

Gender, International Society, Law and Policy

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Major trends and policy implications

In many ways the 20th century was the century of women. Through legal reform at the national level the century witnessed the growing inclusion of women within public life exemplified by the development in most states of universal suffrage.¹ In many states other examples of the enhanced legal status of women included changed property and inheritance laws and reformed family and labour laws. At the international level three broad trends relevant to the theme of governance can be identified. The first was the formal articulation of the norm of non-discrimination on the grounds of sex, which was included among the purposes of the United Nations Charter² and in the International Bill of Rights.³ Commitment to the advancement of women was backed institutionally by the creation in 1946 of the Commission on the Status of Women within the United Nations and was furthered by the adoption by the General Assembly of the Convention on the Elimination of Discrimination Against Women (the Women's Convention) in 1979.⁴ The Convention contains the fullest catalogue of equality rights for women agreed by states and as of March 2000 has 165 states parties. Articles 7 and 8 of the Women's Convention emphasize the location of women within the public sphere. Article 7 considers the position of women in national public life. States undertake to take appropriate measures to eliminate discrimination against women in the political and public life of the country in

particular with respect to the right to vote, to participate in policy making, to hold public office, and to participate in non-governmental organizations.⁵ Article 8 looks to the position of women in the international arena and states undertake to take appropriate measures to ensure women the opportunity to represent their governments at the international level and to participate in the work of international organizations.⁶

The second trend was the inclusion of women within the discourse and, to some extent, the practice of development.⁷ The third came to the forefront at the end of the century with the shift from perceiving issues of women's economic and social disempowerment pertaining to development policy to the affirmation of women's legal entitlements through the recognition of women's rights as human rights. This assertion was historically made at the World Conference on Human Rights in Vienna in 1993⁸ and was reiterated in the Beijing Platform for Action agreed at the Fourth World Conference on Women in 1995.⁹

The concept of women's rights as human rights has become a significant issue in international human rights law at the beginning of the 21st century. It is based upon an understanding of equality that goes beyond *de jure* equality as prescribed by the norm of non-discrimination to ensure to women throughout their life, the same choices, respect and integrity, and the same understanding of human dignity, as is accorded to men. A good definition is the following:

Gender equality means an equal visibility, empowerment and participation of both sexes in all spheres of public and private life. Gender equality is

the opposite of gender inequality, not of gender difference and aims to promote the full participation of women and men in society.¹⁰

Gender equality thus encompasses women's empowerment through participation in all spheres of life. It also involves accountability for the violation of women's human rights, state and individual responsibility for gender-specific violations of human rights law, such as violence against women whether committed by state or non-state actors and whether committed in armed conflict or non-conflict situations. It seeks to ensure the full legal and civic status of women across the spectrum of public and private activity in matters such as ownership of property, access to credit, freedom of movement, rights before, during and after marriage, and equal pay for equal work. The assertion of women's rights as human rights removes matters of concern to women away from the discourse of needs to that of entitlement, as humans, to the full panoply of human rights.¹¹

At all stages these developments have been engineered through the instrumentality of women themselves.¹² From before the twentieth century women have organized nationally and internationally for their own advancement and autonomy (as well as being significant players in other social movements such as those against slavery and for peace).¹³ Women have effectively used methods such as networking, campaigning and alliance building to bring their concerns to governments and inter-governmental organizations, often in the face of strong resistance.

However, description of these positive trends is misleading without full recognition of the reality that the twentieth century has also continued the subordination

and domination of women and in many instances denial of our humanity. The international legal and policy framework has been developed in ways positive for the advancement of women but abuses of women continue worldwide. These include the legal, political, social and economic subordination of women often under domestic laws; the widespread commission of violence against women by state and non-state actors; the insistence that traditional and religious practices and laws that are harmful to women prevail over guarantees of women's human rights; and the increase in the phenomenon of the feminization of poverty.¹⁴

Women also remain largely excluded from political life and national and international decision and policy-making.¹⁵ Universal adult suffrage has not yet been achieved.¹⁶ The much-heralded wave of democratization¹⁷ has not been accompanied by gendered democratization. Indeed one of the consequences of the political and economic restructuring in Eastern Europe has been a marked decrease in the number of women in national legislatures.¹⁸ It appears that as legislatures gain increased importance and reflect more accurately the distribution of power and wealth within a community, the number of women within them has decreased. The Committee on the Elimination against Discrimination has commented:

In all nations, the most significant factors inhibiting women's ability to participate in public life have been the cultural framework of values and religious beliefs, the lack of services and men's failure to share the tasks associated with the organization of the household and with the care and raising of children. In all nations, cultural traditions and religious beliefs have played a part in confining

women to the private spheres of activity and excluding them from active participation in public life.¹⁹

Where women are included within international and national legislative and administrative institutions they have typically been confined to bodies concerned with 'women's issues' such as health, education and welfare rather than in those dealing with 'hard' issues such as the economy, and security.²⁰ There is considerable debate about whether women have different priorities or make decisions differently from men, and whether predominantly male representatives effectively take into account issues of concern to women.²¹ Whatever the conclusion on these matters, under-representation of half the population is incompatible with good governance. The silencing of women's voices and the invisibility of women's contributions and experiences militate against transparency and comprehensive decision-making. Indeed, 'the concept of democracy will have real and dynamic meaning and lasting effect only when political decision-making is shared by women and men and takes equal account of the interests of both.'²²

Impact of Globalization

Globalization has impacted upon gender relations in complex and contradictory ways. The centralization of power within the sovereign state that has been fragmented by globalization was not predicated upon, nor necessarily supportive of, equality between women and men. The power structures of the nation state have been organized around patriarchal assumptions that have accorded to men monopoly over power, authority and

wealth. A number of structures have been erected to achieve this imbalance that have disguised its inequity by making it appear as natural and universal, for example constructions of citizenship that concentrated upon civic duty (payment of taxes; military service; public office) from which women were excluded through the public/private dichotomy and the subordination of women within the family.²³ At the same time the role of men in the public sphere has been supported by divisions between productive and un(re)productive work, presenting women's work as lacking economic value.²⁴ Emphasis upon the normative impact of the public/private divide has been legitimately criticized for universalizing a Western model of social ordering.²⁵ While recognizing the fluidity of any demarcation between public and private spheres, the undervaluing of women's contributions and the primary responsibilities of women within the family have impeded their advancement across many, if not all, societies. The opening up of new spaces by the apparent weakening of the nation state holds open the possibility of undermining the traditional gender hierarchies and devising new bases for gender relations.

On the other hand, the reality that the state is no longer the sole institution that can define identity has denied women the space to assert their own claims to gendered self-determination. Power has become fragmented through the emergence of internal/external groups (sub-state national groups/supra-state religious bodies) demanding loyalties from members of the group and presenting their claims internationally through their collectivities, often to the detriment of individuals, most notably women. In many instances the position and role of women within the group is itself a defining feature of the collectivity. This is especially true of those who define themselves through religious or cultural norms. It must be remembered that the state has

been the locus of the protection of human rights, as well as of their denial and its inability to do so in the face of particularized claims has worked against the empowerment of women. Further, the outbreaks of armed conflict arising from ethnic tensions and nationalist claims have been accompanied by widespread and extreme forms of gendered violence, including genocide,²⁶ where women have been targeted and subject to forms of abuse as a way of undermining the cohesion and strength of the collectivity.

Another aspect is the dispersal of power through what has been identified as the non-democratic forces of ‘globalization from above’– corporate enterprises, markets and movements of capital.²⁷ These have weakened the effective decision and policy-making power of the state, notably in economic and labour policies. Governments are unwilling to assert the rights of their workers where to do so would discourage investment. Consequences such as social exclusion, unemployment or low paid employment, and weakening of trade union organization have had gendered dimensions. ‘Economic systems which value profits often do so at the expense of female labour’.²⁸ Women are seen, and hence favoured, as a passive, compliant, temporary workforce that will accept low wages without demanding labour and human rights. The traditional sexual division of labour (the location of women in employment to which they are regarded as inherently suited, for example the caring professions, textiles industries) has been furthered through the addition of new locations and forms of work (service industry, tourism, work in free trade and export process zones). What remains constant is the low economic value accorded to work performed primarily by women – often migrants – in conditions of exploitation, often poor and unsafe working conditions and no job security. Human rights violations can be a part of this scene, directly through prohibitions on labour organization

and indirectly through further abuses where women have claimed rights to organize or to be free from sexual harassment.

The impact of economic reconstruction – through structural adjustment programmes – upon the enjoyment of human rights has attracted the attention of the United Nations human rights bodies.²⁹ This too has a gendered impact and has contributed to the feminization of poverty.

Globalization may have dire consequences for human rights generally and women's human rights particularly, in terms of eroding civil, political, economic, social and cultural rights in the name of development and macro-level economic restructuring and stability. In the countries of the South, structural adjustment programmes have led to increased impoverishment, particularly amongst women, displacement and internal strife resulting from the political instabilities caused by devaluing national currencies, increasing debt and dependence on foreign direct investment.³⁰

'Astonishingly large numbers' of women are migrating across international borders to engage in unregulated and poorly paid employment, including domestic work.³¹ Migrant workers in positions of powerlessness and dependency are exposed to acute risks of physical or psychological violence and often to theft of their economic gains. Impoverished women are also especially vulnerable to being tricked or coerced into being trafficked, to sexual violence and exploitation. The Special Rapporteur on violence against women has noted the increase in trafficked women as a result of the economic

crisis in East Asia and the linkages between economic transition in East Europe and the increase in trafficking and forced prostitution of women.³² This has been exacerbated by a number of trends: social exclusion, loss of previously accepted benefits (for example affordable childcare and maternity leave) and personal insecurity aggravated by dislocation and unemployment, coupled with the greater mobility of persons facilitated by ease of communications, including some more open borders, have all contributed to this increase. Economic liberalization has encouraged organized transnational crime in sex and pornography – in persons and goods. Free trade imperatives of the market have inhibited restrictions upon sale of pornography and erotica that reinforce and work alongside the market in persons.

One of the most insidious recent international developments has been the construction of attitudes towards the market and free movement of capital as natural and inevitable making challenge difficult. At the Beijing conference on women there was no alternative voice offered in opposition to the benefits of market policies: the goal was to ensure women's participation in and access to the dominant structures of the market, not to question their underlying assumptions or even to consider alternative models.³³ Another adverse consequence is that it has 'distorted' priorities: the pursuit of global profits rather than gender equality or human rights.

However, despite the enormous potential for abuse, it is an oversimplification to assume that the consequences of globalization have been exclusively detrimental for women, or that they have been the same in all locations. There have also been benefits. For example, global pursuit of profit has enhanced paid employment opportunities for women where previously they had not existed. While these may be exploitative they have

nevertheless facilitated a new degree of economic independence for many women and lessened their subordination within the family, for example by freeing them from early marriage or pregnancy. This in turn provides the public space for women to assert their own agency and generates the self-esteem that comes from such independence. Families (especially children) also benefit from women's earnings. Migration too enhances women's freedom of movement and opens up choices. The solution to the abuses discussed above is not to reduce women's mobility (as has been done in some cases) or employment opportunities but to work for compliance with human rights standards within the opportunities offered by globalization, to ensure accountability for failure to do so.

The global social movement of human rights has acquired an irresistible force bringing the language and beliefs of human rights to all parts of the globe, into all aspects of social, political and economic life and in exposing the falseness of the public/private divide. Affirmation of the universality of legal norms prohibiting discrimination on the grounds of sex have provided women with international standards to raise against adverse national or local codes. The technological and communications revolutions have added new dimensions to women's long-standing organizational methods. In one manifestation of 'globalization from below', groups working for the recognition of women's human rights have furthered their skills and strengths in campaigning and communicating globally. Instantaneous communications have facilitated the formation of alliances and coalitions, have lessened isolation for women in remote or secluded areas, allowed for rapid mobilization over issues and co-ordinated support on a global basis. But again there are also concerns that women's strategic organization is formulated and centred in the

North while primarily targeted at the South. Electronic means of communication have heightened the gap between those that have such access and those that do not. There is a danger that international NGOs operate to their own agendas and to the detriment of grassroots organizations.

Another area where revolutionary technologies have had particular consequences for gender relations is that of reproductive technology. Again the picture is mixed. On the one hand this has allowed (especially economically affluent) women greater freedom and choice with respect to reproduction, on the other it has created innumerable health problems for women that are not given adequate attention by state agencies or the medical establishment. Women's health conditions – especially gynecological ones – that could be relieved with little expenditure are frequently overlooked or remain untreated through cultural taboos. Other problems arise when technologies are used alongside state policies with respect to women's fertility, for example reproductive technology that allows predetermination and selection of the sex of a child alongside a national 'one-child' policy, or a policy demanding sons for the continuation of a national struggle. 'Modern technology has been the means of liberation and choice for many women, but for others it has resulted in death and exploitation.'³⁴

Key Challenges in the Short and Medium Terms

Unlike other topics, gender policy covers the totality of international law and relations, including those relating to good governance, democracy and human rights. Therefore, this section cannot focus upon a single, or limited number of issues, but tries to identify

some of the key challenges that exist to reformulating gender relations in ways that would enhance women's empowerment. They are interlocking and require conceptual rethinking, political will, leadership, reallocation of resources and commitment not just to the rhetoric of women's empowerment, but to the social restructuring that would lead to its genuine achievement.

The short and medium term challenges are not to evolve new legal norms with respect to the position of women. The legal framework is largely in place. The key challenges are twofold: to reconceptualise concepts around the empowerment of women and to encourage states to uphold undertakings with which they are under a legal obligation to comply. More long term, the challenge is to rethink basic concepts and ideas of societal advancement rather than simply repeating the male model and assuming that it as enduring.

The key challenges include:

- The need to develop the understanding that gender-based inequality is socially constructed and rests upon stereotyped assumptions about the role and position of women, not upon sexual difference. This construction includes 'the historically unequal power relations between men and women which have led to domination over and discrimination against women by men.'³⁵ Since inequality in gender relations is not natural, such relations can be reconstructed so as to achieve equality.

- Recognizing diversity among women and the cross-cutting exclusionary impact of diverse forms of discrimination – for example discrimination based upon ethnicity, class, sexuality, religion, age, disability and race – upon women.

- Achieving greater participation by women in all areas of public and private life, at all levels of policy and decision-making. While increasing women's numerical participation is important, it is not sufficient. It must be accompanied by an inclusive understanding of citizenship and participatory democracy that encompasses women's lives and women's contributions to society and would thereby enhance women's sense of identity and belonging.

- Identifying reasons for women's exclusion from political life and the obstacles to women's effective participation in national and local decision and policy-making bodies. Further to this, taking positive measures to redress this imbalance.³⁶ In sum 'It is the Government's fundamental responsibility to encourage these initiatives to lead and guide public opinion and change attitudes that discriminate against women or discourage women's involvement in political and public life.'³⁷

- Reimagining concepts such as security, peace, conflict, reconstruction, dispute resolution and governance to take account of women's experiences, women's actual and potential contributions to them and to ensure women's participation within them. To ensure that all those involved as decision and policy-makers, or as active participants, understand and are committed to such approaches.

- Overcoming the threats presented by religious fundamentalism to the realization of women's dignity and self-determination, while supporting the enhancement of women's rights within women's own religious contexts.

- Gaining acceptance of a rights-based approach to women's advancement; asserting that women's rights are an issue of human rights, not a 'women's problem', nor a failure of development policies, nor a matter of welfare.

- Achieving universal ratification of the Convention on the Elimination of Discrimination against Women and the withdrawal of reservations to the Convention that are incompatible with its objects and purposes.

- Enhancing state responsibility to comply with women's human rights. One instrument with the potential to do this is the Optional Protocol to the Women's Convention.³⁸ Accordingly it is important that it is brought into force and once in force that appropriate actions are initiated to make it a dynamic and vibrant instrument.

- Enhancing individual responsibility for gender-based crimes against humanity and war crimes. To this end it is important that the *ad hoc* war crimes tribunals for Former Yugoslavia and Rwanda continue to indict gender-specific crimes and develop the jurisprudence around such offences.³⁹ The relevant provisions in the Statute for an

International Criminal Court must be given effect by unambiguous definitions of the elements of crimes and Rules of Procedure and Evidence.⁴⁰

- Developing thinking around corporate responsibility for compliance with human rights standards and addressing entrenched gender relations.⁴¹

- Giving full effect to both the Nairobi Forward-Looking Strategies and the Beijing Declaration and Platform for Action.

- Promoting the integration and indivisibility of all human rights and to the importance of economic and social rights for women. To enhance measures for their assessment, evaluation and enforceability through use of the methodology that asserts multi-layered obligations to protect, respect and fulfil all human rights.

- Giving effect to the international legal norms at the national level in acknowledgement of local particularities; to develop institutions at the local, national, regional and international levels that can effectively ensure the implementation of the applicable norms.

- Enhancing women's economic independence through labour law reforms with respect to equal pay, combating sexual harassment in the workplace; to provide affordable access to training and education to enhance women's employment choices and to counteract the

sexual division of labour; to allow women to hold legal title to property, including through inheritance, and to access credit facilities.

- Eliminating and punishing gender-based violence whether committed by state agencies or non-state actors, in public or private.⁴²

- Recognizing that certain traditional practices and assumptions deny women's bodily integrity – and even their life – and taking legal and social steps aimed at their eradication.

- Giving effect to women's reproductive rights and reproductive and sexual health, as understood within the Programme of Action of the United Nations International Conference on Population and Development.⁴³

- Enhancing the education opportunities for girls and women. Lack of education and illiteracy are integrated with all other issues in that education has been urged as the single most effective step for the advancement of women. Factors that deny education opportunities for females – be they social, cultural or economic – must be tackled as a priority.

- Convincing states of the seriousness of women's human rights as an ethical imperative but also as a basis for sound governance and international peace, security and

development. Gender apartheid is comparable to racial apartheid and states should combine to bring the full range of tools to bear against it as they did to defeat that evil.

Despite the length of these key challenges they can be reduced to one single, simple proposition: to take the legal trends that have emerged throughout the last century to enhance women's empowerment and to make them effective. Nevertheless, while law and legal reform are important, alone they are inadequate to achieve societal transformation. The key challenge is laid down in the Convention on the Elimination of All Forms of Discrimination against Women, article 5, which states:

States shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

How national governments and the international community might more broadly address the questions

Since the Third World Conference on Women in Nairobi in 1985, the strategy of gender mainstreaming in all social interactions has been promoted. This was reiterated at both

the Vienna Conference on Human Rights in 1993⁴⁴ and the Fourth World Conference on Women in Beijing in 1995. Two definitions of mainstreaming are as follows:

Mainstreaming involves placing an issue within the pre-existing institutional, academic and discursive framework. It is the opposite of marginalization and, as such, is an appropriate way to characterize the objective of gender-perspective integration... Gender mainstreaming is thus the process of bringing an awareness of the status of women into the public arena.⁴⁵

Gender mainstreaming is the (re)organization, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by the actors involved in policy-making.⁴⁶

Mainstreaming thus concerns relations between women and men. The use of gender as a defining category, rather than a focus only upon women, emphasizes that gender is not an isolated issue but one that interacts with other policy issues such as economic development, environmental, social and welfare matters, law-making, law compliance and enforcement. It is not a static process but an evolving one that is open to changing parameters as needs change. Gender mainstreaming must therefore be incorporated within legally binding instruments (a good example is the inclusion of gender throughout the 1998 Rome Statute of the International Criminal Court), within resolutions of the organs of the United Nations, including the Security Council and within the practices and

polices of the organs, specialized agencies (including the international financial institutions) and programmes of the United Nations, regional and national bodies. It should thus be integrated into technical assistance projects by all agencies that offer such services and into the implementation of programmes across all activities, for example with respect to judicial or law enforcement, personnel training, peacekeeping activities and societal reconstruction after conflict. Co-ordination between the various service providers is required. However 'top-down' imposition of gender mainstreaming from international institutions will not be effective to change societal constructs of gender roles. Consultation and participation with those involved at the operational levels is essential, as well as with the local and regional communities.

The concept of gender also shifts the focus from 'pleading for women' to an identification of different needs within the community and the formulation of policies and strategies that address those needs. It allows policy formulation to take account of difference without undermining the assumption of legal equality between women and men. It requires an active approach that overturns and replaces existing practices; it cannot be achieved by default.

The emphasis on gender rather than on women does not, however, remove the need or desirability for women-specific programmes or projects. These may remain necessary to redress particular instances of past discrimination, or long-term, systemic discrimination. Gender mainstreaming should not be allowed to obscure the objective of gender equality. What mainstreaming does require is an integrated and holistic approach to planning, policy-making and implementation that includes targets, methods for evaluation and involves all people at all levels. It must be recognized that this is a long

term commitment that requires ongoing monitoring, evaluation and adaptation according to local contexts and conditions.

Another strategy is to adopt a rights-based approach that places the conceptualization and implementation of policies and programmes in the context of an overarching question: how do they support the realization of all human rights?⁴⁷ A rights-based approach focuses upon legal entitlement rather than needs or social desirability, placing the role of law as central to the discourse. This includes the need for legal institutions, affordable and real access to justice, and independent judiciary and law enforcement agents. It emphasizes individuals as rights holders with corresponding duties. Gender mainstreaming can be incorporated into a rights-based approach and importantly this provides a moral basis for women's claims that are hard to refute.⁴⁸ They also provide a set of unifying standards, a common reference point for setting objectives and assessing outcomes.⁴⁹

A third strategy that can also be combined with elements of the two preceding strategies is to focus upon poverty reduction. In the late 1990s development banks such as the World Bank⁵⁰ and the Asian Development Bank⁵¹ have adopted poverty reduction strategies as their overarching objectives. Denial of human rights – including discrimination – is both a cause and consequence of poverty. Trends show that discrimination against certain groups, for example women, racial or ethnic minorities, indigenous persons, goes hand in hand with poverty within those groups. In many instances such people suffer double (or multiple) exclusion, that is discrimination on the basis of their category and the further discrimination that flows from their poverty. While discrimination is an intrinsic wrong that must be redressed further work is needed on

understanding the nexus between discrimination and poverty and the different ways in which groups that are discriminated against experience poverty. For example, the feminization of poverty is not simply about the numbers of women who are poor but also encompasses understanding of the gendered ways in which women fall into poverty and its consequences for them. Ways in which women become impoverished include widowhood, lack of paid employment (or low paid irregular employment, or employment in the informal sector) and thus no pension entitlement, domestic violence causing departure from the family home and legal restrictions on the ownership of property. Experiencing poverty is also gendered as in the impact upon women of economic restructuring. Increases in the price of food, declines in real family incomes and reductions in health and social services all directly impact upon women's role as the principal homemakers.⁵² The Beijing Platform for Action states that 'the empowerment of women is a critical factor in the eradication of poverty'.⁵³ Human rights provide a tool for that empowerment creating linkages between strategies aimed at poverty reduction, human rights and gender mainstreaming.

However, again the picture is complex. Subordination of women and denial of their rights may exist quite apart from poverty, in states such as Saudi Arabia and Kuwait. It has also been shown that in some instances alleviating poverty will not necessarily relieve women from subordination and indeed can lead to a greater emphasis on women's societal roles and lesser autonomy.⁵⁴ In any strategy it is important to consider the local context and tailor the approach towards it.

What comparative advantage might the UN have in working with the international community in addressing the challenges?

The United Nations is the body through which international instruments for the advancement of women's rights have been negotiated. It has the mandate for the continuation of this policy into the next stages. It has the institutional structures and machinery available, including bodies with specialist expertise in human rights, women's human rights and in gender issues. These include the Commission on the Status of Women, the Division for the Advancement of Women, the Committee on the Elimination of Discrimination against Women, the UN Development Fund for Women (UNIFEM) and the International Research and Training Institute for the Advancement of Women (INSTRAW). It has taken important steps with respect to documenting the global situation of women through the collection and collation of gender disaggregated data and its analysis. Commitment to enhancing the rights of women has been expressed by the Secretary-General. Specialist agencies and other bodies have taken steps towards incorporating gender issues into their programmes and are beginning to develop useful experience across the totality of international affairs.

However, women's advancement has long been an objective of the United Nations and progress even with respect to gender balance within its own institutions has been painfully slow. Emphasis upon state sovereignty and equitable geographic representation has impeded the selection of women in key positions, although there is some progress. Functional compartmentalization within the Organization risks constant reinvention of the wheel through the pursuit by different agencies of common policies.

Too often real progress rests upon the energy and expertise of a committed individual in the appropriate position. The United Nations draws upon a vast array of technical, legal, professional and operational experts, consultants and service providers. It is important that such people are aware of the importance of gender issues and are capable of incorporating them into their work. Experts in gender should be sought out across all areas of work of the Organization and people should not be re-employed simply because they have been previously used. There is need for greater overall coordination and direction in target setting, allocation of resources and responsibilities.

Potential for partnerships among states, international organizations, commercial organizations and civil society actors in addressing the challenges

Throughout the 20th century women have organized and campaigned for political and economic rights at the grassroots, national and international levels. The advancements that have occurred have been gained largely through such civil society action. Most recently the assertion of women's rights as human rights at the Vienna conference on human rights, the adoption of the United Nations Declaration on the Elimination of Violence against Women and the adoption for ratification of the Optional Protocol to the Women's Convention and the inclusion of gendered crimes in the Rome Statute for the International Criminal Court have been achieved through the efforts of women's NGOs.

The women's movement has thus shown itself willing and able to use the arenas of the United Nations for the furthering of women's empowerment. What is now needed are partnerships in seeking to give effect to the policies and initiatives that have been

accepted. These should be established at all levels – between international institutions and international civil society (including the corporate sector), between national governments and national civil society and within local communities, with adequate communication channels accessible between and across all levels. Information and ideas must travel and be shared horizontally and vertically.

Genuine partnership is also needed between women in the north and women in the south, between international NGOs (often dominated by the North) and national and grassroots NGOs. Civil society can too easily replicate the ‘top down’ tendencies of international institutions and national elites to the detriment of local empowerment.

However, the most vital area of partnership is between women and men throughout society with acknowledgement of the need to remove social, economic and political imbalances in society. Changed gender relations must be worked out between women and men, and men must share in the responsibility for doing this. Too often meetings, conferences and planning sessions where gender relations are considered are attended predominantly by women. Such shared responsibility applies throughout societal and economic structures, including within the family with respect to such issues as the division of paid and unpaid work and child raising. Government policies that are directed towards facilitating this (through for example, flexible working hours; tax regimes; broad understandings of the family) must be worked out between governments and civil society. The United Nations too can take a lead through introducing such practices within its own workforce.

The element of surprise, unpredictability potential critical development

The 20th century repeatedly demonstrated the fragility of gains in women's advancement. Gender relations are fluid and subject to constant negotiation within the family, the workforce and the community. Inequality persists regardless of a state's prevailing political ideology. The reality of women's subordination remains constant. Advancement in women's interests is susceptible to being lost through political, economic and societal changes, both those that are deemed generally progressive and those that are destructive. For example, on many occasions women have participated in national self-determination movements but the social reconstruction that has followed upon national liberation has not included guarantees of women's human rights.

Transition to democracy and market economies in Eastern Europe resulted in lowered public office participation for women and loss of a range of economic rights. More generally economic downturn within a state has a particularly harsh impact upon women, for example through high unemployment or the introduction of austerity measures and structural adjustment programmes. Continued stereotypes of men as the primary breadwinners with family responsibilities lessen women's employment security, even in the face of statistical evidence of women headed households. Reconstruction after conflict often focuses on the need to find employment for men who were formerly in military or paramilitary units rather than on the continuation of female employment. The international community has embarked upon peace-building and reconstruction, for example in Bosnia, Kosovo and East Timor. In each of these territories there are immense problems of unemployment, social disintegration, insecurity and physical destruction. It

is important that gender specific aspects of these issues are recognized and that local women are consulted, participate and are integrated at all stages in reconstruction, especially with respect to capacity building for self-government. Exceptionally gender is included in the Security Council mandate for East Timor.⁵⁵ To be effective this must not be limited to ‘international humanitarian law, human rights and refugees issues’ but be taken as an over-riding requirement and accompanied by ensuring expertise in gender perspectives and commitment on the ground. Otherwise the exclusion of women from public, political life is unlikely to be addressed.

Armed conflicts (whether internal or international) have repeatedly caused women to be targeted for forms of attack by opposing forces and to be subject to policies within their own community that place the interests of the collectivity above those of women (for example the importance that is attached to reproduction to ensure the continuation of the group; promotion of the ‘family’ as a sub-unit of the state that is to be protected as such, and the presentation of women’s role as restricted to within that family). Control of government by religious or other extremists that introduce a form of sexual terrorism also leads to substantial reversals of women’s advancement.

In the context of gender, international society and policy the priority is not so much preparing for elements of surprise and unpredictability as realizing the consistent ease with which women’s advancement is subordinated to other international, national and sub-national imperatives. Focused commitment to advancement by those with the authority and in the position to make it happen is needed at all times.

¹ In 1893 New Zealand became the first country to accord women the right to vote.

² Charter of the United Nations, articles 1 (3), 55, 56.

³ The Universal Declaration of Human Rights, GA Res. 217A, 10 December 1948, article 2; International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 UNTS 3, articles 2 (2), 3; International Covenant on Civil and Political Rights, 16 December 1966, 993 UNTS 171, articles 2, 26.

⁴ 18 December 1979, 1249 UNTS 13.

⁵ Article 7 builds upon the Universal Declaration of Human Rights, article 2, the International Covenant on Civil and Political Rights, article 25 and the United Nations Convention on the Political Rights of Women, 20 December 1952, 193 UNTS 135 which asserts the right of women to vote and hold political office.

⁶ Article 8 builds upon the Charter of the United Nations, article 8.

⁷ See H. Pietila and J. Vickers, *Making Women Matter: the Role of the United Nations* (1994).

⁸ 'The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. ' Vienna Declaration and Programme for Action, 1993, UN Doc. A/Conf.157/23, 12 July 1993, I, para.18.

⁹ Beijing Declaration and Platform for Action, UN Doc. A/Conf.177/20, 17 October 1995, para. 213.

¹⁰ Council of Europe, *Gender Mainstreaming* (1998).

¹¹ See further H. Charlesworth, 'What are Women's Human Rights?' in R. Cook, (ed.), *Human Rights of Women: National and International Perspectives* (1994) 58.

¹² For a history of women's human rights see A. Fraser, 'Becoming Human: the Origins and Development of Women's Human Rights', 21 *Human Rights Quarterly* (1999) 853.

¹³ J. Connors, ‘ NGOs and the Human Rights of Women at the United Nations’, in P. Willetts (ed.), *The Conscience of the World: The Influence of Non-governmental Organizations in the United Nations System* (1996) 147.

¹⁴ See H. Charlesworth and C. Chinkin, *The Boundaries of International Law A Feminist Analysis* (forthcoming 2000), chapter one, ‘Women and the International Legal System’.

¹⁵ See United Nations, *Women in Politics and Decision-making in the Late Twentieth Century: A United Nations Study* (1992); United Nations, *The World’s Women 1995: Trends and Statistics* (1995).

¹⁶ There remain restrictions on women’s voting rights in some states for example Kuwait, Saudi Arabia, Qatar, Oman, the United Emirates, Equatorial Guinea and Surinam. Women also suffer indirect discrimination in their exercise of the right to vote in some instances. For example in Bhutan only one member of a household is allowed to vote which effectively bars women from exercising their right to vote.

¹⁷ T. Franck, ‘The Emerging Right to Democratic Governance’, 86 *American Journal of International Law* (1992) 46.

¹⁸ For up to date figures on women’s representation in national parliaments see the website of the Inter-Parliamentary Union, <http://www.ipu.org/wmn-e/world.htm>. In May 2000 the world average is approximately 13%.

¹⁹ Committee on the Elimination of Discrimination against Women, General recommendation 23, *Political and Public Life*, 13 January 1997, para. 10.

²⁰ V. Randall, *Women and Politics: An International Perspective* (1987).

²¹ See A. Phillips, *Engendering Democracy* (1991).

²² Committee on the Elimination of Discrimination against Women, General recommendation 23, para. 14.

²³ On the public/private dichotomy see C. Pateman, 'Feminist Critiques of the Public/Private Dichotomy', in S. Benn and G. Gaus, *Public and Private in Social Life* (1983) 285; M. Thornton (ed.), *Public and Private Feminist Legal Debates* (1995).

²⁴ M. Waring, *Counting for Nothing: What Men Value and What Women are Worth* (1988)

²⁵ For example see the views expressed throughout the essays in M. Alexander and C. Mohanty (eds), *Feminist Genealogies, Colonial Legacies, Democratic Futures* (1997).

²⁶ *Prosecutor v. Jean-Paul Akayesu*, Judgment of 2 September 1998, ICTR-96-4-T.

²⁷ R. Krut, *Globalisation and Civil Society: NGO Influence in International Decision-Making* (1997).

²⁸ *Preliminary Report submitted by the Special Rapporteur on Violence against Women, its causes and consequences*, Ms Radhika Coomaraswamy, E/CN.4/1995/42, para. 55.

²⁹ See *Effects of structural adjustment policies on the full enjoyment of human rights, report by the independent expert, Mr Fantu Cheru submitted in accordance with Commission decisions 1998/102 and 1997/103*, UN Doc. E/CN.4/1999/50, 24 February 1999.

³⁰ *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms Radhika Coomaraswamy, on trafficking in women, migration and violence against women submitted in accordance with Commission on Human Rights resolution 1997/44*, UN Doc. E/CN.4/2000/68, 29 February 2000, para. 59.

³¹ *Human rights of migrants, Report of the Special Rapporteur, Ms. Gabriela Rodríguez Pizarro, submitted pursuant to Commission on Human Rights Resolution 1999/44, UN Doc. E/CN.4/2000/82, 6 January 2000, para. 59.*

³² *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms Radhika Coomaraswamy, Report on the Mission to Poland on the Issue of Trafficking and the forced prostitution of Women (24 May – 1 June 1996, UN Doc. E/CN.4/1997/Add. 1, 1996.*

³³ D. Otto, 'Holding up Half the Sky, but for Whose Benefit? A Critical Analysis of the Fourth World Conference on Women', 6 *Australian Feminist law Journal* (1966) 7.

³⁴ Preliminary Report submitted by the Special Rapporteur on Violence against Women, para 57.

³⁵ Beijing, Declaration and Platform for Action, para. 118.

³⁶ The Convention on the Elimination of All Forms of Discrimination against Women, article 4 provides for the adoption of 'temporary special measures' to accelerate *de facto* equality between women and men.

³⁷ Committee on the Elimination of Discrimination against Women, General recommendation 23, para. 28.

³⁸ The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women was adopted by GA Res. 54/4, 15 October 1999. It provides for individual complaints of violation to be made to the Committee on the Elimination of Discrimination against Women and an inquiry procedure.

³⁹ See for example, *Prosecutor v. Delalic and others*, Judgment of 16 November 1998, IT-96-21-T; *Prosecutor v Anto Furundzija*, judgment of 10 December 1998, IT-95-17/1-PT; *Prosecutor v. Jean-Paul Akayesu*, above note 26.

⁴⁰ Statute for an International Criminal Court, Rome, 17 July 1998, UN Doc. A/Conf.183/9. The Statute has provisions on gender prosecution as a crime against humanity, crimes of enslavement, forced pregnancy, rape and requires there to be judges with gender expertise on the Court.

⁴¹ See S. Rees and S. Wright, *Human Rights Corporate Responsibility* (2000).

⁴² In accordance with the United Nations Declaration on the Elimination of Violence against Women, GA Res. 48/104, 20 December 1993.

⁴³ Cairo, UN Doc. A/Conf.171/13, 18 October 1994, especially Chapter IV, Gender Equality, Equity and Empowerment of Women.

⁴⁴ Vienna Declaration and Programme for Action, I, para. 18; Beijing Declaration and Platform for Action, para. 221.

⁴⁵ *Report of the Secretary-General, The question of integrating the human rights of women throughout the United Nations system*, UN Doc. E/CN.4/1998/49.

⁴⁶ Council of Europe, *Gender Mainstreaming* (1998).

⁴⁷ S. Goonesekere, 'A Rights-Based Approach to Realizing Gender Equality', in Workshop Report, *A Rights-Based Approach to Women's Empowerment and Advancement and Gender Equality*, 5-7 October, 1998, FAO Headquarters, Rome.

⁴⁸ For a good example of such an approach see Human Rights Committee, General Comment No. 28, *Equality of Rights between Men and Women*, article 3, CCPR/C/21/Rev.1/Add.10, 29 March 2000. The General Comment provides a gendered analysis of the individual articles of the International Covenant on Civil and Political Rights.

⁴⁹ S. Goonesekere, above note 46.

⁵⁰ For the World Bank Poverty Reduction Strategy see <http://www.worldbank.org/poverty/strategies/keydocs.htm>

⁵¹ For the Asian Development Bank Poverty Reduction Strategy see http://www.adb.org/Poverty/adb_g100.htm

⁵² *Economic, Social and Cultural Rights, Effects of Structural Adjustment Programmes on the Full Enjoyment of Human Rights*, UN Doc. E/CN.4/1999/50, 24 February 1999, para 85.

⁵³ Beijing Declaration and Platform for Action, para. 49.

⁵⁴ Eg., 'From a gender perspective one might wonder what poverty targeting will offer the high birth-order girl child in a landed rural household in Northern India which may not be very poor but in which such a child may be very much at risk.' C. Jackson, 'Rescuing Gender from the Poverty Trap', 24 *World Development* (1996) 489.

⁵⁵ SC Res. 1272, 25 October 1999, establishing the United Nations Transitional Administration in East Timor (UNTAET) 'Underlines the importance of including in UNTAET personnel with appropriate training in international humanitarian, human rights and refugee law, including child and gender-related provisions, negotiation and communication skills, cultural awareness and civilian-military coordination.'