resolution with little official guidance during this initial period. The first, prepared by the Secretary-General, reviews the activities of the UN and its specialised agencies, funds and programs, in light of Resolution 1325.¹⁴³ It is supplemented by the Report of the Secretary-General to the Security Council, which highlights the study's major findings and recommendations.¹⁴⁴ The second, an independent study commissioned by UNIFEM, is based on interviews with women victims and survivors of armed conflict, and examines the impact of conflict on women and the contributions women have made to peace-building.¹⁴⁵ There are striking differences between the two reports because of their different methodologies. The Secretary-General's report uses the diplomatic language of the UN bureaucracy, mildly phrasing concerns so as to avoid giving offence. While it nevertheless conveys a strong message about the urgent need for substantial change, the feminist analysis that needs to inform that change has been largely muted. Whereas the UNIFEM study, which adopts feminist research methods,¹⁴⁶ is more forthright in its criticisms of present practices and more concrete in describing their devastating consequences for women. Its conclusions are informed by a feminist political awareness of the motivations that need to shape strategies for change. *Together*, the two studies provide an important store of information upon which to base further actions and initiatives related to Resolution 1325, which, as the UNIFEM study observes, has given a new "political legitimacy" to the long history of women's peace activism.¹⁴⁷

Unfortunately, the follow-up efforts of the Security Council have been patchy, at best. While the Council welcomed the Secretary-General's Report in October 2002, as of March 2004 it has yet to comment on its recommendations, let alone devote resources and/or establish mechanisms to promote and oversee its implementation. Three years after the adoption of Resolution 1325, a study by the UN Office of the Special Adviser on Gender Issues and the Advancement of Women found that only 33 of the 225 resolutions adopted by the Council since October 2000 had made any reference to "women" or "gender."¹⁴⁸ There is some reason to hope that this official neglect might be short-lived, as many of the official statements made at the third anniversary of the Resolution, in October 2003, expressed deep dissatisfaction with the pace of implementation.¹⁴⁹

Nonetheless, the new legitimacy that the Resolution has ascribed to women's peace efforts has slowly translated, in some post-conflict situations, into their direct participation in formal processes of decision-making. This measured progress has been largely due to the massive mobilisation of local and international women's groups. Afghanistan, which was the first major testing ground for the Resolution, provides a good example. Although the Council made no reference to Resolution 1325 in any of its resolutions on rebuilding Afghanistan,¹⁵⁰ it nevertheless provided important leverage for the efforts of an unprecedented array of women, including Hollywood celebrities, women's rights activists, politicians and UN ambassadors, to demand that women be included in the political negotiations that followed the US occupation.¹⁵¹ As a result of these efforts, four women¹⁵² were included in the Bonn Conference held in December 2001, where the first stage of these negotiations took place, despite the initial plan to include women only at a later stage.¹⁵³ Coincidentally, the NGO-sponsored Afghan Women's Summit for Democracy, which aimed to facilitate the implementation of Resolution 1325 in the post-Taliban negotiations, was held in Brussels at the same time.¹⁵⁴ This happy twist of fate enabled three of the women at the Bonn Conference, who travelled between the two meetings, to consult with other women about the negotiations in Bonn.¹⁵⁵ The resulting Bonn Agreement included a commitment to the eventual establishment of a "broad-based, gender-sensitive, multi-ethnic and fully representative government,"¹⁵⁶ and two women were appointed to the 30-member Interim Administration.¹⁵⁷ The Agreement also called for women's participation in the Emergency Loya Jirga to elect the transitional government, planned for June 2002. This led to the eventual involvement of about 200 women from all regions in this crucial meeting.¹⁵⁸

The slow but notable progress in Afghanistan is similar to what has occurred in East Timor, where Resolution 1325 has also been used to promote women's formal participation,¹⁵⁹ again, despite the lack of reference to it in any Security Council resolutions relating to UN missions in East Timor since its adoption.¹⁶⁰ However, the Council's mandate for the UN Transitional Authority in East Timor (UNTAET), which preceded the adoption of Resolution 1325 by 12 months, was the first to make reference to the importance of including personnel who had training in the gender-related provisions of international law.¹⁶¹ Yet the 15 member National Consultative Council, established by UNTAET in December 1999 to assist the Transitional Administrator, included only three East Timorese women.¹⁶² Soon after, local women's organisations began concerted lobbying for their inclusion in decision-making processes.¹⁶³ At the First Congress of Women of Timor Loro Sae in June 2000, which brought together more than 500 women from every district,¹⁶⁴ a statement was adopted which called for UNTAET to "fulfil the United Nations commitment to gender equity."¹⁶⁵ The women's lobby succeeded in having 13 women

included in the 33 member National Council, which was established in July 2000 to advise the Transitional Administrator on legislative matters.¹⁶⁶ A national campaign was then organised for women candidates to be elected to the Constituent Assembly, which had the task of drafting East Timor's new constitution. As a result, 24 women were elected to the 88 member Assembly in August 2001, which was another notable achievement, although the UNIFEM report suggests that at least one political party later replaced the woman who was first on their list with a man who had been lower on the list at the time of the election.¹⁶⁷ Two of the elected women were given ministerial responsibilities in the transitional government and a third was given a vice-ministerial position.¹⁶⁸

At the same time as women's efforts to be included in the formal processes of post-conflict decision-making were meeting with some success, the vast majority of women in both Afghanistan and East Timor continued to feel powerless and insecure as a result of the public and private gendered violence that becomes normalised in militarised societies. As the Secretary-General's study correctly observes, women's inequality can persist, and even deepen, in post-conflict societies.¹⁶⁹ In Afghanistan, particularly outside Kabul, warlords were re-entrenching themselves,¹⁷⁰ violence against women was increasing at a dramatic rate,¹⁷¹ and the UNIFEM study found that women were feeling "neither secure nor safe."¹⁷² Rather than abating as the transitional government became more established, there is evidence that sexual violence has increased in many parts of Afghanistan, perpetrated by soldiers, commanders and police, as well as family members,¹⁷³ not only violating women's and girls' rights to bodily integrity, but also denying them access to education, political participation, health care and employment.¹⁷⁴ In March 2004, two and a half years after the US occupation, the *New York Times* reported that increasing numbers of young Afghan women were committing suicide in order to escape the cruelties they were forced to endure because of traditional family practices and conservative Islamic beliefs that countenance forced marriages and domestic violence.¹⁷⁵

In East Timor, violence against women also soared in the post-conflict environment, with 40% of all officially reported offences in December 2001 being violent crimes perpetrated against women.¹⁷⁶ Statistics collected by the Vulnerable Persons Unit of the fledgling East Timorese police force indicate that the large majority of cases reported to it concern domestic violence.¹⁷⁷ These figures are likely to be a substantial underestimation of the true levels of violence against women, as women in the male-dominated culture of East Timor, as elsewhere, are unlikely to feel very confident about making a complaint, especially when the justice system is poorly developed. In East Timor, the trend has been to pressure women into dealing with these offences by way of traditional dispute resolution systems, which are not sanctioned by law and are unlikely to deliver justice to them.¹⁷⁸

In both Afghanistan and East Timor, the continuing insecurity of women was largely ignored in the rush to establish transitional governance, adopt constitutions and hold elections. At the same time, there is some evidence that the escalating violence directed at women may be at least partially understood as a reassertion of traditional cultural values as a backlash against the perceived imposition of liberal values by the UN/US missions.¹⁷⁹ Further, in Afghanistan, many women's rights advocates have been specifically targeted.¹⁸⁰ This evidence indicates the complexities associated with promoting women's equality and lends additional support to the idea that women's rights, especially their rights to be free from violence and to have access to basic economic and social resources, must be explicitly protected and promoted during the transitional period, in conjunction with local women's networks, and not

left to be dealt with after new institutions have been established. Critical to the success of these efforts is the framing of women's human rights so that they make sense within the local cultural context; Islam in Afghanistan¹⁸¹ and Roman Catholicism in East Timor.¹⁸²

Against the backdrop of escalating violence, it is hardly surprising that many local women felt excluded from, or unable to participate in, the same transitional decision-making processes that other women were making inroads into. In East Timor, an Oxfam study found that women in rural areas faced substantial impediments to having their voices heard during the political transition.¹⁸³ These included lack of English language skills, lack of access to information about the transitional authority, transportation problems and the conservative patriarchal culture of East Timor.¹⁸⁴ To this list can be added other obstacles identified by Chinkin in her discussion of women's involvement in peace agreements, including the Bonn Agreement, such as security issues, lack of resources to attend, and the lack of childcare provision.¹⁸⁵ Chinkin also makes the point that the allocation of power during peace negotiations is confined to those parties who have been involved in the fighting, which perpetuates the lack of recognition and value that is attributed to women's efforts during the conflict to hold communities together and promote peace through informal means.¹⁸⁶ Repeating the divisions of the conflict in the new governing structures also creates an unstable foundation for post-conflict societies. The result of all these impediments is that it tends to be the more privileged women from the capital cities and the diaspora who are able to lobby for, and then take up, the formal participation opportunities opened by the Resolution. Women's participation will fall well short of realising its emancipatory potential if grass roots women, especially those who have been involved in informal peace processes in their communities, are not given a voice in negotiations. If women's participation is limited to those already privileged by the current arrangements of power, it will, however well-intentioned, contribute to the disciplinary project of military and imperial security by continuing to "protect" rather than "empower" most women.

In East Timor, local women met with Secretary-General Kofi Annan, when he visited in February-March 2000,¹⁸⁷ urging him to establish the gender affairs unit that had originally been part of the UNTAET plan, but was dropped due to budgetary constraints.¹⁸⁸ These efforts were supported at the UN by the NGO Working Group and led, eventually, to the establishment of a Gender Affairs Unit (GAU) within UNTAET. But unfortunately, the GAU was hampered by the lack of an operational budget and the lack of time for basic needs assessment, which the delay had caused.¹⁸⁹ While one of its objectives was to persuade UNTAET to implement the recommendations of the Congress of Women held in 2000, differences soon arose with women's NGOs who disagreed with the way the Unit had interpreted their priorities. In their interviews with East Timorese women, Charlesworth and Mary Wood found that some felt frustrated with the prevailing preoccupation with the *number* of women in the various UNTAET bodies, including the GAU, suggesting that this conceived of women's empowerment in "excessively narrow terms."¹⁹⁰ This finding highlights another of the dangers associated with institutionalising or mainstreaming an emancipatory feminist agenda, which is that the political content can be lost in the conversion to bureaucratic goals. Sally Baden and Anne-Marie Goetz describe this process in the context of mainstreaming gender into development programs, showing how gender analysis can be reinterpreted as an "interesting statistical variable" to suit institutional needs, and thereby become stripped of its feminist political content which is concerned with realising human rights and social

justice.¹⁹¹ The Secretary-General's study, produced as a result of the Resolution, shows some of this potential, as I have suggested.

While the increased number of women involved in formal decision-making processes adds an important dimension to the symbolic validation of peace-making processes, there is the danger that, in institutional terms, this may become the end goal rather than a mere first step. Moves towards more substantive forms of gender legitimacy are likely to be opposed by change-resistant institutional actors and therefore will continue to require the massive mobilisation of feminist networks.¹⁹² It is important to remember that the number of women involved in decision-making is not, by itself, an accurate indicator of women's empowerment in society. An assessment of the gender legitimacy of the Security Council's missions must be approached as a complex and multi-dimensional project that looks behind formal appearances to the economic, social, political, cultural, legal and civil status of those women who are the least privileged.

Despite these problems of elitism and of institutional resistance to emancipatory change, women's *informal* participation in peace-building processes has continued to flourish. In both Afghanistan and East Timor, local women came together to draft charters of women's rights, which they hoped would educate their communities and influence the formal negotiation of their new constitutions. In Afghanistan, Women for Afghan Women (WAW) organised for 45 ethnically diverse women, from every region of the country, including both educated and undereducated women, to come together in Kandahar, from 2-5 September 2003, to draw up the Afghan Women's Bill of Rights.¹⁹³ The participants took the view that an equality clause in the constitution, while necessary, would not be enough,¹⁹⁴ and consequently the Bill identified 16 rights and five additional demands affecting women's lives. The top three priorities were education, health care, and security in public and in the home.¹⁹⁵ They publicly presented the document to President Hamed Karzai who assured them that their rights would be explicitly included in the new constitution.¹⁹⁶

In East Timor, the 2000 Congress of Women had adopted a Platform for Action for the advancement of women and formed Rede Da Mulher Timor Lorosae (REDE), a national women's network.¹⁹⁷ The Congress also established a Working Group to undertake a broad community consultation and draft a Charter of Women's Rights,¹⁹⁸ which was later presented to the Transitional Administrator and the Constituent Assembly with 10,000 supporting signatures.¹⁹⁹ In addition to seeking the prohibition of discrimination and the adoption of positive measures to promote equality, the Charter proposed specific guarantees, including the elimination of all forms of violence against women, the equal participation of women in public and political life, including in traditional decision-making processes, state provision of reproductive health care for women, and regulation of the dowry system.²⁰⁰

Notwithstanding these efforts of women's groups to breathe feminist life into the constitutional debates, and the urging in Resolution 1325 that all actors ensure that there is constitutional protection for the human rights of women and girls,²⁰¹ the outcomes in both Afghanistan and East Timor were less than satisfactory. The new Constitution of Afghanistan, adopted by the constitutional Loya Jirga on 4 January 2004, declares that "the citizens of Afghanistan" have equal rights and duties before the law,²⁰² but makes the entire Constitution subject to the teachings of Islam.²⁰³ There are only four explicit references to women, none of which grant women equal rights as autonomous subjects.²⁰⁴ The advice of the drafters of the Afghan Women's Bill of Rights to explicitly spell out women's rights was clearly rejected. Unfortunately, it took only a few days for the worst fears of women's rights advocates

to be realised. Officials in Kabul had lifted a ban on women singing on state television, citing the new Constitution's protection of women's equal rights.²⁰⁵ The Supreme Court immediately protested to the Minister for Information and Culture when old footage of a well-known singer, Parasto, was put to air. The ban was reimposed, just days after it had been lifted, because the Chief Justice insisted that it was consistent with the new Constitution's requirement that no laws can be contrary to the beliefs of Islam.²⁰⁶ On the other hand, the Constitution does reserve for women 25% of the seats in the Wolesi Jirga (the People's House of the new bicameral Assembly), and the president must appoint additional women to sit in the Meshrano Jirga (the Elders' House).²⁰⁷ These quotas open important new possibilities for women's political participation, but, as I have already argued, increasing the number of women, without also guaranteeing women's substantive equality, may not be empowering women; it may be further institutionalising their secondary status.

The new Constitution of East Timor, adopted in March 2002, also takes a much weaker approach to women's equality than that proposed in the Charter for Women's Rights. It adopts a largely formal approach by guaranteeing to men and women "equality of opportunities"²⁰⁸ and "the same rights and duties in all areas of family, political, economic, social and cultural life."²⁰⁹ Formal equality fails to recognise that women, in some situations, may need to be guaranteed rights that are different from those that men enjoy, in order to realise substantive equality.²¹⁰ Further, the Constitution requires that the law "*promote* equality in the exercise of civil and political rights [my emphasis],"²¹¹ which is not the same as a guarantee. One Charter provision that was included in the name of women's rights gives the police additional powers to enter homes at night if they have reason to believe that there is a serious threat to life or physical integrity.²¹² Unfortunately, if experience elsewhere is instructive, this may prove to be another instance of women's rights being used as a pretext for diminishing the general enjoyment of civil rights, which, again, suits certain institutional purposes and is unlikely to improve women's lives.

These constitutional outcomes indicate that the "inextricable link" between women's equality and peace, identified by Chowdury in his Press Statement on International Women's Day in 2000, has been lost sight of in the implementation of Resolution 1325. They also serve as a reminder that legal rights provide an often uncertain foundation for women's equality, not least because rights discourse has developed with a masculine subject in mind.²¹³ Further, as Julie Mertus observes in the context of Kosovo, where sustained efforts to take a rights-based approach to reconstruction seem to have had little impact on the lives of most women, the enjoyment of rights depends on the willingness and capacity of the state to acknowledge and comprehend rights claims and respond appropriately.²¹⁴ Mertus also identifies other deterrents faced by women in claiming their rights, which echo those that impede women's participation in formal decision-making processes, including a lack of legal literacy, cultural and social ostracism, and lack of access due to their caring responsibilities.²¹⁵ It is also clear that the rights that have been prioritised in the international community's rush to establish democracy, good governance and the rule of law in conflict zones, are those market-friendly civil and political rights that serve to encourage foreign investment, privatisation and the free flow of capital. Mertus highlights how economic and social rights are ignored or conceived of as temporary measures, yet they are of crucial importance to addressing poverty and enabling women's participation.²¹⁶ Baden and Goetz make the related point that women's rights are often instrumentalised by institutional agendas, such that the granting of

women's rights relies on them being perceived as good for population control or child welfare or economic liberalisation, rather than as an end in themselves.²¹⁷

As part of the solution to some of these problems, the Secretary-General's Report recommends improved "training" for women and women's organisations so they are better equipped to engage effectively in formal peace processes.²¹⁸ As he says,

[o]ne of the greatest challenges is harnessing the energy and activism that many women exhibit in informal activities and translating that into their participation and influence in formal activities.²¹⁹

However, in seeing women's "training" as a solution, the Secretary-General fails to recognise that training is not an adequate response to marginalisation. Rather, it is the gendered hierarchies of power that need to change. Indeed it is the *other* participants in formal decision-making processes to whom "retraining" resources should be devoted. The primary impediment to "harnessing" women's experience of informal conflict resolution processes is more accurately identified as the narrow, militaristic ways of thinking that combatants, military leaders, diplomats, politicians, religious leaders, warlords, militia members and professional peace negotiators have traditionally brought to formal peace negotiations. It is the military mind-set that results in the lack of responsiveness to the "feminised" concerns and proposals that women may offer, not the lack of training of the women who have developed and practiced these ideas. Without changing the gender discourse of militarism, which works as a "preemptive deterrent" to non-military approaches to conflict resolution,²²⁰ the community-based, people-centred conceptions of security that have been developed by women in their local communities will continue to be marginalised, dismissed and silenced, no matter how many resources are devoted to "training" them. As Carol Cohn says,

[i]t is not simply the presence of women that would make a difference. Instead, it is the commitment and ability to develop, explore, rethink, and revalue those ways of thinking that get silenced and devalued that would make a difference. For that to happen, men would have to be central participants.²²¹

Therefore, taking a "gender perspective" in peace negotiations, as urged by Resolution 1325, must involve men as well as women in rejecting the militarised gender identities that have been so influential in legitimating the use of force and the secondary status of women, in the name of international peace and security.²²² At the same time, the cautionary experience of mainstreaming gender into development programs must be kept in mind; that once gender analysis refocusses attention on men, it can be used to deny the specific disadvantage of women in contrast with men, and thereby reinstate masculine interests as the standard.²²³

In sum, as a result of the efforts of local and international women's peace advocates, supported in various ways by UN agencies and funds, Resolution 1325 has successfully promoted a measured increase in the involvement of women in formal decision-making processes in both Afghanistan and East Timor. This result enhances the gender legitimacy of the Security Council in a thin, procedural sense because the perception of women's participation improves the democratic credentials of the decisions made, thereby increasing their symbolic validation. However, this formal increase in women's participation has not been accompanied by efforts to address the overwhelming impediments to participation faced by many, perhaps most, women, including increased violence against women, lack of resources, lack of knowledge and information, and conservative gender traditions. Therefore it is more privileged women who are able to take up the new participation opportunities. The narrow

empowerment of local women also means that foreign women in UN missions and NGOs may dominate, exerting an unwitting disciplinary influence on local women's organisations, and playing into the hands of change-resistant institutional actors eager to strip women's agendas of their feminist political content. Addressing the impediments to participation by women cannot wait for the new legal and governmental institutions to be in place, but must be tackled during the transitional period, deriving their legitimacy from local women's networks, human rights law and Resolution 1325.

At the same time, women's *informal* participation in peace-building processes has continued to flourish in both Afghanistan and East Timor, despite its limited impact on constitutional outcomes. For women's NGOs and peace groups to breathe transformative life into the Resolution, they must ensure that local women are able to bring their non-military strategies and experience to the negotiating tables, where peace deals are struck and post-conflict power arrangements are determined. For this to happen, the men who are already at those tables must be "retrained" so that they are able to critically rethink the justice of their military approach to security. The conundrum that Cynthia Enloe poses needs to be addressed; that the price of women's admission to decision-making bodies is often dependent on "the sacrifice of a gender-smart critical approach to militarization."²²⁴ Until this price is no longer exacted, the emerging "gender legitimacy" of the Security Council will remain procedural, a legitimacy of form rather than substance, leaving the gender discourse of militarism intact and the important link between peace and women's equality unrealised.

CONCLUSIONS

As an investment in legitimising a contested international institution, Resolution 1325 opens treacherous terrain for international and local women's peace movements. Legitimacy is a slippery concept, and women's participation does not necessarily destabilise militarism, as the women's peace activists of the early twentieth century found when it became clear that women's suffrage would not make armed conflict impossible, as they had hoped.²²⁵ While the Resolution has opened important new opportunities for women's participation, it also presents the very real dilemma that women's increased participation may be used to further military and institutional agendas that maintain the marginality of women and other disenfranchised groups, while enacting the formal performance of inclusivity.

My assessment is that the Security Council's promotion of the increased participation of women in formal peace-making and peace-building processes has had an impact on the Council's gender legitimacy in the sense that it has enhanced the symbolic validation of its work by thinly improving its democratic credentials. This result is due to the extraordinary mobilisation of local and international women's peace groups to make the Resolution a reality, rather than to the commitment of the Security Council, which remains sorely wanting. However, if women's formal participation is all that the Resolution achieves, it will have likely engaged women as peace-makers in yet another disciplinary project that suits the needs of militarism and is inconsistent with women's equality. Unless women's formal involvement also destabilises the traditional gender hierarchy of combatants and peace-makers, and changes the military mindset of thinking about peace and security, it risks reinforcing the conservative discourse of unchangeable gender hierarchies and the inevitability of war, thus confirming the feminist reticence about engaging the master's tools. For women's participation to make a difference in a substantive way, Lysistrata's

descendants need to reject the mythology that peace-making is uniquely women's work. Women *and men* must use the opportunities opened up by the Resolution to empower those women who play such important roles in their local communities by promoting feminist methods of building peace and organising security. This knowledge, if it can be brought into formal decision-making processes without being divested of its emancipatory content, will challenge the gendered moorings of militarism, ensuring that human rights and social justice priorities shape a new approach to international security and promote different calculations of the costs of resort to collective enforcement measures. If this occurs, the Resolution will have addressed the Security Council's deficit in gender legitimacy in an emancipatory way, by challenging the injustices of militaristic "peace" and building women's substantive equality, opening the real possibility of achieving a world in which succeeding generations can be saved from the scourge of war.

However, as "coalitions of the willing" rapidly undermine the authority of the Security Council, there is a lingering concern in my mind that the small advances towards gender legitimacy may have already rendered the Council too feminised for militarism's extremists. Francis Fukuyama's incendiary warning that the feminisation of the West endangers its survival in a world of "undemocratic" (non-European) states²²⁶ seems to have been heeded by the world's superpower and its coalition allies, who have instituted an even more intensely militarised global order outside the auspices of the Council. These events portend a more dangerous time for women and for non-military narratives of international peace and security. Despite this, Resolution 1325 continues to provide leverage for countless women's groups and NGOs, reminding us that power is dispersed and therefore is never fully able to be disciplined.

Notes

* Dianne Otto, Associate Professor, Faculty of Law, The University of Melbourne. Kate Stoneman Visiting Professor of Law and Democracy, Albany Law School, New York, Spring semester 2004. This chapter partially fulfils the requirements of my JSD candidacy at Columbia University. I would like to thank my JSD Committee for their helpful comments: Jeremy Waldron, Katherine Franke and Lori Damrosch. I would also like to thank Joan Nestle, Carol Cohn and Nancy Hartsock for their insightful readings of the chapter in draft form. Finally, thanks must go to the editors and other contributors to this volume for the wonderful conversations in New York and Tokyo.

¹ "Peace Inextricably Linked with Equality Between Women and Men Says Security Council, in International Women's Day Statement," Press Release SC/6816, 8 March 2000.

² Aristophanes, "Lysistrata," (translated by Charles T. Murphy), in Whitney J. Oates and Charles T. Murphy, eds, *Greek Literature in Translation*, New York, Longmans, Green and Co., 1958, pp.387-418.

³ Anne Wiltsher, *Most Dangerous Women: Feminist Peace Campaigners of the Great War*, London: Pandora, 1985. See further, Leila Rupp, *Worlds of Women: The Making of an International Women's Movement*, Princeton NJ: Princeton University Press, 1997, p.19.

⁴ Rupp, *ibid.*, pp.51-81, notes that the women involved in the "first wave" of the international women's movement were largely elite, Euro-American, Christian, mature-aged women, although there were some notable exceptions, and the lack of inclusivity was constantly challenged by women from Asia, the Middle East, Latin America and Africa.

⁵ The generally accepted UN definition of the term "gender" makes a distinction between "sex" as referring to biological and physical characteristics and "gender" as referring to socially constructed roles ascribed to women and men. See UN Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI), "Concepts and Definitions," <http://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>. I understand "gender" differently, as the knowledge that, in turn, establishes meanings for bodily differences and, therefore, that the perception of biological difference is itself a culturally specific set of ideas. This insight collapses the distinction between sex (fixed) and gender (culturally constructed) as it has been understood in the UN

definition. See further, Joan Wallach Scott, *Gender and The Politics of History*, Chichester NY: Columbia University Press, 1999, p.200; Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity*, New York: Routledge, 1990, p.8.

⁶ Hilary Charlesworth, "Transforming the United Men's Club: Feminist Futures of the United Nations," *Transnational Law and Contemporary Problems*, vol.4, 1994, p.421; Report of the Secretary-General, *Peace: Women in International Decision-Making*, UN Doc. E/CN.6/1995/12, 21 February 1995.

⁷ See further, Audre Lorde, "The Master's Tools Will Never Dismantle the Master's House," in *Zami, Sister Outsider, Undersong*, New York, Quality Paperback Book Club, 1993, pp.110-113; Georgina Ashworth, "The Silencing of Women," in Tim Dunne and Nichola J. Wheeler, eds, *Human Rights in Global Politics*, Cambridge, Cambridge University Press, 1999, p.259.

⁸ Press Release, above n.1.

⁹ "Women, Peace and Security," S/RES/1325 (2000), 31 October 2000 (Resolution 1325).

¹⁰ *Ibid.*, para.1.

¹¹ There are many different feminist approaches to peace and security. However, most would agree that feminist notions of security involve a comprehensive approach that is concerned to address the many insecurities experienced by women and other marginalized groups, not only those associated directly with armed conflict, but also the connected insecurities, in private and public life, that result from structural inequalities. Further, feminist conceptions of security are usually anti-militarist, drawing on the many pacifist strategies developed by grass roots women to organize against violence and conflict in their communities. See further, Jan Jindy Pettman, *Worlding Women: A Feminist International Politics*, St Leonards NSW: Allen and Unwin, 1996, pp.105-106; Cynthia Enloe, *Maneuvers: The International Politics of Militarizing Women's Lives*, Berkley: University of California Press, 2000, pp.3-4; V. Spike Petersen and Anne Sisson Runyan, *Global Gender Issues*, Boulder: Westview Press, 1999, pp.115-116.

¹² See, for example, Marnia Lazreg, *The Eloquence of Silence: Algerian Women in Question*, New York: Routledge, 1994; Anne McClintock, *Imperial Leather: Race, Gender and Sexuality in the Colonial Context*, New York: Routledge, 1995.

¹³ Elisabeth Rehn and Ellen Johnson Sirleaf, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, New York: United Nations Development Fund for Women, 2002, p.v.

¹⁴ Centre for Women's Global Leadership, "No CSW Agreed Conclusions on Women's Human Rights and Elimination of All Forms of Violence Against Women and Girls,"

http://www.cwgl.rutgers.edu/Global_Center_Pages/csw03 blames the failure of the 47th Commission on the Status of Women (CSW) to reach consensus on the agreed conclusions on women's human rights and the elimination of all forms of violence against women and girls, when it ended on 14 March 2003, on the breakdown of efforts in the Security Council to reach agreements and make compromises with respect to the pending war in Iraq.

¹⁵ Thomas M. Franck, "Who Killed Article 2(4)? Or Changing Norms Governing the Use of Force by States," *American Journal of International Law*, vol.64, 1970, p.908.

¹⁶ Simon Chesterman and Michael Byers, "Has US Power Destroyed the UN?," *London Review of Books*, 29 April 1999, p.29; Ratna Kapur, "Collateral Damage: Sacrificing Legitimacy in the Search for Justice," *Harvard International Law Review*, Spring 2002, p.42.

¹⁷ Thomas M. Franck, "What Happens Now? The United Nations After Iraq," *American Journal of International Law*, vol.97, 2003, p.607.

¹⁸ Gareth Evans, *Cooperating For Peace: The Global Agenda for the 1990s and Beyond* (1993); Abram Chayes, "The Use of Force in the Persian Gulf," in Lori F. Damrosch and David J. Scheffer eds, *Law and Force in the New International Order*, Boulder, Westview Press, 1991, p.3.

¹⁹ Security Council Summit Meeting at level of Heads of State, adopted a Statement, UN Doc. S/23500 (1992), 31 January 1992, which declared that the absence of military conflict does not of itself ensure international peace and security, and that problems of an economic, social or ecological kind may also become threats to international peace and security.

²⁰ UN Doc. S/RES/733 (1992), 23 January 1992, imposing an arms embargo, and UN Doc. S/RES/794 (1992), 3 December 1992, authorizing the Secretary-General and members states "to use all necessary means" to create a secure environment for humanitarian relief operations.

²¹ UN Doc. S/RES/841 (1993), 16 June 1993, imposing economic sanctions, and UN Doc. S/RES/940 (1994), 31 July 1994, authorizing a multinational force "to use all necessary means" to ensure the return of democratically elected President Aristede.

²² UN Doc. S/RES/864 (1993), 15 September 1993, imposing an embargo on the supply of arms and petroleum products to the UNITA rebel forces.

²³ UN Doc. S/RES/827 (1993), 25 May 1993, establishing the ICTY, and UN Doc. S/RES/955 (1994), 8 November 1994, establishing the ICTR.

²⁴ UN Doc. S/RES/687 (1991), 3 April 1991.

²⁵ UN Doc. S/RES/748 (1992), 31 March 1992, imposing selective sanctions under article 41.

²⁶ Burns H. Weston, "Security Council Resolution 678 and Persian Gulf Decision-making: Precarious Legitimacy," *American Journal of International Law*, vol. 85, 1991, p.516; David D. Caron, "The Legitimacy of the Collective Authority of the Security Council," *American Journal of International Law*, vol. 87, 1993, p.552; Sean D. Murphy, "The Security Council, Legitimacy, and the Concept of Collective Security After the Cold War," *Columbia Journal of Transnational Law*, vol.32, 1994, p.201; Martti Koskenniemi, "The Police in the Temple: Order, Justice and the UN: A Dialectical View," *European Journal of International Law*, vol.6, 1995, 325. In 1992, the General Assembly initiated a process of seeking the views of member states on Security Council Reform in GA Res. 48/26, UN Doc. A/RES/47/62 (1992), art.1. The following year it established an open-ended Working Group on Security Council Reform to consider these submissions and develop reform proposals in GA Res. 48/26, UN Doc. A/RES/48/26 (1993), arts 1 and 2. The Working Group reported annually from 1994-2000 and then again in 2003. See <http://globalpolicy.igc.org/security/reform/reports.htm>.

²⁷ Ruth Gordon, "United Nations Intervention in Internal Conflicts: Iraq, Somalia and Beyond," *Michigan Journal of International Law*, vol.15, 1994, p.519; Frederic L. Kirgis, "The Security Council's First Fifty Years," *American Journal of International Law*, vol.89, 1995, p.506; Judith Gardam, "Proportionality and Force in International Law," *American Journal of International Law*, vol.87, 1993, 391; Julie Mertus, "Reconsidering the Legality of Humanitarian Intervention: Lessons from Kosovo," *William and Mary Law Review*, vol.41, 2000, p.1743.

²⁸ See Working Group on Security Council Reform, above n.26.

²⁹ Ibid. See further, Bruce Russett, ed., *The Once and Future Security Council*, New York: St Martin's Press, 1997.

³⁰ *The Hague Agenda for Peace and Justice for the 21st Century*, 2000, http://www.haguepeace.org/index.php?name=agenda_english; Dwight Newman, "A Human Security Council? Applying a 'Human Security' Agenda to Security Council Reform," *Ottawa Law Review/Revue de droit d'Ottawa*, vol.31, 1999-2000, p.213 at pp.235-236.

³¹ Thomas M. Franck, *The Power of Legitimacy Among Nations*, New York: Oxford University Press, 1990, pp.92-94.

³² *The Hague Agenda*, above n.30, Part I, "Root Causes of War/Culture of Peace," "[i]t is time to redefine security in terms of human and ecological needs instead of national sovereignty and national borders"; Newman, above n.30 at p.219, proposing that "security *should* be measured in terms of the security of human people [rather than the security of states], in terms of their safety and their ability to access basic human needs without disruption;" Commission on Global Governance, *Our Global Neighbourhood*, Co-Chairs Ingvar Carlsson and Shridath Ramphal, New York: Oxford University Press, 1995, chpt.4, suggests the establishment of an Economic Security Council that would complement the work of a reformed Security Council; Philip Alston, "The Security Council and Human Rights: Lessons to be Learned from the Iraq-Kuwait Crisis and its Aftermath," *Australian Yearbook on International Law*, vol.13, 1992, p.107.

³³ Thomas M. Franck, "Is Justice Relevant to the International Legal System?," *Notre Dame Law Review*, vol.64, 1989, p.945; Thomas M. Franck and Steven W. Hawkins, "Justice in the International System," *Michigan Journal of International Law*, vol.10, 1989, p.127. See further Franck, above n.31, pp.208-246. For discussion see Jose Alvarez, Book Review Essay, "The Quest for Legitimacy: An Examination of *The Power of Legitimacy Among Nations* by Thomas M. Franck," *New York University Journal of International Law and Policy*, vol.24, 1991, p.199.

³⁴ Julie Mertus, "Reconsidering the Legality of Humanitarian Intervention: Lessons from Kosovo," *William and Mary Law Review*, vol.41, 2000, p.1743 at p.1751; Commission on Global Governance, above n.32, p.237.

³⁵ Dencho Georgiev, "Letter," *American Journal of International Law*, vol.83, 1989, p.554.

³⁶ See generally, Alexandra Stiglmyer, ed., *Mass Rape: The War against Women in Bosnia-Herzegovina*, Lincoln: University of Nebraska Press, 1994.

³⁷ Rhonda Copelon, "Surfacing Gender: Reconceptualizing Crimes Against Women in Time of War", in *ibid.*, p.197 at pp.197-8.

³⁸ Susan Brownmiller, *Against Our Will: Men, Women and Rape*, New York: Simon and Schuster, 1975, pp.40-86, reporting evidence of sexual abuse during the two World Wars and the conflicts in East Pakistan and Vietnam; Iris Chang, *The Rape of Nanking: The Forgotten Holocaust of World War II*, New York: Basic Books, 1997.

- ³⁹ Christine Chinkin, "Women's International Tribunal on Japanese Military Sexual Slavery," *American Journal of International Law*, vol.95, no.2, 2001, p.335.
- ⁴⁰ Judith Gardam, "Women, Human Rights, and International Humanitarian Law," *International Review of the Red Cross*, vol. 324, 1998, p.421
- ⁴¹ Sara Poehlman-Doumbouya, "Women and Peace in United Nations Documents: An Analysis", <http://www.peacewomen.org/un/UN1325/analysis.html>.
- ⁴² Anne Orford, "The Politics of Collective Security," *Michigan Journal of International Law*, vol.17, 1996, p.373 at pp.378-380; Judith Gardam and Michelle Jarvis, "Women and Armed Conflict: The International Response to the Beijing Platform for Action," *Columbia Human Rights Law Review*, vol.32, 2000, p.1 at p.18.
- ⁴³ *Ibid.*, 386.
- ⁴⁴ Rudolph Geiger, "The Security Council," in Bruno Simma, ed., *The Charter of the United Nations: A Commentary*, Oxford, Oxford University Press, vol.I, 2nd ed. 2002, pp.437-442. As a result, the UN Charter was amended in 1963 to increase the number of non-permanent members from 6 to 10, three of which are allocated to Africa, and two to Asia. Evenso, efforts by post-colonial states to further "democratise" the Security Council continued through the 1970s and 80s.
- ⁴⁵ See Working Group on Security Council Reform, above n.26; Boutros Boutros-Ghali, *An Agenda For Democratization*, New York: United Nations, 1996, p.49; M. Smith, "Expanding the Permanent Membership in the UN Security Council: Opening a Pandora's Box of Needed Change?," *Dickenson Journal of International Law*, vol.12, 1994, p.173; *Contra*, Commission on Global Governance, above n.32, at pp.240-241, who propose phasing out the veto.
- ⁴⁶ Cynthia Enloe, *The Morning After: Sexual Politics at the End of the Cold War*, Berkley: University of California Press, 1993, p.259.
- ⁴⁷ Orford, above n.42 at p.392.
- ⁴⁸ Hilary Charlesworth and Christine Chinkin, "Editorial Comment: Sex, Gender, and September 11," *American Journal of International Law*, vol. 96, no.3, 2002, p.600 at p.605.
- ⁴⁹ Carol Cohn, "War, Wimps, and Women: Talking Gender and Thinking War," in Miriam Cooke and Angela Woollacott, eds, *Gendering War Talk*, Princeton, Princeton University Press, 1993, p.227 at p.239.
- ⁵⁰ Frederic L. Kirgis, "The Security Council's First Fifty Years," *American Journal of International Law*, vol.89, 1995, p.506 at pp.518-519, observes that in the early 1990s, the Security Council changed its earlier practice of meeting in public for most purposes, to meeting publicly for the limited purposes of adopting resolutions already agreed upon and delivering stock speeches about the resolutions.
- ⁵¹ *Ibid.*, pp.519-520.
- ⁵² *Questions of the Interpretation and Application of the 1971 Montreal Convention Arising from the Aerial Incident at Lockerbie (Libya v UK; Libya v US)*, ICJ, 1992, where the International Court of Justice declined to decide whether, and in what ways, it might be competent to review Security Council actions taken under Chapter VII. See further, Thomas M. Franck, "'The 'Powers of Appreciation': Who is the Ultimate Guardian of UN Legality?," *American Journal of International Law*, vol.86, 1992, p.519.
- ⁵³ Michael Reisman, "The Constitutional Crisis in the United Nations," *American Journal of International Law*, vol.87, 1993, p.83 at 86. Reisman also notes that the Council meets in "mini-Councils" consisting of the group of five veto powers and alliances within the group, before meeting in closed plenary session and that common records are not kept for any of these meetings.
- ⁵⁴ *The Hague Agenda*, above n.30, Part I, "Themes," "endorses reform and democratization of the United Nations, including ... extending consultative rights to civil society representatives, non-governmental organizations and parliamentarians at all levels of the UN."
- ⁵⁵ Newman, above n.30, p.236.
- ⁵⁶ Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis*, Manchester: Manchester University Press, 2000, pp. 91-92.
- ⁵⁷ Orford, above n.42 at pp.393-394. Orford suggests that the World Bank Inspection Panel may provide a useful model.
- ⁵⁸ Jennifer Murray, "Note: Who Will Police the Peace-Builders? The Failure to Establish Accountability of United Nations Civilian Police in the Trafficking of Women in Post-Conflict Bosnia and Herzegovina," *Columbia Human Rights Law Review*, vol. 34, 2003, p.475 at p.528.
- ⁵⁹ Christine Chinkin, "Gender, Human Rights, and Peace Agreements," *Ohio State Journal on Dispute Resolution*, vol.18, 2003, p.867 at p.874.
- ⁶⁰ See also, Orford, above n.42, pp.383 and 395.
- ⁶¹ Charlesworth and Chinkin, above n.56, pp.275-276.

⁶² Laura Bush launched the President's "women's rights" campaign in a US national radio address in November 2001.

⁶³ Reem Bahdi, "Iraq, Sanctions and Security: A Critique," *Duke Journal of Gender, Law and Policy*, vol.9, 2002, p.237.

⁶⁴ Charlesworth and Chinkin, above n.56, p.262.

⁶⁵ Bahdi, above n. 63, p.251.

⁶⁶ Anne Orford, "Locating the International: Military and Monetary Interventions after the Cold War," *Harvard International Law Journal*, vol.38, 1997, p.443.

⁶⁷ J. Anne Tickner, *Gender in International Relations: Feminist Perspectives on Achieving Global Security*, New York: Columbia University Press, 1992, pp54-66.

⁶⁸ Dianne Otto, "Whose Security? Re-imagining Post-Cold War Peacekeeping from a Feminist Perspective," in Robert G. Patman, ed., *Security in a Post-Cold War World*, London, Macmillan Press, 1999, p.65 at pp.81-85.

⁶⁹ Michel Foucault, "Space, Knowledge and Power" in Paul Rabinow (ed), *The Foucault Reader* (1986) 245, cited in Colin Gordon, "Governmental Rationality: An Introduction" in Graham Burchell, Colin Gordon and Peter Miller (eds), *The Foucault Effect: Studies in Governmentality* (1991) 1, 46.

⁷⁰ Felicity Hill, "NGOs and the Security Council," *Disarmament Forum*, vol.1, 2002, p.27.

⁷¹ Interview with Felicity Hill, former Executive Officer of WILPF, working, at the time of the interview, for UNIFEM, New York, 3 May 2002, p.6.

⁷² *Ibid.*, p.27.

⁷³ Hill, above n.70 at p.28.

⁷⁴ *Ibid.*, p.30.

⁷⁵ UN Doc. S/RES/1265 (1999), 17 September 1999; UN Doc. S/RES/1296 (2000), 19 April 2000.

⁷⁶ UN Doc. S/RES/1261 (1999), 30 August 1999; UN Doc. S/RES/1314 (2000), 11 August 2000; UN Doc. S/RES/1379 (2001), 20 November 2001; UN Doc. S/RES/1460 (2003), 30 January 2003; UN Doc. S/RES/1539(2004), 22 April 2004.

⁷⁷ UN Doc. S/RES/1314 (2000), 11 August 2000, para.11.

⁷⁸ UN Doc. S/RES/1379 (2001), 20 November 2001, para.8(e). See further para.13(a) which urges regional and subregional organizations to "consider the views of children in the design and implementation of such [child protection and advocacy] programs where possible."

⁷⁹ UN Doc. S/RES/1460 (2003), 30 January 2003, para.13.

⁸⁰ UN Doc. S/RES/1379 (2001), 20 November 2001, paras 9(f) and 11(g).

⁸¹ *Ibid.*, para.16. See further para.10(c), which asks the Secretary-General to "continue and intensify ... monitoring and reporting activities of peacekeeping ... operations on the situation of children in armed conflict."

⁸² UN Doc. S/RES/1460 (2003), 30 January 2003, para.15(a).

⁸³ UN Doc. S/RES/1539 (2000), 22 April 2004, paras 2 and 9.

⁸⁴ UN Doc. S/RES/1265 (1999), 17 September 1999, preamble para.4; UN Doc. S/RES/1296 (2000), 19 April 2000, preamble para.4 and paras.9 and 10; UN Doc. S/RES/1379 (2001), 20 November 2001, para.4. These provisions refer to "women, children and other vulnerable groups." See also UN Doc. S/RES/1265 (1999), 17 September 1999, para.13.

⁸⁵ See, for example, UN Doc. S/RES/827 (1993), 25 May 1993 (expressing concern about 'massive, organized and systematic detention and rape of women' in the former Yugoslavia).

⁸⁶ Lela B. Costin, "Feminism, Pacificism, Internationalism and the 1915 International Congress of Women," *Women's Studies International Forum*, vol.5, no.3/4, p.301 at p.310. A total of 1136 women attended from 12 countries, Austria, Belgium, Britain, Canada, Denmark, Germany, Hungary, Italy, the Netherlands, Norway, Sweden, and the United States. Expressions of support came from women's groups in a further 10 countries including Argentina, South Africa and British India.

⁸⁷ Wiltsher, above n. 3, p.103.

⁸⁸ Rupp, above n. 3, p.29. The Committee was first called the International Committee of Women for Permanent Peace.

⁸⁹ Five non-governmental organizations were initially involved in this lobbying: the Women's International League for Peace and Freedom (WILPF); International Alert; Amnesty International; Women's Commission for Refugee Women and Children, and the Hague Appeal for Peace. The founding NGOs were later joined by Women's Caucus for Gender Justice in the International Criminal Court and the International Women's Tribune Centre (IWTC).

⁹⁰ Once it was agreed to hold the open session, the UN Development Fund for Women (UNIFEM) also assisted the NGO Working Group to promote support for the session.

⁹¹ Hill interview, above n.70, p.6.

⁹² *Ibid.*, p.3. In addition to Ambassador Chowdury, Patricia Durrant, the Jamaican Ambassador and a tireless supporter of women's human rights, played a key role, as did Theo-Ben Gurirab from Namibia, who held the rotating Presidency when the Open Session was held. The delegations from Canada, the United Kingdom and the Netherlands were also supportive from the start. Canada and the United Kingdom had jointly financed the production of training materials on gender for military and civilian personnel engaged in peacekeeping, in collaboration with the Lester Pearson Peacekeeping Training Centre. The materials are available on line at <http://www.genderandpeacekeeping.org>.

⁹³ Statements were made by Isha Dyfan (Women's International League for Peace and Freedom, Sierra Leone), Luz Mendez (Union Nacional de Mujeres Guatemaltecas), Faiza Jama Mohamed (Equality Now), Inginge Mbikusita Mohamed (Federation of African Women's Peace Movements) and the NGO Working Group on Women and International Peace and Security. See <http://www.international-alert.org/women/>.

⁹⁴ Oral Statement, "The Role of Women in Achieving Peace and Maintaining International Security," NGO Statement to be read out at the Arria Formula Meeting of the UNSC on October 23, 2000, pp.4-5.

⁹⁵ Statement by Ambassador Paul Heinbecker, Permanent Representative of Canada to the United Nations, to the UN Security Council on Women, Peace and Security, New York, October 24, 2000.

⁹⁶ Statement by Honourable Dr Theo-Ben Gurirab, MP, Namibia Minister for Foreign Affairs, Information and Broadcasting, during the Security Council Open Debate on Women, Peace and Security, United Nations, New York, 24 October 2000.

⁹⁷ Statement by US Ambassador Nancy Soderberg, US Special Representative to the UN for Political Affairs, in the Security Council, on the issue of Women and Peace and Security, October 24, 2000 (revised – as delivered).

⁹⁸ *Resolution 1325*, above n.9, paras 1-4. The "first wave" of women's international opposition to war was galvanized by World War I, partly because of women's political exclusion, which allowed them to hope that women's suffrage would make armed conflict impossible. See further, Rupp, above n.3, p.207.

⁹⁹ The resolution, known as the "Spanish Resolution" because it was introduced by the Spanish delegation, was adopted by the 12th Assembly of the League of Nations on 24 September 1931. It read: "The Assembly, convinced of the great value of the contribution of women to the work of peace and the good understanding between the nations, which is the principle aim of the League of Nations, requests the Council to examine the possibility of women cooperating more fully in the work of the League."

¹⁰⁰ For example, "Women's Participation in the Strengthening of International Peace and Security," UN Doc. A/RES/3519 (1975), 15 December 1975; "Declaration on the Participation of Women in Promoting International Peace and Cooperation," UN Doc. A/RES/37/63 (1982), 3 December 1982.

¹⁰¹ UN World Conference on Women, *Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace*, 1975, which was "[c]onvinced that women must play an important role in the promotion, achievement and maintenance of international peace;" Fourth World Conference on Women, *Beijing Declaration and Platform for Action* (Beijing PFA), UN Doc. A/CONF.177/20 (1995), Strategic Objectives E.1 and E.4. See further, Ashworth, above n.7, p.269.

¹⁰² Orford, above n.42, p.385, calls for building into decision-making processes consideration of the different effects that the decision may have on women. She also urges that the consequences of those decisions for women should inform the assessment of their effectiveness or success.

¹⁰³ *Resolution 1325*, above n. 9, para.14. Measures employed under article 41, to give effect to Security Council decisions, are those that do not involve the use of armed force, including economic sanctions, the curtailment of communications and the severance of diplomatic relations.

¹⁰⁴ Orford, above n.42, pp.400-403. Orford discusses the "images of crisis" that are associated with "Third World" states that serve to legitimate the use of "high violence options" by the Security Council as bringing order to the chaos. See further, Anne Orford, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*, Cambridge: Cambridge University Press, 2003.

¹⁰⁵ The NGOs WILPF (US) and Code Pink did use *Resolution 1325* as a lobbying tool in their post September 11th campaigns, but this was not taken up more broadly. See further, Charlesworth and Chinkin, above n.48.

¹⁰⁶ Ratna Kapur, "The Tragedy of Victimization Rhetoric: Resurrecting the 'Native' Subject in International/Post-Colonial Feminist Legal Politics," *Harvard Human Rights Journal*, vol.15, 2002, p.1.

¹⁰⁷ Anne Orford, "Feminism, Imperialism and the Mission of International Law," *Nordic Journal of International Law*, vol. 71, 2002, p.275 at p.286.

¹⁰⁸ *Resolution 1325*, above n. 9, para.15.

¹⁰⁹ Ibid., para.8(b).

¹¹⁰ Ibid., paras.5-7 and 15.

¹¹¹ Ibid., para.8.

¹¹² Ibid., paras.9-11.

¹¹³ Resolution 1325, above n. 9, para.11.

¹¹⁴ Costin, above n.86, p.311. Also, many women protested against rape during World War I. See Rupp, above n. 3, p.226 and pp.208-9.

¹¹⁵ See discussion above n.81 and n.82.

¹¹⁶ The *Geneva Conventions* of 1864 made no reference to women, yet there was already a long history of war-time sexual abuse of women. See Kelly D. Askin, *War Crimes Against Women: Prosecution in International War Crimes Tribunals*, The Hague: Martinus Nijhoff, 1997, pp.202-203.

¹¹⁷ *Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva Convention IV), 12 August 1949, art. 27 states that “Women shall be especially protected against any attack on their honour, in particular, against rape, enforced prostitution, or any form of indecent assault.” In earlier conventions, the only references to women were in the context of requiring an occupying power to respect “family honor and rights.” See *Convention Respecting the Laws and Customs of War on Land* (Hague Convention II), 29 July 1899, art. 46; *Convention Respecting the Laws and Customs of War on Land* (Hague Convention IV), 18 October 1907, 36 Stat. 2277, 1 Bevans 631 art. 46.

¹¹⁸ *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts* (Additional Protocol I), 8 June 1977, art.76, “Women shall be the object of special respect and shall be protected against rape, forced prostitution, and any other form of indecent assault”; *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts* (Additional Protocol II), 8 June 1977, art.4(2)(e), prohibits “outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault.”

¹¹⁹ See further, Judith G. Gardam and Michelle J. Jarvis, *Women, Armed Conflict and International Law*, The Hague, Kluwer, 2001, chpt.2.

¹²⁰ Resolution 1325, above n. 9, para.13.

¹²¹ The importance of disarmament to women’s peace advocates is recognised in *Women, Peace and Security*, Study submitted by the Secretary-General pursuant to Security Council Resolution 1325 (2000), New York: United Nations, 2002, para.165 (Secretary-General’s Study).

¹²² *Charter of the United Nations*, 1945, art.26.

¹²³ Beijing PFA, above n.101, Strategic Objective E.2. See further para.143(f)(i), where governments undertake to “work actively towards general and complete disarmament under strict and effective international control.”

¹²⁴ Rehn and Sirleaf, above n.13, p.121.

¹²⁵ Beijing PFA, above n.101, Strategic Objective E.4.

¹²⁶ Department for Disarmament Affairs, *Gender Mainstreaming Action Plan*, New York: United Nations, April 2003, p.1, quoting comments by Under Secretary-General Jayantha Dhanapala on 8 November 2002. The plan “sets out the next phase in DDA’s ongoing effort to explore the overlap, relevance and potential synergy between efforts to promote disarmament and efforts to promote gender equality.”

¹²⁷ Resolution 1325, above n.9, preamble paras.4 and 8; text paras.6 and 8.

¹²⁸ The Security Council recognizes that the following situations may constitute a threat to international peace and security: firstly, “the deliberate targeting of civilian populations or other protected persons and the committing of systematic, flagrant and widespread violations of international humanitarian law and human rights law in situations of armed conflict,” UN Doc. S/RES/1265 (1999), 17 September 1999, para.6 and UN Doc. S/RES/1314 (2000), 11 August 2000, para.9 (including children);secondly, where the safe and unimpeded access of humanitarian personnel to civilians in armed conflict has been denied, UN Doc. S/RES/1265 (1999), 17 September 1999, para.8; thirdly, where refugee and displaced persons camps are vulnerable to infiltration by armed elements, UN Doc. S/RES/1265 (1999), 17 September 1999, para.14; and fourthly, where children are recruit or otherwise used in armed conflict in violation of international law, UN Doc. S/RES/1379 (2001), 20 November 2001, para.16.

¹²⁹ Resolution 1325, above n.9, paras.16 and 17.

¹³⁰ Patricia Williams, *The Alchemy of Race and Rights*, Cambridge MA: Harvard University Press, 1991, p.163. Williams describes the civil rights movement as breathing life into US rights discourse where there was none before.

¹³¹ See, NGO Working Group, *Resolution 1325: One Year On*, October 2001, <http://www.peacewomen.org/un/UN1325/since1325.html>, and NGO Working Group, *Resolution 1325: Two Years On*, October 31, 2002, <http://www.peacewomen.org/un/UN1325/NGOreport.html>.

¹³² See <http://www.peacewomen.org>. UNIFEM also established a Women, Peace and Security Portal in 2003, http://www.womenwarpeace.org/h_index.htm.

¹³³ The newsletter was commenced in May 2002. See *1325 PeaceWomen E-News*, <http://www.peacewomen.org/news/1325News/1325ENewsindex.html>.

¹³⁴ At 2 February 2004, the Resolution was available on-line in 31 languages, with plans underway to include a further 8 languages.

¹³⁵ See <http://www.peacewomen.org/campaigns/countriesindex.html>.

¹³⁶ Carol Cohn, "Feminist Peacemaking," *The Women's Review of Books*, vol. XXI, No. 5, February 2004, pp. 8-9.

¹³⁷ Secretary-General's Report, above n. 121, para. 28.

¹³⁸ The second Arria Formula was held on 30 October 2001, at which Security Council members heard testimonies from women from East Timor, Kosovo and Afghanistan and a statement from the NGO Working Group. At the third Arria Formula, 23 October 2002, it was planned that women from Uganda, Burundi, India and Israel would make presentations. In the end, only Angelina Atyam from Uganda was able to officially address the Security Council. Gila Svirsky, from Women in Black in Israel, was only allowed to say a few words due to the "sensitivity of Middle East politics." The other two women were unable to get to New York for the occasion. "Statements by Women from War-Torn Countries," *1325 PeaceWomen E-News*, vol. 12, 1 November 2002, p. 6.

¹³⁹ Security Council Open Debates on Women, Peace and Security were held on 28-29 October 2002, 29 October 2003.

¹⁴⁰ Statement by the President of the Security Council, "Security Council Reaffirms Support for Enhanced Women's Role in Conflict Prevention, Resolution," S/PRST/2001/31, 31 October 2001; Statement by the President of the Security Council, 31 October 2002, S/PRST/2002/32, 31 October 2002; Press Release from the President of the Security Council, Summary of the Open Debate on the Implementation of Resolution 1325, in the Security Council, on October 29, 2003, USUN Press Release #213(03), 31 October 2003.

¹⁴¹ For statements presented at the Open Session, see <http://www.peacewomen.org/un/sc/genderandpeacekeeping2002/genderconflictpeacekeeping.html>.

¹⁴² "Friends of Women, Peace and Security," *1325 PeaceWomen E-News*, vol. 3, 28 June 2002, p. 4.

¹⁴³ Secretary-General's Study, above n. 121.

¹⁴⁴ *Report of the Secretary-General on Women, Peace and Security*, UN Doc. S/2002/1154 (2002), 16 October 2002 (Secretary-General's Report).

¹⁴⁵ Rehn and Sirleaf, above n. 13.

¹⁴⁶ Hilary Charlesworth, "Feminist Methods in International Law," *American Journal of International Law*, vol. 93, 1999, p. 379; Julie Mertus, "Feminist Curiosity Unravels Militarism: Why Method Matters," *Berkley Women's Law Journal*, 2000, p. 338, Book Review Cynthia Enloe, *Maneuvers: The International Politics of Militarizing Women's Lives*, Berkeley: University of California Press, 2000.

¹⁴⁷ Rehn and Sirleaf, above n. 13, p. 3.

¹⁴⁸ Cohn, above n. 136.

¹⁴⁹ For a summary of the debate see <http://www.womenwarpeace.org/summary2003.doc>.

¹⁵⁰ UN Doc. S/RES/1378 (2001), 14 November 2001; UN Doc. S/RES/1383 (2001), 6 December 2001; UN Doc. S/RES/1386 (2001), 19 December 2001. Nor has there been any reference to Resolution 1325 in any Security Council resolutions on Afghanistan since 2001.

¹⁵¹ Jessica Neuwirth, "Women and Peace and Security: The Implementation of UN Security Council Resolution 1325," *Duke Journal of Gender Law and Policy*, vol. 9, 2002, p. 253 at p. 255.

¹⁵² Secretary-General's Study, above n. 121, para. 195, noting that two of the women were delegates and two were observers. Contra Neuwirth, *ibid.*, at p. 256, who claims that six women attended, three of them as delegates and three as observers.

¹⁵³ Ambassador Lakhdar Brahimi, Briefing to the Security Council for Afghanistan, 14 November 2001, cited in Neuwirth, above n. 151, p. 255.

¹⁵⁴ Neuwirth, above n. 151, p. 256. The NGOs were Equality Now, the European Women's Lobby, V-Day, the Centre for Strategic Initiatives of Women and The Feminist Majority.

¹⁵⁵ *Ibid.*, p. 256.

¹⁵⁶ Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions, 5 December 2001, preamble para. 7, <http://www.uno.de/frieden/afghanistan/talks/agreement.htm>.

- ¹⁵⁷ Ibid., Annex IV. They were Dr. Sima Samar (Vice-Chair and Minister for Women's Affairs) and Dr. Suhaila Seddiqi (Minister for Public Health).
- ¹⁵⁸ Secretary-General's Study, above n.121, para.195.
- ¹⁵⁹ See <http://www.peacewomen.org/campaigns/Timor-Leste/TimorLeste.html>. On 30 October 2001, Natercia Godinho-Adams presented a statement to the Security Council in New York on behalf of East Timorese women at an Arria Formula. See above n.138.
- ¹⁶⁰ UN Doc. S/RES/1338 (2001), 31 January 2001, and UN Doc.S/RES/1392 (2002), 31 January 2002, (both extending the mandate of UNTAET); UN Doc. S/RES/1410 (2002), 17 May 2002, UN Doc. S/RES/1473 (2003), 4 April 2003, and UN Doc. S/RES/1480 (2003), 19 May 2003 (concerning UNMISSET).
- ¹⁶¹ UN Doc. S/RES/1272 (1999), 25 October 1999, para.15. Hilary Charlesworth and Mary Wood, "Women and Human Rights in the Rebuilding of East Timor," *Nordic Journal of International Law*, vol.71, 2002, p.325 at p.329, observe that this was the first time that such a reference was made in the mandate of a comparable body.
- ¹⁶² Lia Kent, "Sweet Flowers, Bitter Flowers: Women, self-determination and the reconstruction of East Timor," unpublished manuscript, on file with author, p.13.
- ¹⁶³ Ibid., p.8.
- ¹⁶⁴ Ibid.
- ¹⁶⁵ Charlesworth and Wood, above n. 161, p.333.
- ¹⁶⁶ Kent, above n.162, p.13.
- ¹⁶⁷ Rehn and Sirleaf, above n.13, p.81.
- ¹⁶⁸ UNTAET Press Office, Fact Sheet 11, April 2002.
- ¹⁶⁹ Secretary-General's Study, above n.121, para.338. See further, Gardam and Jarvis, above n.119, p.21.
- ¹⁷⁰ "We Want to Live as Humans": *Repression of Women and Girls in Western Afghanistan*, New York: Human Rights Watch, December 2002; *Afghanistan: No-one listens to us and no one treats us as human beings;* *Justice Denied to Women*, London: Amnesty International, October 2003; Lesley Abdela, "No Place for a Woman," *The London Times*, Op-Ed, 29 April 2003.
- ¹⁷¹ Editorial, "Afghan Women's Rights," *New York Times*, 24 September 2003.
- ¹⁷² Rehn and Sirleaf, above n.13, p.2.
- ¹⁷³ "Killing You is a Very Easy Thing For Us": *Human Rights Abuses in Southeast Afghanistan*, New York: Human Rights Watch, July 2003, pp.24-28.
- ¹⁷⁴ Ibid., pp.70-88.
- ¹⁷⁵ Carlotta Gall, "For More Afghan Women, Immolation is Escape," *The New York Times*, 8 March 2004.
- ¹⁷⁶ UNTAET Press Office, Fact Sheet 11, April 2002. See further, Charlesworth and Wood, above n.161, p.331, referring to Maggie O'Kane, "Return of the Revolutionaries," *The Guardian*, 15 January 2001.
- ¹⁷⁷ *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Timor-Leste*, Commission on Human Rights, E/CN.4/2004/107, 19 January 2004, para.52.
- ¹⁷⁸ *East Timor: Justice Past, Present and Future*, London: Amnesty International, 2001, pp.27-30.
- ¹⁷⁹ Charlesworth and Wood, above n.161, pp.334-335; Human Rights Watch, above n.170, pp.5-6.
- ¹⁸⁰ Human Rights Watch, above n.173, pp.55-58.
- ¹⁸¹ Amy Zalman, "Women, Citizens, Muslims: Afghan women assert their human rights in the context of Islam, not in opposition to it," *Women's Review of Books*, vol.XXI, No.5, February 2004, p.20.
- ¹⁸² Charlesworth and Wood, above n.161, p.334.
- ¹⁸³ Innes Smyth and Lia Kent, "East Timorese Women," *Links Newsletter*, November 2002, reporting on the study *Hearing Our Voices*, which was co-funded by Oxfam International and Oxfam GB, http://www.oxfam.org.uk/what_we_do/issues/gender/links/1100easttimor.htm.
- ¹⁸⁴ Ibid. See further, Kent, above n.162, pp. 9-10.
- ¹⁸⁵ Chinkin, above n.59, p.873.
- ¹⁸⁶ Ibid., p.872.
- ¹⁸⁷ Ibid., p.9.
- ¹⁸⁸ Charlesworth and Wood, above n.161, p.341.
- ¹⁸⁹ Ibid.
- ¹⁹⁰ Ibid., p.339.
- ¹⁹¹ Sally Baden and Anne Marie Goetz, "Who Needs [Sex] When You Can Have [Gender]? Conflicting Discourses on Gender at Beijing," in Cecile Jackson and Ruth Pearson eds, *Feminist Visions of Development: Gender Analysis and Policy*, New York: Routledge, 1998, p.19 at p.22.

- ¹⁹² See further, Anne Gallagher, “Ending Marginalisation: Strategies for Incorporating Women into the UN Human Rights System,” *Human Rights Quarterly*, vol.19, 1997, p.283.
- ¹⁹³ Editorial, above n.171. See further, *Afghan Women’s Bill of Rights*, 2003, <http://www.womenforafghanwomen.org/events/BillofRights.html>.
- ¹⁹⁴ Masuda Sultan, “Afghan Constitution a Partial Victory for Women,” *Women’s eNews*, 14 January 2004, <http://www.womensenews.org/article.cfm?aid=1674>.
- ¹⁹⁵ *Afghan Women’s Bill of Rights*, above n.193.
- ¹⁹⁶ Zalman, above n.181, p.21.
- ¹⁹⁷ Kent, above n.162162, pp.8-9; Charlesworth and Wood, above n.161, p.333.
- ¹⁹⁸ “Women’s Charter of Rights in East Timor,” *The La’o Hamutuk Bulletin*, vol.2, no.5, August 2001, <http://www.etan.org/lh/bulletins/bulletinv2n5.html#Campaign%20to%20Support%20Women%20Rights%20in%20the%20Constitution>
- ¹⁹⁹ See <http://www.etan.org/et2001c/august/19-25/2110000.htm>.
- ²⁰⁰ Women’s Charter of Rights, above n.198.
- ²⁰¹ Resolution 1325, above n.9, para.8(c).
- ²⁰² *The Constitution of Afghanistan*, year 1382 (2003), art. 22.
- ²⁰³ *Ibid.*, art.3 declares that “no law can be contrary to the sacred religion of Islam and the values of this Constitution.” See further, Sultan, above n. 194.
- ²⁰⁴ *Ibid.* The first reference to women requires effective programs for “balancing and promoting” their education (art.44); the second guarantees “women without caretakers” the necessary assistance (art.53). The other two references reserve seats for women in the new bicameral legislature (arts 83 and 84).
- ²⁰⁵ Sayed Salahuddin, “Within Days, Kabul TV Revives Ban on Women Singers,” <http://www.alertnet.org/thenews/newsdesk/107415996281.htm>.
- ²⁰⁶ *Ibid.*
- ²⁰⁷ Human Rights Watch, “Afghanistan: Constitutional Process Marred by Abuses,” Press Release, 8 January 2004.
- ²⁰⁸ *The Constitution of the Democratic Republic of East Timor*, 20 May 2002, s.6(j).
- ²⁰⁹ *Ibid.*, s.17.
- ²¹⁰ See further, Dianne Otto, “‘Gender Comment’: Why Does the UN Committee on Economic, Social and Cultural Rights Need a General Comment on Women?,” *Canadian Journal of Women and the Law*, vol.14, 2002, p.1.
- ²¹¹ *The Constitution of East Timor*, above n.208, s.63(2).
- ²¹² *Ibid.*, s37(3). See Charlesworth and Wood, above n.161, p.339.
- ²¹³ V. Spike Peterson and Laura Parisi, “Are Women Human? It’s not an Academic Question,” in T Evans, ed., *Human Rights - 50 Years On*, 1998, p.132.
- ²¹⁴ Julie Mertus, “Improving the Status of Women in the Wake of War: Overcoming Structural Obstacles,” *Columbia Journal of Transnational Law*, vol.41, 2003, p.541 at p.547.
- ²¹⁵ *Ibid.*, p.547-548.
- ²¹⁶ *Ibid.*, p.549.
- ²¹⁷ Baden and Goetz, above n.191, p.24.
- ²¹⁸ Secretary-General’s Report, above n.144, para.36, action 9.
- ²¹⁹ *Ibid.*, para.212.
- ²²⁰ Cohn, above n.49, p.232
- ²²¹ *Ibid.*, p.239.
- ²²² This conclusion is consistent with that reached by Charlesworth and Wood, above n.161, p.348.
- ²²³ Baden and Goetz, above n.191, p.21.
- ²²⁴ Cynthia Enloe, *Maneuvers: The International Politics of Militarizing Women’s Lives*, Berkeley: University of California Press, 2000, p.300.
- ²²⁵ Rupp, above n.3, p.207.
- ²²⁶ Francis Fukuyama, “Women and the Evolution of World Politics,” *Foreign Affairs*, vol.77, no.5, 1998, p.24 at 36. Contra, “Fukuyama’s Follies: So What If Women Ruled the World?,” responses from Barbara Ehrenreich, Katha Pollitt, R. Brian Ferguson, and Jane S. Jaquette, *Foreign Affairs*, vol.78, no.1, 1999, pp.118-129.