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## The Role of Women in Mediation and Conflict Resolution: Lessons for UN Security Council Resolution 1325

Roohia S. Klein

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# The Role of Women in Mediation and Conflict Resolution: Lessons for UN Security Council Resolution 1325

Roohia S. Klein\*

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### *Introduction*

The impact of war on women is often disproportionate and distinct from the effect it has on men.<sup>1</sup> Given the second-class status of women in most societies, their skills and contributions are often under-valued and under-utilized.<sup>2</sup> UN Security Council Resolution 1325 (SCR1325) recognizes the importance of increasing the role of women in all aspects of maintaining international peace and security, including encouraging women to take an active role in resolving conflicts.<sup>3</sup> This last aspect of SCR1325 reflects an increasing recognition of the effect of gender in conflict resolution.

The aim of this paper is to draw upon academic studies of gender behavior in mediation and negotiation to better understand the implications of SCR1325, including recent examples of the role of women in

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1. *See infra* note 29 and accompanying text.

2. *See infra* note 30 and accompanying text.

3. *See* U.N. S.C.Res 1325 ¶¶ 2, 8(b), 16, U.N. Doc. S/RES/1325 (Oct. 31, 2000) [hereinafter RESOLUTION] (calling for increased participation of women, measures supporting “local women’s peace initiatives and indigenous processes,” and for studies about how gender affects the peace process and conflict resolution).

international conflict resolution. The questions I hope to answer are: How does gender play a role in negotiation and mediation? How do these differences affect international conflict mediations? How have women differed in their approach to mediating international disputes? Finally, what do these lessons suggest in support, or in criticism, of SCR1325?

### *I. Mediation*

#### *A. Mediation as a Form of Conflict Resolution*

“Conflict is an unavoidable component of human activity,”<sup>4</sup> and society has developed various ways to deal with it through formal procedures like court adjudication or less formal ones like arbitration and mediation. Mediation is a facilitative form of conflict resolution, which focuses on the parties’ commercial, financial, as well as social and personal interests, with the aim of reaching a mutually acceptable agreement while promoting the principles of confidentiality and party autonomy in decision-making.<sup>5</sup>

#### *B. Advantages of Mediation In International Conflicts*

In an international conflict, there are often many legal, political, and socio-economic factors that play a role in the dispute.<sup>6</sup> In such fragile and complex contexts, it makes more sense to try and resolve the dispute outside the courts. Indeed, in many situations, especially political power struggles, courts may not have any effective jurisdiction.<sup>7</sup> Mediation, as a form of conflict resolution, thus plays a very important role. It takes into account legal as well as extra-legal factors such as social and political interests, which may be the main causes of conflict; it allows greater participation of parties, including those indirectly affected (no issues of

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4. Sheryl D. Brahnham et al., *A Gender-Based Categorization for Conflict Resolution*, 24 J. MGMT. DEV. 197, 204 (2005).

5. See NADJA ALEXANDER, *INTERNATIONAL AND COMPARATIVE MEDIATION: LEGAL PERSPECTIVES*, 12–15, 27 (2006) (discussing in detail how mediation functions across a multitude of different perspectives).

6. See CHRISTOPHER MITCHELL, *THE STRUCTURE OF INTERNATIONAL CONFLICT* 42–44 (1989) (describing numerous types of conflict situations and the factors associated with them).

7. See discussions *infra* Part IV. A–B (discussing the Kenya and Nepal cases).

“standing” or “default judgment”); and it allows greater flexibility in the remedies used since it does not focus solely on legal or monetary solutions.<sup>8</sup> In private and business-related conflicts, mediations also incur lower costs in comparison to courts<sup>9</sup>, whereas in civil and international conflicts, they may be among the few practical non-violent options available to the parties.<sup>10</sup> Lastly, due to its informal and flexible style, mediation has cross-cultural appeal since it is able to accommodate cultural sensitivities and differences.<sup>11</sup> Taken together, these differences lead to greater satisfaction of parties with the process and the results, higher compliance of mediated agreements, and the whole process is more likely to improve the relationship between the disputants than is adjudication.<sup>12</sup> According to Nadja Alexander, the flexibility of mediation allows practitioners to move between cultures, explore differences, and create a forum culturally acceptable to a variety of participants.<sup>13</sup> And, even if the parties do not reach an agreement, it is generally accepted amongst practitioners that engaging in the mediation process itself is a learning experience.<sup>14</sup> When disputant groups or their leaders engage in mediation, the process encourages mutual respect for each other’s “air-time,” views, and interests.<sup>15</sup> Mediation also empowers the parties to search for solutions that work for all involved.<sup>16</sup> On the whole, the process gives the disputants a

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8. See ALEXANDER, *supra* note 5, at 1, 48–50 (“It is an informal and flexible process, which can be tailored to accommodate the cultural, structural, and commercial differences that may emerge in international dispute resolution.”); JENNIFER E. BEER & EILEEN STIEF, *THE MEDIATOR’S HANDBOOK* 3–7 (3rd ed. 1997).

9. See ROBERT H. MNOOKIN ET AL., *BEYOND WINNING: NEGOTIATING TO CREATE VALUE IN DEALS AND DISPUTES* 3–4 (2000) (suggesting that negotiation can help to minimize the costs created by adversarial tactics); ALEXANDER, *supra* note 5, at 50 (providing a comparison of costs of mediation and arbitration).

10. See Jacob Bercovitch and Richard Jackson, *Negotiation or Mediation?: An Exploration of Factors Affecting the Choice of Conflict Management in International Conflict*, 17 *NEGOTIATION J.* 59, 60 (2001) (“Negotiation and mediation are the primary noncoercive methods by which actors in conflict settle their disputes.”).

11. See ALEXANDER, *supra* note 5, at 48–49 (explaining the cross-cultural benefits and challenges of the mediation process).

12. See STEPHEN B. GOLDBERG ET AL., *DISPUTE RESOLUTION: NEGOTIATION, MEDIATION, AND OTHER PROCESSES* 153–55 (5th ed., 2007) (illustrating the beneficial results that can occur when using mediation).

13. ALEXANDER, *supra* note 5, at 48–49.

14. See BEER & STIEF, *supra* note 8.

15. *Id.*

16. *Id.*

constructive forum and tools for resolving the conflict (including future conflicts) and (re)building the damaged relationship.

Given that international conflicts often involve multi-cultural, deep-rooted, and multi-layered issues, the flexibility and creative solutions of the mediation process are more suited to such disputes.<sup>17</sup>

## II. UN Security Council Resolution 1325

### A. History

In an armed conflict, women (and children) often are the overwhelming victims. Rape, sexual slavery, and other forms of sexual violence are used as weapons of war in international conflicts.<sup>18</sup> In Sierra Leone, for example, ninety-four percent of displaced households had experienced various forms of sexual assaults; in the 1994 genocide in Rwanda, between 250,000–500,000 women were raped; in 1999, there was a mass rape of women in East Timor by pro-Indonesian militia before escaping to West Timor; and up to 20,000 women are believed to have been raped during the fighting in Kosovo.<sup>19</sup> At the 2007 international conference on Women for Peace, it was stated: “Women are more vulnerable than men when society collapses. From rape and displacement to the denial of the right to education, food and health care, women bear the largest share of the suffering.”<sup>20</sup> In addition, there is an overwhelming dependence on women in post-conflict societies due to the deaths of husbands and fathers during the conflict.<sup>21</sup> As a result,

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17. See ALEXANDER, *supra* note 5, at 1 (stating that mediation is a more informal and flexible process).

18. See ELISABETH REHN & ELLEN JOHNSON SIRLEAF, WOMEN, WAR, PEACE: THE INDEPENDENT EXPERTS’ ASSESSMENT ON THE IMPACT OF ARMED CONFLICT ON WOMEN AND WOMEN’S ROLE IN PEACE-BUILDING 9–16 (2002), available at [http://www.unifem.org/materials/item\\_detail.php?ProductID=17](http://www.unifem.org/materials/item_detail.php?ProductID=17) (discussing the modern history of armed conflict and its effect on women, specifically discussing sexual crimes that can occur).

19. *Id.*

20. Jonas Gahr Støre, Minister of Foreign Affairs of Norway, Welcome Address at The Impact of Armed Conflict on Women Before The Norwegian Red Cross and The International Peace Research Institute (May 8, 2007), available at [http://www.regjeringen.no/en/dep/ud/aktuelt/taler\\_artikler/utenriksministeren/2007/violence.html?id=465762](http://www.regjeringen.no/en/dep/ud/aktuelt/taler_artikler/utenriksministeren/2007/violence.html?id=465762).

21. See MEREDITH P. MCGHIE & E. NJOKI WAMAI, CTR. FOR HUMANITARIAN DIALOGUE, BEYOND THE NUMBERS: WOMEN’S PARTICIPATION IN THE KENYA NATIONAL DIALOGUE AND RECONCILIATION 7–10 (2011) available at [http://www.hdcentre.org/files/KWOAT%20report%20modified%20220211\\_0.pdf](http://www.hdcentre.org/files/KWOAT%20report%20modified%20220211_0.pdf) (discussing the role that women can and have played in building the peace in post-conflict countries).

women have begun to play a key role in peace building and the implementation of peace agreements.

In the period leading up to the UN Security Council Resolution 1325 (SCR1325 or the Resolution), international opinion increasingly recognized the impact of armed conflict on women and the active role played by women in conflict resolution measures. The Vienna World Conference on Human Rights and its Programme of Action in 1993 addressed sexual violence in situations of armed conflict;<sup>22</sup> the Report of the Fourth World Conference on Women held in Beijing in 1995 linked the advancement of women to obtaining sustainable peace;<sup>23</sup> the meeting of the Commission on the Status of Women in 1998<sup>24</sup> and the UN Security Council Resolution on the Protection of Civilians in Armed Conflict in 1999<sup>25</sup> both addressed the specific needs of women in armed conflict and called for greater participation of women in peacekeeping and peace building, as did the provisions on women and armed conflict in the Beijing Platform for Action and the Beijing+5 review in 2000.<sup>26</sup> These documents, along with a wide and active non-governmental organization (NGO) network, strong lobbying, and the support of UN Entity for Gender Equality and the Empowerment of Women, led to the adoption by the Security Council in

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22. See World Conference on Human Rights, June 14–25, 1993, *Vienna Declaration and Programme of Action*, U.N. Doc. A/CONF.157/23 (July 12, 1993), available at <http://www.unhcr.ch/huridocda/huridoca.nsf/%28symbol%29/a.conf.157.23>. (enumerating the Vienna Declaration and its' goals of promoting the freedom of all peoples).

23. See World Conference on Women, Sept. 4–15, 1995, *Report of the Fourth World Conference on Women*, U.N. Doc. A/CONF.177/20 (Oct. 17, 1995), available at <http://www.un.org/esa/gopher-data/conf/fwcw/off/a--20.en> (presenting the report on women and focusing on China's declaration and platform for action).

24. See Comm'n. on the Status of Women, *Report on the Forty-Second Session*, Mar. 2–13 1998, UN Doc. E/CN.6/1998/12 (1998), available at <http://www.un.org/documents/ecosoc/docs/1998/e1998-27.htm> (discussing the various draft resolutions before the Economic and Social Council concerning the rights of women in different countries).

25. See RESOLUTION, *supra* note 3, at ¶ 13 (stressing the importance of addressing the continued impact of armed conflict on civilians, specifically singling out the effects on women and children).

26. See United Nations Entity for Gen. Equal. and the Empowerment of Women, *Five-year Review of the Implementation of the Beijing Declaration and Platform for Action (Beijing+5) held in the General Assembly, 5-9 June 2000*, (Jun. 2000), <http://www.un.org/womenwatch/daw/followup/beijing+5.htm> (last visited Apr. 3, 2012) (discussing how the Beijing +5 initiative was created and its focus on women in armed conflict situations) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

2000 of an integrated gender perspective calling for greater participation of women in peace and security efforts: SCR1325.<sup>27</sup>

### *B. Aims and Objectives*

SCR1325 was adopted unanimously on October 31, 2000.<sup>28</sup> It is the first resolution passed by the Security Council that specifically addresses the distinct and disproportionate effect of war on women,<sup>29</sup> and their often under-valued and under-utilized contributions to the prevention and resolution of conflicts and maintenance of peace and security.<sup>30</sup> In particular, the Security Council called for the adoption of a gender perspective in the negotiation and implementation of peace agreements; active participation of women in the maintenance and promotion of peace and security; and the support of local women's peace initiatives and indigenous processes for conflict resolution.<sup>31</sup> Set in the larger framework of gender equality, although specifically dealing with women in the context of armed conflict, SCR1325 has been "qualified as a 'milestone' or 'landmark resolution' in the history of the UN" with a potential to "transform ways of understanding how security is conceived, protected and enforced."<sup>32</sup>

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27. See RESOLUTION, *supra* note 3 (recalling past resolutions, statements, and support, while emphasizing the need for greater participation of women in the peace process).

28. *Id.*

29. See Press Release, Security Council, Security Council, Unanimously Adopting Resolution 1325 (2000), Calls for Broad Participation of Women in Peace-Building, Post Conflict Reconstruction, U.N. Press Release SC/6942 (Oct. 31, 2000) [hereinafter U.N. Press Release] (discussing how women (and children) account for the vast majority of those adversely affected by armed conflict, including as refugees; and are increasingly targeted by combatants with gender-based violence, particularly rape and other forms of sexual assault).

30. See *id.* (discussing the ways in which women can assist in post-conflict peacekeeping and dispute resolution); see generally Centre for Humanitarian Dialogue: [www.hdcentre.org/newscred/topicpage/un-security-council-resolution-1325](http://www.hdcentre.org/newscred/topicpage/un-security-council-resolution-1325) (last visited Apr. 3, 2012) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

31. See U.N. Press Release, *supra* note 29 (enumerating the UN's goals in furthering women's efforts in the peace process in post-conflict countries).

32. Sabine von Schorlemer, *Women in Progress?: The Relevance of Security Council Resolution 1325 (2000)*, in FRIEDEN IN FREIHEIT 1143, 1149 (Andreas Fischer-Lescano et al., eds., 2008).



### C. Structure

The Resolution, consisting of 18 paragraphs, outlines an agenda for women, peace, and security.<sup>33</sup> Despite its concern of women as “victims” of armed conflict, the emphasis of the Resolution is to encourage a more active role for women—they are seen as “particularly strong in breaking cycles of violence.”<sup>34</sup> Some of the main paragraphs of interest to mediation are:

- An increase in the participation of women at decision-making levels in conflict resolution and peace processes,<sup>35</sup>
- To adopt measures that support local women’s peace initiatives and indigenous processes for conflict resolution, as well as measures that involve women in all of the implementation mechanisms of the peace agreements,<sup>36</sup> and
- To carry out a study on the role of women in peace building and the gender dimensions of peace processes and conflict resolution.<sup>37</sup>

Although there are multiple factors that may powerfully influence mediations of all kinds, such as race, ethnicity, and class, this paper looks exclusively at just one of these factors: gender.

## III. Gender Theory in Conflict Resolution

### A. Gender Differences in Negotiation and Mediation

“Gender is one of the most salient characteristics of an individual, causing observers to notice and process it immediately in a social situation.”<sup>38</sup> According to Kray and Babcock, gender is a very relevant

33. RESOLUTION, *supra* note 3; *see also infra* Exhibit A.

34. Marcia E. Greenberg & Elaine Zuckerman, *The Gender Dimensions of Post-Conflict Reconstruction: The Challenges in Development Aid* 20 (WIDER Research Paper No. 2006/62, 2006), *available at* [http://www.wider.unu.edu/publications/working-papers/research-papers/2006/en\\_GB/rp2006-62/\\_files/78091781447943952/default/rp2006-62.pdf](http://www.wider.unu.edu/publications/working-papers/research-papers/2006/en_GB/rp2006-62/_files/78091781447943952/default/rp2006-62.pdf) (last visited Apr. 3, 2012) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

35. RESOLUTION, *supra* note 3, at ¶ 2.

36. *Id.* ¶ 8(b).

37. *Id.* ¶ 16.

38. LAURA KRAY & LINDA BABCOCK, *Gender in Negotiations: A Motivated Social Cognitive Analysis*, in NEGOTIATION THEORY AND RESEARCH 203 (Leigh L. Thompson ed., 2006).

factor for understanding bargaining behavior as the differences add up to very large amounts over time.<sup>39</sup> For example, even if gender explains only one percent of the variation in performance evaluations, over time, this ends up having a large impact on the proportion of women who hold senior executive positions, or can add up to half a million dollars in “lost” income in a career due to differences in negotiating starting salary or raises.<sup>40</sup>

Women often encounter overt discrimination, such as not being welcome at the negotiating table.<sup>41</sup> But, beyond such discrimination, how does gender influence negotiation behavior? Various studies and research show that gender differences influence the attitude men and women have towards negotiations, how they behave in a negotiation, and what outcomes they receive in a negotiation.<sup>42</sup> Although the majority of these studies have

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39. *See id.* (“[E]ven gender differences in negotiation behavior and outcomes that are small in magnitude add up to very large amounts over time because these differences accumulate.”).

40. *See id.* at 203–04 (discussing the large-scale effects even small acts can have on the ability of women to rise to the top of an organization).

41. *See* UNITED NATIONS DEV. PROGRAMME, GENDER APPROACHES IN CONFLICT AND POST-CONFLICT SITUATIONS 11 (2002) available at <http://www.beta.undp.org/content/dam/aplaws/publication/en/publications/womens-empowerment/gender-approaches-in-conflict-and-post-conflict-situations-/gendermanualfinalBCPR.pdf> (“Women often organize themselves at the grassroots level in order to promote activities for peace, but they do not get access to the negotiation table in the formal peace process.”).

42. *See* Kenneth W. Thomas et al., *Conflict Styles of Men and Women at Six Organization Levels*, 19 INT’L J. CONFLICT MGMT., no. 2, 2008 at 148–66, available at [https://www.cpp.com/Pr/TKI\\_Article\\_On\\_Conflict\\_Styles.pdf](https://www.cpp.com/Pr/TKI_Article_On_Conflict_Styles.pdf) (providing an examination of how negotiation styles vary by organization level and gender); Jennifer L. Holt & Cynthia James DeVore, *Culture, Gender, Organizational Role, and Styles of Conflict Resolution: A Meta-analysis*, 29 INT’L J. INTERCULTURAL REL., 165, 182–85 (2005) (discussing the results of a study conducted and the differences between female negotiators and their male counterparts); Catherine Eckel et al., *Gender and Negotiation in the Small: Are Women (Perceived to Be) More Cooperative than Men?*, 24 NEGOTIATION J. 429, 429–445 (2008) (surveying data from experimental economists in order to understand if women negotiate differently than men do); Hannah Riley Bowles et al., *Social Incentives for Gender Differences in the Propensity to Initiate Negotiation: Sometimes it Does Hurt to Ask*, 103 ORGANIZATIONAL BEHAV. AND HUM. DECISION PROCESSES, 98–101 (2005), available at <http://www.cfa.harvard.edu/cfawis/bowles.pdf> (discussing the results of an experiment examining the differential treatment of male and female negotiators); Laura J. Kray et al., *Battle of the Sexes: Gender Stereotype Confirmation and Reactance in Negotiations*, 80 J. PERSONALITY & SOC. PSYCHOL., no. 6, 2001 at 942–58, available at [http://www.haas.berkeley.edu/faculty/pdf/Kray\\_Thompson\\_Galinsky\\_JPSP.pdf](http://www.haas.berkeley.edu/faculty/pdf/Kray_Thompson_Galinsky_JPSP.pdf) (discussing four experiments examining women and men at the negotiation table); LINDA BABCOCK AND SARAH LASCHEVER, *WOMEN DON’T ASK: NEGOTIATION AND THE GENDER DIVIDE* ix (2003) (“In addition, people often react negatively to women behaving in competitive ways, making negotiation a less effective strategy for women to get what they want.”); Kray & Babcock, *supra* note 38, at 203 (discussing the differences gender can have on negotiation).

focused on personal and corporate negotiations, rather than conflict resolution in a political context, it is worth considering their implications for the latter. Some of the important differences are:

### 1. Differences in Motivations

Studies show that men and women have different motivations for entering into a negotiation, and these can broadly be divided into (1) task-specific motivations (such as selling a car) and (2) interaction-specific motivations (such as deciding where to meet a friend).<sup>43</sup> The relative importance given to the motivation depends greatly on the situation,<sup>44</sup> but research also shows that it is affected by gender as well: women place greater relative weight on interaction-specific aspects in a negotiation than men, and are hence more motivated by these aspects.<sup>45</sup>

Studies from 1975 onwards have also shown that men and women differ in their interpersonal orientation (IO) i.e. “the degree to which individuals are interested in and responsive to the interpersonal aspects of their relationships.”<sup>46</sup> Female negotiators have a higher IO than their male colleagues, with women defining themselves in terms of their interpersonal relationships to a much larger extent than men.<sup>47</sup> They often perceive most negotiations to include a relationship dimension.<sup>48</sup> This leads to greater desire on the part of women to foster good, amicable relationships with all parties involved in a mediated negotiation, including the opponent.<sup>49</sup>

In an experiment conducted in 2003 highlighting the same point, Lisa Barron interviewed male and female negotiators to understand their

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43. See KRAY AND BABCOCK, *supra* note 38, at 205–09 (defining task-specific and interaction-specific motivations).

44. See *id.* at 205 (explaining how the overall importance of one goal over the other is uncertain, but depends on the specific situation).

45. See *id.* at 206–09 (describing how women utilize interaction-specific motivations more so than men).

46. *Id.* at 206.

47. See *id.* at 207 (“Before commencing the task, women were found to score higher on IO than men.”).

48. See *id.* at 206 (illustrating the tendency of female negotiators to divulge more interpersonal information and to see one of the primary goals of the negotiation to be winning the acceptance of others).

49. See *id.* at 205–06 (discussing how King and Hinson showed that women were more motivated than men to treat their opponent fairly and to maintain a good relationship during the negotiation). They were also more concerned about their opponent’s feelings during the negotiation. *Id.*

motivations.<sup>50</sup> The vast majority of men stated that their primary motivation was to further their own interests.<sup>51</sup> By contrast, for the majority of women, the purpose of the negotiation was to further their acceptance by others.<sup>52</sup> This difference in interpersonal motivation may also directly influence a negotiator's preference for dividing resources: because women are interested in the relational aspects of the negotiation, they are more likely to distribute resources more equally than men, with the latter allocating more to themselves.<sup>53</sup> In the context of international conflicts, emphasis on relational aspects and fairness in distribution are valuable traits for achieving lasting peace.

## 2. Differences in Goals

### a. Outcome Goals

Studies show that men and women differ in the goals they set before starting a negotiation (be it in a mediation or other forum). Given their task-specific emphasis, men tend to see negotiations as zero-sum, single occurrence events. They therefore set higher outcome goals than women.<sup>54</sup> Setting higher outcome goals generally leads to better outcomes, as the negotiator will usually make a higher opening offer, leading to an anchoring effect, and will be more persistent in the negotiation, ultimately influencing the agreement reached.<sup>55</sup> This means that in negotiations, which are highly

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50. See Lisa A. Barron, *Ask and You Shall Receive? Gender Differences in Negotiators' Beliefs about Requests for a Higher Salary*, 56 HUM. REL., June 2003, 635–62 (providing results from a study where twenty-one men and seventeen women were randomly assigned to negotiate with a hiring manager).

51. *Id.*

52. *Id.*

53. See Catherine Eckel, Angela C.M. de Oliveira, and Phillip J. Grossman, *Gender and Negotiation in the Small: Are Women (Perceived to Be) More Cooperative Than Men?*, 24 NEGOTIATION J. 429, 441 (2008) (discussing the gender differences in resource allocation taking place during negotiation proceedings).

54. See Anna Bavetta et al., *Gender Differences in the Acquisition of Salary Negotiation Skills: The Role of Goals, Self-Efficacy, and Perceived Control*, 78 J. APPLIED PSYCHOL. 723, 728 (1993) (discussing a mock negotiation's results indicating that men's goals were 5% higher despite equal tactical knowledge); see also Kray and Babcock, *supra* note 38, at 205 (discussing studies indicating men seek higher salaries than women in mock negotiations despite equal tactical knowledge).

55. See KRAY AND BABCOCK, *supra* note 38, at 205 (“High-outcome goals lead to more persistence and, ultimately, better outcomes.”).

distributive, gender differences in negotiated outcomes will be greater due to the competitive behaviour and higher outcome goals of men.<sup>56</sup>

However, in an empirical study conducted on the effects of gender on small claims adjudication and mediation, the gender of the parties had no direct effect on monetary outcomes for either adjudicated or mediated cases—women and men achieved the same amounts in similar cases.<sup>57</sup> So although the above academic literature shows that there is a difference in outcome goals amongst the genders in direct negotiation scenarios, this study indicates that mediation tends to level the playing field for men and women at the outcome level.

In addition to being less risk averse than women, men also have a much more positive experience participating in negotiations than women do.<sup>58</sup> They therefore have a higher propensity to engage and persevere in a negotiation, leading to a better outcome and to a cyclical effect of positive experience, greater engagement, and motivation.<sup>59</sup> In the context of negotiations conducted in a mediation, this potential disadvantage for women might have a limited effect due to mediation's emphasis on mutual respect for parties' "air time," views, and interests, as well as neutrality, making the process more egalitarian and less competitive for women.

If one judges better performance solely in terms of economic gains, then men's competitive behaviour, resulting in different outcomes between men and women, may devalue women's abilities (although it is questionable whether negotiations in a mediation context actually result in differences in outcome).<sup>60</sup> On the other hand, if one tests performance based on interpersonal gains, women's cooperative, relationship-based motivational skills are extremely valuable, especially in the context of peace resolutions. This is significant because negotiation outcomes are optimal when negotiators openly share information, incorporate the concerns of all parties, and collaborate in an effort to maximize joint

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56. *See id.* at 206 (concluding that the disparity in negotiation outcomes between men and women is exacerbated by men's more ambitious initial negotiation targets).

57. *See* Hermann et al., *An Empirical Study of the Effects of Race and Gender on Small Claims Adjudication and Mediations*, in *MEDIATION THEORY & PRACTICE* 371, 374 (James J. Alfini et al. eds., 2006) ("Gender of claimant and respondent had no direct effect on monetary outcomes for either adjudicated or mediated cases.").

58. *See* KRAY AND BABCOCK, *supra* note 38, at 206 (discussing a series of studies which indicate men have a greater interest in negotiations than women).

59. *See id.* (indicating that a positive negotiating experience leads to better outcomes in negotiations).

60. *See* Hermann et al., *supra* note 57 and accompanying text (explaining the similar outcomes for negotiations regardless of the gender of either the claimant or respondent).

interests.<sup>61</sup> Arguably, a good working relationship is likely to lead to the generation of more valuable and creative options in a mediation, ultimately leading to a better outcome for all parties involved, including a higher chance of follow-through of the mediated agreement—a win-win situation for all.

*b. Goal Definition*

Bowles et al.<sup>62</sup> found that where negotiation goals were ambiguously defined (relative to when they were specified clearly), they resulted in more favourable negotiation terms for male negotiators than female negotiators. However, these differences disappeared when participants were given clear negotiation targets.<sup>63</sup> According to Walter Mischel's theory of "psychological strength," "strong psychological situations" that are clearly defined and structured provide ample cues for behaviour, leading to minimal gender differences in behaviour; whereas in "weak psychological situations" the absence of cues to guide behaviour, may make parties rely on their internal cues that often encourage behaviour in a gender stereotypical way, thus amplifying gender differences.<sup>64</sup>

Jessica Reif, in her paper "Gender Differences in Divorce Mediation: The How, the Why, and Some Possible Remedies" explores whether mediation could be interpreted as a "weak" situation as people generally do not have enough information about mediation<sup>65</sup>—about the process, the roles of the parties involved, and expectation of outcomes. If so, women would be more adversely affected by this than men. However, evidence

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61. See ROGER FISHER & WILLIAM URY, *GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN* 50 (2d ed. 2005) (discussing the benefits of sharing information and identifying underlying interests in negotiations).

62. See Hannah Riley Bowles et al., *Constraints and Triggers: Situational Mechanics of Gender in Negotiation*, in KSG Faculty Research Working Paper Series RWP05-051, 6 (Sept. 2005), <http://web.hks.harvard.edu/publications/getFile.aspx?Id=190> (discussing studies showing that reducing ambiguity in compensation negotiations decreases the detrimental effect ambiguity has on women's compensation).

63. See KRAY AND BABCOCK, *supra* note 38, at 218 (indicating that clearer negotiation goals eliminated the outcome disparity between male and female negotiators).

64. Jessica Reif, *Gender Differences in Divorce Mediation: The How, the Why, and Some Possible Remedies* (2008) (unpublished mediation course paper, Harvard Law School) (available upon request from Harvard Law School Library, collection of student research papers).

65. *Id.*

from mediations in small claims courts<sup>66</sup> suggests that this is not the case. Indeed, the structured environment of mediation (e.g. equal “air-time,” respectful tone and language, private caucuses, and neutral mediator) may provide a “stronger” situation.

### 3. Differences in Cognitive Behaviour

In addition to external behaviour, differences in gender cognitions may also influence behaviour in a negotiation.

#### a. Belief in Zone of Possible Agreement (ZOPA)

A negotiator’s belief about the zone of possible agreement (ZOPA) in a dispute affects the offer he/she makes and accepts. Studies show that women have a more conservative approach in their estimation of the bargaining zone,<sup>67</sup> whereas male negotiators take a much more competitive approach.<sup>68</sup>

#### b. Belief in Ability and Self-worth

A negotiator’s beliefs about his/her own ability and worth, also influence estimation of the ZOPA, and hence, the outcome of the negotiation. It appears that an overwhelming number of women consistently de-value their ability and worth more than men when they do not have access to other’s value judgement (i.e. no social comparison information).<sup>69</sup> When there is comparison information, men and women value themselves comparably.<sup>70</sup>

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66. See Hermann et al., *supra* note 57, at 372 (discussing studies that have been conducted in the last ten to fifteen years on the cases and outcomes found in small claims courts).

67. See generally Vicki S. Kaman and Charmine E.J. Hartel, *Gender Differences in Anticipated Pay Negotiation Strategies and Outcomes*, 9 J. BUS. & PSYCHOL. 183 (1994) (explaining the results of a study analyzing reasons behind differing pay between men and women).

68. See generally Dean G. Pruitt et al., *Gender Effects in Negotiation: Constituent Surveillance and Contentious Behavior*, J. EXPERIMENTAL SOC. PSYCHOL. 264 (1986) (examining the influence of "constituent surveillance, constituent gender, and negotiator gender on negotiation behaviour and outcome"); see also KRAY AND BABCOCK, *supra* note 38, at 210 (offering explanations as to why men and women perceive the bargaining zone differently).

69. See KRAY AND BABCOCK, *supra* note 38, at 210 (indicating that women value their

In addition, the greater the confidence displayed by the negotiator, the more forcefully he/she asserts the interests. Not surprisingly, if women devalue their worth, they will be less confident about their abilities, which may ultimately have an adverse effect on the negotiation outcome.<sup>71</sup> As stated previously, it appears that the mediation process levels out the differences in outcomes based on gender.<sup>72</sup> So although the differences resulting from cognitive behaviour exist, their ultimate negative effect on the results achieved may be limited in mediated negotiations.

### *c. Response to Power Imbalance*

Power dynamics is another important factor that influences how men and women negotiate. Greater power may result from various factors, such as better alternatives to a negotiated agreement or social and political power, which can provide a key advantage for the party negotiating. Studies show that men and women react to power (or lack thereof) differently—women have a greater tendency to succumb when faced with a power imbalance.<sup>73</sup> However, with mediation's emphasis on fairness, informed consent, and self-determination, such power imbalances could potentially be lessened (if not removed).

### *d. Framing*

A negotiation can be presented in a variety of frames, for example, it can be set up as a learning exercise or as an opportunity for asking questions, for dialogue, or for negotiating. Studies show that the manner in which a negotiation situation is framed influences the behaviour of men and women towards a negotiation. Babcock et al. state that framing is a critical

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work less than men value men's work when no social comparison is available to women).

70. *See id.* (indicating the comparative information eliminates the disparity in valuations of an individual's own work between men and women).

71. *See id.* at 212 (explaining that when women conform to stereotypes of what is expected from a female negotiator, their outcomes suffer).

72. *See id.* at 209 (indicating that women negotiate harder when advocating for another person rather than for themselves).

73. *See id.* at 209 (indicating that women are thought to be less influential and give in more frequently when facing an actual power imbalance than men); *see also* Trina Grillo, *The Mediation Alternative: Process Dangers for Women*, 100 YALE L.J. 1545, 1571 (1991) (explaining that societal pressures on women to suppress anger may harm women's outcomes in mediation).



driver of gender differences in initiating negotiations.<sup>74</sup> They found that framing situations as “opportunities for negotiation” is intimidating to women, especially because this language is inconsistent with norms for politeness for women. By contrast, framing situations as “opportunities for asking” is much less intimidating given that the language is more polite and role-consistent. Similarly, Kray and Babcock argue that when a negotiation is framed as a learning exercise, stereotypical thoughts of one’s ability or worth are not conjured up, and men and women perform comparably.<sup>75</sup> In general, mediation is seen as a less intimidating forum due to its informal process, compared to adjudication and arbitration. Thus women are more likely to view mediation as an opportunity to “talk” rather than an opportunity to “negotiate.” They are therefore as likely as men to initiate and engage in it.

#### 4. *Effects of Gender Stereotyping and Perceiver Expectations*

In addition to overt discrimination faced by women by their exclusion from negotiations and conflict resolution processes,<sup>76</sup> literature also acknowledges the influence of stereotyping and perceiver bias. The expectation that an individual behaves in a stereotypical way can unwittingly lead to the individual behaving in a manner that is consistent with these expectations.<sup>77</sup> For example, when teachers are led to expect certain levels (high or low) of intellectual achievement from their students, they are more likely to obtain those levels of achievement from their students.<sup>78</sup> So, if one expects the female negotiator to be cooperative in her

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74. See Michele Gelfand et al., *Who Goes to the Bargaining Table? The Influence of Gender and Framing on the Initiation of Negotiation*, 93 J. PERSONALITY & SOC. PSYCHOL. 600, 610 (2007) (indicating that framing as “asking” rather than negotiating reduces disparity in outcomes among genders in negotiations).

75. See KRAY AND BABCOCK, *supra* note 38, at 216 (explaining that women are just as likely to engage in negotiations outside of the work context).

76. This was partly the reason for the enactment of SCR1325.

77. See KRAY AND BABCOCK, *supra* note 38, at 212 (explaining that expectations about someone’s behavior can elicit the expected behaviors).

78. See Robert Rosenthal, *Interpersonal Expectancies, Nonverbal Communication, and Research on Negotiation*, 4 NEGOTIATION J. 267, 269–70 (1987) (discussing the various formulations for measuring the effects negotiating parties’ expectations play in determining outcome); see also Claude M. Steele, *A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance*, 52 AM. PSYCHOLOGIST 613, 624–25 (1997) (indicating that teachers with high expectations of students obtain better student performance).

negotiation style, there is a high likelihood that, affected by this expectation (through subtle cues and mannerism), she will behave more cooperatively as a result. A study on gender biases in 2001 indicated that people view men as better negotiators than women.<sup>79</sup> Given this negative stereotype of women as poor negotiators, women succumbing to this stereotype may perform “less well” (in a distributional sense) in the mediation than their male colleagues.<sup>80</sup>

Interestingly, stereotypes that explicitly connect gender to negotiating ability—for example, “women are not as good as men at negotiating”—lead women to react against this stereotype.<sup>81</sup> Women end up setting higher goals than they would otherwise, are more aggressive and persistent about achieving their aims, and as a result reap better outcomes—often better than their male counterparts.<sup>82</sup> However, sometimes, when women break these stereotypes, i.e. act in a self-interested manner or have a very task-oriented style, they suffer a backlash; they are perceived as less likable, socially inept, and incompetent.<sup>83</sup>

##### 5. Differences When Negotiating on Behalf of Others (Agency)

Women behave differently when advocating on behalf of another, rather than for themselves. Wade<sup>84</sup> and Bowles et al.<sup>85</sup> argue that women

79. See KRAY AND BABCOCK, *supra* note 38, at 210 (reporting survey results indicating people expect men to perform better than women in negotiations).

80. See *id.* (indicating that beliefs about self-worth may influence how forcefully people advocate during negotiations).

81. See Gelfand, *supra* note 74, at 62 (discussing findings that overt stereotyping provokes a reaction that produces better outcomes for women in negotiations).

82. See KRAY AND BABCOCK, *supra* note 38, at 209 (explaining that explicitly linking negotiating ability to gender leads women to react against the perception and obtain better outcomes).

83. See Eckel et al., *supra* note 53, at 440 (explaining that traditional gender stereotyping still exists in employment settings); see also Pamela Gordon, Examining Conflict Management Style Preferences of Practitioner Faculty by Gender and Age, 29, (Sep. 2008) (unpublished Ph.D. dissertation, Northcentral University), <http://proquest.umi.com/pqdlink?vinst=PROD&attempt=1&fmt=6&startpage=-1&ver=1&vname=PQD&RQT=309&did=1495950601&exp=11-30-2016&scaling=FULL&vtype=PQD&rt=309&cfc=1&TS=1322847608&clientId=4303> (discussing studies indicating that men and women who do not conform to societal stereotypes are penalized for non-conformity); Reif, *supra* note 64.

84. See Mary Wade, *Women and Salary Negotiation: The Costs of Self-Advocacy*, 25 PSYCHOL. WOMEN Q. 65, 67 (2001) (offering reasons as to why women are more successful when advocating for another’s interests).

85. See Bowles et al., *supra* note 62, at 29–30 (indicating that self-representation or

negotiate more forcefully, i.e. they have higher outcome goals and are more aggressive, when they are representing another's interest rather than their own. According to Wade this is probably because this concern for the well-being of others is consistent with the normative expectation of female communal behaviour. When advocating forcefully for themselves, women feel conflicted with their emphasis on IO and also constrained by the normative expectations to not behave selfishly and aggressively.<sup>86</sup> This may affect women adversely if they are representing themselves in mediation.<sup>87</sup> Also, international case studies show<sup>88</sup> that women find it harder to advocate for the interests of women when they are representing other interests as well.<sup>89</sup>

### 6. Differences in Negotiating Styles

There are a number of studies that have explored the conflict management styles of men and women. Although each paper chooses slightly different terminology, there are essentially five main types of conflict styles: competing (satisfying one's own concern at the expense of another's), accommodating (sacrificing one's own concern for the sake of another's), avoiding (neglecting both parties' concerns by postponing a conflict issue), collaborating (attempting to find a solution that satisfies both parties' concerns), and compromising (attempting to find middle ground, which satisfies only partly both parties' concerns).<sup>90</sup>

In studies conducted in 2005 and 2008, results showed that men scored substantially higher than women on competing at all organization levels,

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representing another had no effect on men's negotiating outcomes, but that representing another produced better outcomes among female negotiators).

86. See Wade, *supra* note 85, at 70 (explaining that women will cease to conform to societal expectations to advocate strongly for a group's well-being, but conform when advocating their own interests).

87. See Grillo, *supra* note 74, at 1570–71 (indicating that societal expectations constrain women representing themselves in mediation as in negotiations).

88. See Kenya Discussion *infra* Part IV.B.

89. See MCGHIE & WAMAI, *supra* note 21, at 18 (discussing tensions between female negotiators involved in the post-election violence in Kenya in 2007 over how forcefully to advocate for women when representing broader interests).

90. See Nancy Schaubhut et al., *Conflict Styles of Men and Women at Six Organization Levels* 4 (Aug. 2008), [https://www.cpp.com/Pr/TKI\\_Article\\_On\\_Conflict\\_Styles.pdf](https://www.cpp.com/Pr/TKI_Article_On_Conflict_Styles.pdf) (listing and describing the five main styles of conflict) (on file with Washington and Lee Journal of Civil Rights and Social Justice).

from entry level to top executives,<sup>91</sup> with women reporting higher levels of compromise.<sup>92</sup> Various studies have been conducted in this area, and researchers agree that women in general are likely to use the more cooperative conflict management styles of collaborating, compromising, or avoiding, and men are more likely to use competing or avoiding strategies in situations of conflict.<sup>93</sup> So although research in this field does not show one particular negotiating style used by women—some say compromise,<sup>94</sup> some avoiding,<sup>95</sup> and some accommodating<sup>96</sup>—a majority appear to agree that men have higher competing style than women.

### *B. Consequences for International Conflict Resolution*

Although many of the above differences, whether resulting from actual or perceived gender difference, stereotypical expectations, or particular situations, have been studied overwhelmingly in the context of private or business negotiations, they have consequences for international conflict resolution. Below are some key points to consider.

In the context of international conflicts, adopting a collaborative or compromising style, rather than a competitive one, is a great advantage. Greater collaboration produces more constructive outcomes for the disputing parties. Even a compromising behavior may be a good thing, for example, in situations in which it is important to reach a profitable (but not the best possible) agreement, but also to maintain a good relationship, or when preserving the relationship is more important than distributional

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91. *See id.* at 7 (discussing previous studies indicating that men were more competitive and less likely to compromise than women).

92. *See id.* (indicating that women are more likely to compromise than men).

93. *See* Nathalie Desrayaud, Effects of Gender on Conflict Management Style in High and Low Stakes Situations 11–12 (Aug. 20, 2008) (unpublished M.A. thesis, University at Buffalo, State University of New York) <http://gradworks.umi.com/1461769.pdf> (discussing studies indicating that women use more passive behaviors in conflict situations than men) (on file with Washington and Lee Journal of Civil Rights and Social Justice); *see also* Gordon, *supra* note 83, at 33 (discussing a study indicating that among junior accountants with less than three years of experience, women avoided conflict more often than men).

94. *See* Holt & DeVore, *supra* note 42, at 183 (“Females report using compromising more than males by a sizable margin (over half a standard deviation).”).

95. *See generally* F. Cardona, A Comparative Study of the Styles of Handling Interpersonal Conflict among Students, Faculty, and Administrators (1995) (unpublished Ph.D. dissertation, Michigan State University).

96. *See generally* P.G. Sone, The Effects of Gender on Managers’ Resolution of Superior-subordinate Conflict (1981) (unpublished Ph.D. dissertation, Arizona State University).

aspects.<sup>97</sup> Holding out for the best possible outcome may burn bridges and reduce the chance of reaching an agreement.<sup>98</sup> Although aggression can sometimes prompt the parties into making a better offer, in international conflict situations this may lead to the two sides failing to reach an agreement even when it is in the interests of both to do so. In the peace context, where parties often have to coexist, hard bargaining tactics may be socially costly. Thus women's collaborative approach may be more productive in international conflict situations than men's inclination towards hard bargaining tactics.

Expectations to act cooperatively increase the chances of parties acting cooperatively. The effect of "perceiver expectation"—the ability of the participants to influence one another through their expectations—could have a positive effect in international conflict mediations. Due to the way women define their motivations, outcome goals, as well as their perception in society, they have a tendency to behave more cooperatively and amicably. Thus having a female mediator or a female party representative may lead the parties to behave collaboratively.

In international conflicts where the emphasis/focus is often on building amicable long-term relationships, the ability of women to bring together different factions is extremely valuable. There is often too much transactional focus in negotiations, which leads the parties to ignore other important outcomes, specifically relational outcomes that are pivotal to stable international conflict resolution.<sup>99</sup> It is not only narrow-minded, but also short sighted to look at relations only as "inputs, constraints or instruments in the negotiation, rather than outcomes to be gained or lost," particularly in international conflicts.<sup>100</sup> Given women's actual or perceived aims of maintaining long-term relational harmony, and their sensitivity to interpersonal cues, they are likely to be more successful in delicate conflicts involving future relationships and are less likely to fail in reaching an agreement than men.<sup>101</sup> Indeed female mediators had a

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97. See Eckel et al., *supra* note 53, at 437 (supporting the theory that willingness to accept an offer is not necessarily a weakness in negotiating).

98. See *id.* at 438 (explaining how an aggressive stance increases the chance of failure to reach an agreement).

99. See Discussion *infra* Part IV.A.–B (discussing Nepal and Kenya).

100. See Elaine M. Landry & Anne Donnellon, *Teaching Negotiation with a Feminist Perspective*, 15 NEGOTIATION J. 21, 23 (1999) (discussing negotiations instructors' misplaced emphasis on transactional outcomes).

101. See Eckel et al., *supra* note 53, at 441–42 (discussing the regularities in their experiment results that can affect negotiation).

significantly greater likelihood of having their disputants reach agreement in mediation, whereas two male mediators had the lowest agreement rate.<sup>102</sup>

In international conflicts where multiple parties (often disadvantaged ones) are involved, notions of fairness and equity lead to more stable agreements. Studies show that, on balance, women tend to be more generous and egalitarian than men, and expect and ask for less in a negotiation.<sup>103</sup> This may be because women are more sensitive than men to issues of overall fairness in a negotiation or because of socialization.<sup>104</sup> An interesting point to note is the impact of gender mixes in negotiations—experiments show that people who generally behave selfishly in their individual decisions about how much to allocate in a dispute become much more generous when making a team decision for a team that includes women.<sup>105</sup> It appears that in mixed-gender teams, the preference of the female dominates the offer. Thus adding women to a group increases the generosity of the group.<sup>106</sup> This would have profound positive impact on mediations in peace settlements.

#### IV. Case Studies

##### A. Nepal Case Study

In 2006, following 239 years of monarchy rule and a bitter decade of civil war, a peace deal between Nepal's main political party and the Maoist rebels ultimately led to the formation of a democratically elected Constituent Assembly.<sup>107</sup> Although women were notably absent from the

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102. See Hermann et al., *supra* note 57, at 374 (detailing the results of a study observing the effects of ethnicity and gender in mediation).

103. See Eckel et al., *supra* note 53, at 429 (noting the gender differences in negotiation highlighted in the context of two simple games).

104. See *id.* at 441 (explaining that women in laboratory settings favored equal distributions even when they resulted in a higher cost).

105. See *id.* at 439 (describing the impact of gender on the bargaining behavior of teams in the study).

106. See *id.* (adding that women must be present at more than “token” levels to have a significant impact on the group and stating that the inclusion of just one woman in a male majority team is unlikely to affect the generosity of the team).

107. See C. Balaji, *NEPAL 28 May 2010 Due Date for Nepal Constitution to be Finalized*, NEWS AHEAD WORLD NEWS FORECAST (May 28, 2010), [www.newsahead.com/preview/2010/05/28/nepal-28-may-2010-due-date-for-nepal-constitution-to-be-finalized/index.php](http://www.newsahead.com/preview/2010/05/28/nepal-28-may-2010-due-date-for-nepal-constitution-to-be-finalized/index.php) (last visited Dec. 7, 2011) (describing the political instability of the Himalyan Kingdom) (on file with the Washington and Lee Journal of Civil Rights and Social Justice); see also BBC News S. Asia, *Nepal Parliament Deal Ends Political Impasse*,

formal Nepalese peace mediations, they contributed immensely to the overall peace process through informal means, such as a nation-wide women's movement and involvement in political parties and committees, including peace and constitution committees.<sup>108</sup>

Günther Baechler was the Swiss Special Adviser for Peace Building in Nepal from 2005–07.<sup>109</sup> According to Baechler, Nepalese women never understood “peace” in the narrow sense of the term, i.e. the absence of armed violence.<sup>110</sup> The women were interested not just in a technical ceasefire among the main belligerents, but also a cessation of future hostilities among the armed actors.<sup>111</sup> They knew that lasting and more comprehensive peace could only be achieved by understanding and addressing issues beyond violence, such as political oppression through a feudal monarchy, marginalization of women in the caste system, and insecurity in rural areas.<sup>112</sup> Thus for the women, “peace” was not an abstract formula for national security, but a more practical strategy to obtain economic security, food security, health security, environmental security, political security, and finally personal (physical) security from violence.<sup>113</sup> As a result, the women emphasized human security concerns while the male negotiators in the mediation circled around achieving an end to the current violence.

Because of the women's focus on human security, they found it much easier than the men to overcome ideological, social, ethnic, and caste

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BBC NEWS (May 28, 2010), <http://www.bbc.co.uk/news/10179564> (last visited Apr. 3, 2012) (stating that the Maoists ended their rebellion in 2006 to join a peace process) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

108. See Günther Baechler, *A Mediator's Perspective: Women and the Nepali Peace Process*, CENTRE FOR HUMANITARIAN DIALOGUE, August 2010, at 5 available at [http://reliefweb.int/sites/reliefweb.int/files/resources/C500C109DD408070C12577880043B0EA-Full\\_report.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/C500C109DD408070C12577880043B0EA-Full_report.pdf) (detailing the various means by which Nepali women exercised influence in the peacemaking process).

109. See *id.* at 2 (giving Baechler's background for observing women's contributions to the peace process).

110. See *id.* at 3 (“Peace was much more a practical strategy to implement down-to-earth human security, with its wide range of meanings . . .”).

111. See *id.* at 4 (“[T]he women related to genuine human security concerns while the male negotiators circled around a superficial peace in order to avoid the hard compromises that would have been necessary . . .”).

112. See *id.* at 3–4 (describing the comprehensive view of peace accepted by Nepali women).

113. See Baechler, *supra* note 109, at 3–4 (detailing Nepali women's differing views on peace).

boundaries.<sup>114</sup> According to Baechler, the women's persistent emphasis on a holistic and more comprehensive peace, and the ability to overcome differences based on party lines and sectors, led to the achievement of a more exhaustive peace agreement in 2006.<sup>115</sup>

In Baechler's opinion, involving the Nepalese women directly in the negotiations would have had an even more significant and visible impact on the Nepalese peace process.<sup>116</sup> To him, the women, in general, were much less concerned than the men with who was going to be the next prime minister or with the distribution of ministerial posts nor were they interested in using negotiations as a stage for making political statements or as an opportunity for individual power gains.<sup>117</sup> Instead, the women were more interested in forming a stable coalition government and creating a more proportional electoral system, which would represent the interests of women and marginalized groups.<sup>118</sup> According to Baechler, unequal gender representation affects the quality of peace processes—women may be the difference between attaining a “thin” peace agreement, which involves only the armed sectors and has a high probability of lapsing back into armed violence, and attaining a “thick” peace agreement that involves all segments of society and promises a higher degree of success in the long run.<sup>119</sup> Indeed the lack of a “thick” peace agreement resulted in the political crisis that erupted again in Nepal on May 28, 2010, when it was feared that the then Prime Minister Madhav Kumar would declare a state of emergency due to lack of finalization by the Constituent Assembly of the Constitution of Nepal to replace its interim Constitution.<sup>120</sup>

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114. *See id.* at 5 (noting the Nepali women's mobility across party lines and sectors within Nepali society).

115. *See id.* at 3 (emphasizing Nepali women's view that peace meant more than an absence of armed violence).

116. *See id.* (“In considering the difference it makes when women are at the peace table, I assumed that the direct participation of women in peace negotiations would make a significant difference both in terms of process and content.”).

117. *See id.* at 4 (detailing the potential impacts of women's direct participation at the peace table).

118. *See* Baechler, *supra* note 108, at 4 (noting the contrasting concerns of men and women would have led to more change in a diversity of issues).

119. *See id.* at 9 (predicting an increasingly constructive role for women in future peace processes).

120. *See* Balaji, *supra* note 107 (“There are fears that Prime Minister Madhav Kumar Nepal will declare a state of emergency if the Constituent Assembly fails to deliver [the Constitution] by the due date.”).



Since 2010, a more serious effort is being made by the Nepalese government to incorporate gender sensitiveness in the peace process.<sup>121</sup> Significantly, Nepal's Ministry of Peace and Reconstruction launched a National Action Plan to implement SCR1325.<sup>122</sup>

### B. Kenya Case Study

The Kenyan peace process is an example of the benefits of involving women in international peace mediations. At the end of 2007, a violent electoral dispute was triggered by claims of rigging in the presidential elections.<sup>123</sup> This led, over two months, to the death of 1,133 and displacement of over 300,000 Kenyan people.<sup>124</sup> The Kenyan National Dialogue and Reconciliation (KNDR) process, under the auspices of Kofi Annan and the African Union Panel of Eminent African Personalities, sought to resolve this conflict at the end of January 2008.<sup>125</sup> After forty-two days of intense mediated negotiations, President Mwai Kibaki and Hon. Raila Odinga brought an end to the violence and political stalemate by signing a power sharing agreement.<sup>126</sup> The mediation process continued, and went on to negotiate a series of agreements that dealt with long-term issues that were at the root of the conflict.<sup>127</sup>

The Kenyan peace process involved a high level and high profile of women, with about 25% of the members of the negotiating team

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121. See RITA MANCHANDA, CTR. FOR HUMANITARIAN DIALOGUE, NEPALI WOMEN SEIZE THE NEW POLITICAL DAWN: RESISTING MARGINALISATION AFTER TEN YEARS OF WAR, 11 (2010), available at <http://www.hdcentre.org/files/Nepali%20women%20seize%20the%20new%20political%20dawn%20FINAL.pdf> ("However since [2008] a more serious and vigorous effort is being made to incorporate gender sensitiveness in the peace process."). "In 2010 Nepal's Ministry of Peace and Reconstruction, supported by international stakeholders, launched a National Action Plan to implement UNSC Resolutions 1325 and 1820." *Id.*

122. *Id.*

123. See COMM'N OF INQUIRY INTO THE POST ELECTION VIOLENCE, FINAL REPORT 345, 351 (2008) available at [http://www.communication.go.ke/Documents/CIPEV\\_FINAL\\_REPORT.pdf](http://www.communication.go.ke/Documents/CIPEV_FINAL_REPORT.pdf). (on file with Washington and Lee Journal of Civil Rights and Social Justice).

124. *See id.*

125. *See id.* at 282 (describing the purpose of the Kenya National Dialogue and Reconciliation).

126. See MCGHIE & WAMAI, *supra* note 21, at 3 (describing the resolution of the violent disputes in Kenya).

127. *See id.* (describing women's role in the on-going mediated peace process).

being women.<sup>128</sup> The women's involvement took many different forms, both at the local and national level. Women were engaged as members of the KNDR process, as senior advisors to the mediator, in mediation support roles, as senior members of the political delegations, and as civil society leaders.<sup>129</sup>

One of the key aspects of involving the women in the mediation was the “spitting session”—Kenyan women, from different party affiliations and ethnic tensions, came together in a session to raise all the issues that divided them.<sup>130</sup> They got together to vent their anger (to “spit” at each other) in order to move forward.<sup>131</sup> The “spitting” allowed them to build confidence and trust in each other, and engage in a more constructive dialogue to find common ground on deep-rooted issues affecting the crisis.<sup>132</sup> In fact, this airing of differences gave birth to a unified women's voice that led to a Women's Memorandum, which helped shape the long-term issues and formed an important part of the final peace agreements.<sup>133</sup> As such, the Kenyan case serves as a strong example of inclusion of women and its consequential benefits in the mediation process.

Another advantage of involving the women was the strong network they possessed, locally, nationally, and internationally. Kenyan women were among the first to lobby at the African Union, to testify to the U.S. Congress, and to pass messages to senior figures in the UN and other capitals.<sup>134</sup> This ensured that messages of peace, international help, and fundamental concerns got through to the highest levels regionally and internationally. This was critical for achieving a sustainable peace agreement.

Lastly, women were able to identify early warning signs of conflict very differently from men—for example, the women were

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128. *Id.* at 4.

129. *See id.* at 18 (describing the structure of the mediations and the formal participation of women).

130. *See id.* at 19 (explaining the process by which the women found common ground among differing party affiliations and ethnic tensions).

131. *See* MCGHIE & WAMAI, *supra* note 21, at 19 (explaining how the women referred to getting angry as “spitting” at one another).

132. *See id.* (stating that this process allowed the women to “find commonality in their position on the crisis”).

133. *See id.* (explaining the importance of the Women's Memorandum in shaping long-term issues).

134. *See id.* at 22 (emphasizing the success of women's outreach in influencing the peace process).

more sensitive to indicators such as changes in refugee migration, rape, abductions, trafficking, hoarding of goods, sale of jewelry and weapons, rewards for “masculine” behaviours, and increased propaganda, among other things, before a conflict.<sup>135</sup> In fact, many women leaders in Kenya were raising warnings in the months leading up to the elections in 2007.<sup>136</sup>

The Kenyan mediation process also provides an important lesson on the representation of women’s rights and interests. Mediators involved in the Kenyan peace process felt that there was a difference between women being appointed to represent women’s issues in particular and women representing a given political party or armed group.<sup>137</sup> Some Kenyan female representatives expressed that they felt bound by the policies and politics of the party they represented, and therefore avoided focusing on the interests of women for fear of compromising their party’s interest.<sup>138</sup> This highlights that it is not practical to expect women negotiators to represent women’s issues in addition to other representational mandates. Increased participation of women may improve the chances of peace but it does not automatically lead to addressing women’s rights and related issues in the mediation process.<sup>139</sup> So, for the advancement of women’s interests, it is important to have at the mediation table representatives who are specifically there to represent and discuss women’s issues.

### C. Norwegian Experience

In recent years Norway has played an active role as third party mediator in a number of international conflicts. It was involved in the Oslo Accords, conflicts in Bosnia, Guatemala, and, more recently,

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135. See Anita Kiamba & Attiya Waris, *An African Feminist Perspective on Security and Early Warning Mechanisms: IGAD*, in *RETHINKING GLOBAL SECURITY: AN AFRICAN PERSPECTIVE?* 86, 99 (Heinrich Böll Found. ed., 2006) (noting the relevance of gender in examining the triggers of rising societal tensions).

136. See MCGHIE & WAMAI, *supra* note 21, at 14 (noting that despite warnings, the international community did not anticipate the magnitude of the violence).

137. See *id.* at 7 (detailing the challenges involved in women’s participation in the mediation process).

138. See *id.* (comparing the inclusion of specific women’s representatives versus parties including women in their delegations, generally).

139. See *id.* (suggesting that when women act as representatives for an armed group or political party they are unable to focus on women’s issues).

conflicts in Sudan, Sri Lanka, and Columbia. Through the Norwegian Action Plan for the Implementation of Security Council Resolution 1325 in 2006, Norway actively promotes greater participation of female mediators and negotiators in all peace processes and negotiations with which it is involved.<sup>140</sup> Norway considers women's involvement so crucial that where "[i]t is not possible to secure women's participation in [the formal] peace process[es, Norway has pledged to] support parallel and subsidiary processes where women can play a key role, and ensure that [the concerns and aims of such processes are] passed on to the main process."<sup>141</sup>

From its various experiences in international conflict mediations, Norway has "found that women tend to raise a broader range of political and social issues," ensure that marginalised sections, especially victims, of the society are listened to, and "generally have a positive effect on the negotiation climate."<sup>142</sup> This consequently "increases the likelihood of achieving a lasting peace agreement . . . and forms a good starting point for building democratic and equitable societies."<sup>143</sup>

In addition, in the experience of Norwegian mediators, conducting a dialogue with both men and women gives the mediators a "far better understanding of the situation," and a greater chance of providing peace and security.<sup>144</sup> "[W]omen . . . provide information and perspectives that men are not aware of or choose not to focus on."<sup>145</sup> Also, the involvement of women in the negotiations "increases the local population's confidence in the [peace process]."<sup>146</sup>

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140. See NORWEGIAN MINISTRY OF FOREIGN AFFAIRS, THE NORWEGIAN GOVERNMENT'S ACTION PLAN FOR THE IMPLEMENTATION OF UN SECURITY COUNCIL RESOLUTION 1325 (2000) ON WOMEN, PEACE AND SECURITY 11 (2006) available at [http://www.un.org/womenwatch/ianwge/taskforces/wps/nap/Norway\\_1325\\_Action\\_Plan\\_English.pdf](http://www.un.org/womenwatch/ianwge/taskforces/wps/nap/Norway_1325_Action_Plan_English.pdf) (exploring the measures Norway has taken to improve women's presence in national mediation and negotiation following Resolution 1325) (on file with Washington and Lee Journal of Civil Rights and Social Justice).

141. NORWEGIAN MINISTRY OF FOREIGN AFFAIRS, WOMEN, PEACE AND SECURITY: NORWAY'S STRATEGIC PLAN 2011–13 6 (2011) [hereinafter NORWAY'S STRATEGIC PLAN] available at [http://www.peacewomen.org/assets/file/NationalActionPlans/nor\\_updated\\_nap\\_2011-13.pdf](http://www.peacewomen.org/assets/file/NationalActionPlans/nor_updated_nap_2011-13.pdf). (on file with Washington and Lee Journal of Civil Rights and Social Justice).

142. *Id.*

143. *Id.*

144. *Id.* at 10.

145. *Id.*

146. NORWAY'S STRATEGIC PLAN, *supra* note 142.

## V. Conclusions

### A. Advantages of Involving Women in International Mediation Peace Processes

The large number of conflicts in the world in the last fifty years has provoked a search for factors within the mediation process that contribute to sustainable peace. In addition to the “skills, strategies and tactics of the mediator,” participation of women in mediations has come to be regarded as an important “element in the sustainability of peace agreements.”<sup>147</sup> Both the Kenyan and the Nepalese case studies are examples of the participation of women in international conflict mediations. And indeed they show, beyond theory and laboratory experiments, that women can have a profound effect in helping to resolve disputes.

There are a number of reasons why women should be involved in mediations to resolve international conflicts. Involving women increases the probability of reaching an agreement, of addressing a wide variety of concerns and issues, both short-term as well as long-term, and finally of achieving greater and more stable compliance with the settlement.

#### 1. Reaching Agreement

Women’s greater ability to work across socio-political divides<sup>148</sup> is an extremely valuable asset. In international conflicts where multiple interests and stakeholders are often present, this quality greatly helps in achieving a sustainable resolution, and may be the difference between achieving a “thick” versus “thin” peace agreement. Indeed, there is a feeling amongst activists in the field “that the potential of women to forge common ground across conflict and party lines is underestimated.”<sup>149</sup> In addition, an empirical study has shown that in the context of small claims mediation, female mediators had a significantly greater likelihood of reaching agreement than male

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147. MCGHIE & WAMAI, *supra* note 21, at 3.

148. See Kenyan and Nepalese Case Studies *supra* Part IV.A–B.

149. CTR. FOR HUMANITARIAN DIALOGUE, EXPERTS MEETING: WOMEN AT THE PEACE TABLE—ASIA PACIFIC; SUMMARY REPORT 3 (2010).

mediators.<sup>150</sup> This suggests that women are a valuable asset for attaining conflict resolution.<sup>151</sup>

### 2. *Depth of Issues*

Traditionally, the focus in most peace mediations has been to bring together people from opposing political and military groups (rebels, militia, etc.)—these are predominately men. The aim has generally been the immediate cessation of violence with little emphasis on a long-term view. As seen in the case studies, the tendency of women to draw attention to human concerns should bring longer-lasting peace in addition to the resolution of the immediate conflict at hand.

### 3. *Greater Compliance*

Women have a tendency to define motivations in interactional terms,<sup>152</sup> to prefer more equitable agreements,<sup>153</sup> and to engage in a more cooperative negotiating style.<sup>154</sup> Taken together, these effects should ensure greater compliance to a mediated agreement. Indeed, research shows that broader inclusivity in formal peace processes, especially of women, increases the credibility of the process and contributes to the sustainability of the agreements reached.<sup>155</sup> “Peace processes characterised by heavy involvement of women have been found to be more legitimate and sustainable compared to those with little or no women’s involvement.”<sup>156</sup> In the Kenya and Nepal cases, women strengthened peace accords by increasing attention to human rights concerns, and promoting reconciliation

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150. See discussion *supra* Part III.A.2.

151. See CTR. FOR HUMANITARIAN DIALOGUE, *supra* note 150, at 3 (reflecting on the contribution of women in peace processes).

152. See discussion *supra* Part III.A.1.

153. See *Id.*

154. See discussion *supra* Part III.A.6.

155. See MCGHIE & WAMAI, *supra* note 21, at 3 (exploring the benefits of female inclusion in the peace process).

156. *Id.* at 7 (citing ANTONIA POTTER, CTR. FOR HUMANITARIAN DIALOGUE, GENDER SENSITIVITY: NICETY OR NECESSITY IN PEACE PROCESS MANAGEMENT? 55–65 (2008)).

and security on the ground—often serving as important counterweights to political and military interests.<sup>157</sup>

As women are overwhelmingly affected by international armed conflicts, a peace agreement that does not take into account their interests and concerns is unrepresentative and is unlikely to last. In many conflicts, especially in the African sub-continent, where women are largely responsible for the implementation of any peace agreements, due to a large number of male violence-related deaths,<sup>158</sup> not involving women from the start is futile and a waste of precious time during which lives may continue to be devastated.

Despite all these advantages of involving women in international peace mediations, they are generally not given much of a voice. Today, most of the participation by women in peace processes takes place through more informal means, such as consultative mechanisms, representative decision-making, engagement in parallel forums with formal consultative status, and ad hoc communications with the mediators and negotiators involved.<sup>159</sup>

#### *B. Potential Challenges Due to Gender Differences in Mediation and Negotiation*

Although there are a number of advantages to involving women in international mediation peace processes, there are potentially a few challenges or drawbacks as well.

A potential challenge may occur when a negotiation is, or is perceived to be, purely distributional in its nature. In such situations, if one negotiating side is male dominated, then women's tendency towards a less competitive style,<sup>160</sup> and propensity to set less ambitious outcome goals,<sup>161</sup> could, on average, disadvantage them in a negotiation. Essentially, the attributes of women that add value in most conflicts have the potential to be abused in zero-sum negotiations. One way to overcome this situation is

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157. See discussions *supra* Part IV.A–B (providing the Nepal and Kenya case studies).

158. See MCGHIE & WAMAI, *supra* note 21, at 7 (explaining that because of the numerous male deaths, women play a prominent part in the post-conflict reconstruction).

159 See UN DEP'T OF PEACEKEEPING OPERATIONS, UN DEP'T OF FIELD SUPPORT, TEN-YEAR IMPACT STUDY ON IMPLEMENTATION OF UN SECURITY COUNCIL RESOLUTION 1325 (2000) ON WOMEN, PEACE AND SECURITY IN PEACEKEEPING 16–17 (2010) (discussing challenges women face in negotiation situations).

160. See discussion *supra* Part III.A.6.

161. See discussion *supra* Part III.A.2.

through appropriate training of women negotiators to eliminate any potential gender bias, or by ensuring that both negotiating sides include women representatives. SCR1325 provides a constructive response to the latter by giving a structured framework within which all parties in the international conflict are encouraged to include women. This paper suggests that implementation of SCR1325 should also be accompanied by formal training for women negotiators—and preferably men, too—on negotiating skills and the potential risks of gender bias. Such training would fit naturally under Section 7 of the Resolution (see Exhibit A *infra*).

A second potential challenge results from the differing approaches of men and women to agency.<sup>162</sup> Women find it easier to advocate for the interests of others rather than their own self-interests. As seen in Kenya,<sup>163</sup> when women negotiators represent the interests of the main stakeholders in a conflict, one cannot presume that they are also representing the interests of other women and women's rights. It is important to ensure that the mediation consists of people, irrespective of their own gender, who specifically represent and advocate women's issues.

### C. SCR 1325 Ten Years On

Ten years on, a study was conducted to assess the impact of SCR1325 on women and peace and security.<sup>164</sup> The study reports a mixed record on the overall contribution of SCR1325 to women's engagement in peace processes. According to the report, the Resolution has played a crucial role in increasing women's participation and representation in politics—especially where countries have introduced quotas for women, for example, in Burundi and Timor-Leste,<sup>165</sup> and has also led to legal reforms in the area of gender equality in several countries, for example, the Democratic Republic of Congo and Sierra Leone.<sup>166</sup> However, the study found that the participation of women in peacekeeping negotiations has not significantly improved, partly due to insufficient or slow implementation by countries in

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162. See discussion *supra* Part III.A.5.

163. See discussion *supra* Part IV.B.

164. See UN DEP'T OF PEACEKEEPING OPERATIONS, *supra* note 159 (examining the effects of resolution 1325 ten years after implementation).

165. See *id.* at 20 (referencing how Burundi and Timor-Leste have instilled mandatory quotas for women in the peace process).

166. See *id.* at 16, 18 (describing the gender equality results in both the Democratic Republic of Congo and Sierra Leone).



conflict despite their ratification of the Resolution. The main reason, however, has been the continuing discrimination against women as second-class citizens.

Some of the main criticisms of the relevant mediation clauses of the Resolution given in the report are:

- Mere inclusion of women to peace negotiation processes without making the necessary structural changes to the socio-political structure, i.e. advancement in women's rights, does not help establish lasting peace;
- The Security Council has not established a timeframe within which the Resolution should be implemented by member states;
- The Resolution does not specify any quotas or incentives to ensure greater representation of women;
- Nor does it establish any local monitoring or accountability mechanisms to achieve the aims and objectives of the Resolution;

So far, only privileged women have been able to make use of the participation tools offered by SCR1325. The gap between the empowerment of local women and privileged women remains striking. In order to involve more women, especially less privileged women, practical obstacles have to be removed—these women need child-care during their absence, as well as free and safe travel.<sup>167</sup>

The report finds that improved planning and co-ordination by the UN and its national partners could lead to more meaningful and lasting changes for women in conflict situations. In addition, greater involvement of the society—including men, NGOs, and the media—is needed to incorporate a gender perspective in conflict and post-conflict situations.

Therefore, although SCR1325 is a big step in the right direction, much more needs to be done to achieve women's involvement in sustainable international peace processes.

#### *D. Concluding Remarks*

All the academic literature and the case studies described above confirm the value women bring to international peace mediations. SCR1325 acknowledges, and indeed affirms that despite being the main

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167. See CTR. FOR HUMANITARIAN DIALOGUE, *supra* note 149, at 5 (discussing the unique accommodations required to promote the presence of women in negotiations).

victims of armed conflict, women can and do play an extremely important role in bringing conflicts to an end and attaining peace. It also recognizes that women's involvement in peace processes significantly contribute to the maintenance of international peace and security.

Given the value women can bring to international mediation negotiations, a framework such as SCR1325, which encourages involvement of women at all levels for the prevention, management, and resolution of conflict and supports local women's peace initiatives and indigenous processes for conflict resolution, is not a leap, but a step in the right direction.

*Appendix: Exhibit A—UN Security Council Resolution 1325 (2000)*

Adopted by the Security Council at its 4213th meeting, on October 31, 2000.

*The Security Council,*

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

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

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

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

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

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

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

*Recognizing* the urgent need to mainstream a gender perspective into peacekeeping operations, and in this regard *noting* the Windhoek

Declaration and the Namibia Plan of Action on Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations (S/2000/693),

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

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

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

1. *Urges* Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict;

2. *Encourages* the Secretary-General to implement his strategic plan of action (A/49/587) calling for an increase in the participation of women at decision-making levels in conflict resolution and peace processes;

3. *Urges* the Secretary-General to appoint more women as special representatives and envoys to pursue good offices on his behalf, and in this regard *calls on* Member States to provide candidates to the Secretary-General, for inclusion in a regularly updated centralized roster;

4. *Further urges* the Secretary-General to seek to expand the role and contribution of women in United Nations field-based operations, and especially among military observers, civilian police, human rights and humanitarian personnel;

5. *Expresses* its willingness to incorporate a gender perspective into peacekeeping operations, and *urges* the Secretary-General to ensure that, where appropriate, field operations include a gender component;

6. *Requests* the Secretary-General to provide to Member States training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in all peacekeeping and peace-building measures, *invites* Member States to incorporate these elements as well as HIV/AIDS awareness training into their national training programmes for military and civilian police personnel in preparation for deployment, and *further requests* the Secretary-General to ensure that civilian personnel of peacekeeping operations receive similar training;

7. *Urges* Member States to increase their voluntary financial, technical and logistical support for gender-sensitive training efforts, including those undertaken by relevant funds and programmes, inter alia, the United Nations Fund for Women and United Nations Children's Fund, and by the Office of the United Nations High Commissioner for Refugees and other relevant bodies;

8. *Calls on* all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia:

(a) The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction;

(b) Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements;

(c) Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary;

9. *Calls upon* all parties to armed conflict to respect fully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court;

10. *Calls on* all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict;

11. *Emphasizes* the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard *stresses* the need to exclude these crimes, where feasible from amnesty provisions;

12. *Calls upon* all parties to armed conflict to respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls, including in their design,

and recalls its resolutions 1208 (1998) of 19 November 1998 and 1296 (2000) of 19 April 2000;

13. *Encourages* all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependants;

14. *Reaffirms* its readiness, whenever measures are adopted under Article 41 of the Charter of the United Nations, to give consideration to their potential impact on the civilian population, bearing in mind the special needs of women and girls, in order to consider appropriate humanitarian exemptions;

15. *Expresses* its willingness to ensure that Security Council missions take into account gender considerations and the rights of women, including through consultation with local and international women's groups;

16. *Invites* the Secretary-General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution, and *further invites* him to submit a report to the Security Council on the results of this study and to make this available to all Member States of the United Nations;

17. *Requests* the Secretary-General, where appropriate, to include in his reporting to the Security Council progress on gender mainstreaming throughout peacekeeping missions and all other aspects relating to women and girls;

18. *Decides* to remain actively seized of the matter.