

TRANSITIONAL JUSTICE, GENDER PROGRAMMING, AND THE UNSCR 1325: AFRICAN CONTEXT AND THE CASE OF KENYA

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Abstract: The article examines the implementation of UNSCR 1325 ‘Women, Peace, and Security’ within the framework of post-colonial feminism. The author argues that in current international development co-operation, there is a need for deeper understanding of the complex, context-relevant social and political power structures and processes that prevent gender programming from enhancing gender justice. As an empirical case study the article discusses the challenges that the implementation of the UNSCR 1325 has been facing in Kenya. © 2016 UNU-WIDER. *Journal of International Development* published by John Wiley & Sons, Ltd.

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1 INTRODUCTION

Development, human security and transitional justice (TJ)¹ are intertwined in the current international development co-operation and aid agenda. Higher volumes of official development assistance (ODA) is now channelled to both fragile states and to international TJ mechanisms, programmes and activities. These programmes are especially extensive in Africa, where many current conflicts and transitional struggles are still taking place. The development assistance for TJ includes special mechanisms and procedures that on the one hand aim to deal with past grievances (such as Truth Commissions or Special Courts, including the International Criminal Court), and on the other hand are meant to enhance better governance and more impartial distributive mechanisms in order to prevent future

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¹Transitional justice is a multifaceted and often paradoxical concept. In this article I am using it to refer to the processes, instruments, and programmes that are used to help a society to transit from ‘conflict’ to ‘peace and stability’, or from ‘chaos and anarchy’ towards ‘working, participatory democracy’.

conflicts (such as the various international declarations and resolutions). Gender justice is usually mentioned as a special aspect of the TJ processes, and various international resolutions have been drafted to promote women's rights and equal treatment. Traditionally the main focus of gender justice particularly in conflict prone countries has been on women's vulnerabilities and victimization in war and aggressive conflict. Transitional justice mechanisms, however, have emphasized the need to involve women more equally in peace-building, and post-conflict reconstruction. Currently, the scope of focus is further expanded to take into account the overall challenges that women face in their efforts to gain more equal access to political participation and resources. The United Nations (UN) Security Council Resolution 1325 'Women, Peace, and Security' (hereafter referred as SCR 1325) is one of the core international efforts to bring about more profound gender justice across the world. However, social, economic, political and cultural contexts make a difference how this resolution can be implemented and what kind of action plan is needed to make it to have real impact and contribute to positive and holistic transformation of the society. In this article I will take Kenya as my case study because it illustrates well the many obstacles that SCR 1325 faces particularly in Africa. It also shows how the top down approach can leave the implementation of the SCR 1325 remain as a parallel process to other on-going reforms; and how gender justice processes in general are easily set aside in front of all other 'more urgent' political and social priorities. Kenyan case illustrates well what challenges local ethnic, communal and other sub-national loyalties bring to women's empowerment and gender justice in societies that are going through various (often internationally led) institutional reforms but resist cultural and social transformations.²

2 GENDER JUSTICE IN THE THEORETICAL FRAMEWORK OF POST-COLONIAL FEMINISM

This article draws its theoretical framework from the third world, post-colonial and African feminisms. They all criticize liberal and individualistic Western ideologies (political liberalism as well as liberal feminism) for ignoring the multiplicity of challenges that women face in many traditionally non-liberal (non-Western) societies. In many places in Africa or Asia women have to struggle against multiple oppressions at once, i.e. those related to one's gender, class, caste, ethnicity, race, religion and even one's position/role in struggles for national sovereignty and nationhood against colonialism, and more recently neo-colonialism.³ This multi-faceted nature of the women's efforts to reach gender justice calls for complex and multi-faceted action that can deal with all the different types of injustices, which many women face in more traditional and conflict-prone societies. Post-colonial feminist accounts of women's struggles in many parts of the world show that merely setting up processes and institutions of democracy (such as representative assemblies, elections, courts, etc.), and increasing women's numbers in these, are not enough to help conflict and post-conflict societies to move towards genuinely participatory, *liberal democracy* that appears to be the goal of global development agenda (Duffield, 2005: 16–24). Merely setting up institutions of democracy, such as elections and

²This article is based on my earlier work on transitional justice and post-conflict reconstruction for the UNU/WIDER. This article is based on the research I did for *WIDER Working Paper No. 2013/137* The Ideal of gender justice and the UNSCR 1325, Two case studies: Kenya and the Democratic Republic of Congo, December 2013.

³The main arguments of the third world feminism/post-colonial are presented in Mohanty *et al.* (1991) and Saunders (2002). Arndt (2002) gives a good analysis on the African feminist/womanist discourses.

representative assemblies, does not guarantee any commitment to democratic values such as impartiality, social justice and equal rights.

If there is no clear agreement on the final goal of the cooperation between the governments in partnership, it is unlikely that there is a commitment to the same values to be realized. While on the policy papers there might be a mutual agreement on the underlying principles and shared goals, in many cases of cooperation, the Northern and Southern partners (for example) have very different interpretations of these in practice. The core problem is that for the Northern partners the ideal end-state of development co-operation is normative social contract model of political liberalism, while for their cooperation partners the ideal end-state might be a very different model of political order that uses democratic institutions to promote a dissimilar set of values and practices; even authoritarian and suppressive forms of governance styles. The North's promotion of *political liberalism* is committed to realizing equal individual rights and freedom with impartial democratic processes as theoretically comprehensively presented in its various forms of contractarian theory from Thomas Hobbes and John Locke to John Rawls. Especially Rawls (1971, 1993) *political* theory of liberal concept of justice is often seen to be the basis for European style of welfare focused individualistic liberal democracy that aims to guarantee equal rights and opportunities to all citizens within a state.

The point that post-colonial feminist approaches make is that because the Northern, and Western, feminists and women's rights activists have themselves had to struggle for their rights within individualistic political system, they tend to see the whole world through the lenses of liberalism. In other words, women—and women's rights activists at large—in the North have adopted the assumed universalism of liberal political agenda. They also assume that the decisions they make are morally and politically autonomous even if all our actions are always embedded to our social and cultural context. This means that they often do not question whether liberal democracy is the best model for development everywhere across the world. This makes the Northern partners interpret women's situation in different parts of the world in a simplistic manner, and the cooperation programmes will be planned accordingly.

The partners in the North are often presuming the cultural embeddedness of the women in the global South, and their 'obedience' to the tradition and the existing social order. Women in the South, however, in most cases are very aware of the suppressing factors of their circumstances. They also identify with their multi-layered communal identities, roles and related obligations. Liberation from these ties may not be seen always as preferable, and in many cases it is also recognized to be impossible. Thus, instead of trying to simulate all women to fit one ideal model, and instead of trying to turn the whole world to adopt the same political model, it is better to accept the differences between cultures, and interests of politicians in different contexts. We also should not deceive ourselves that having more women in formal places of representation somehow automatically changes the patriarchal and communally based structures and hierarchies of these institutions and promote autonomous individualistic thinking that liberal democracy is based on. If overall cultural contexts are not taken seriously into account when planning for new programmes and reforms aiming towards gender equality, there is a danger that gender focused targets and efforts to promote women's rights face a double jeopardy. First, gender equality and women's empowerment programmes often remain as 'parallel programmes' of secondary political importance. All other reform programmes take a priority, and women's rights are left to wait for more convenient times in transitional processes. Second, even if the processes for democratic transition are set up, the existing cultural structures and social

hierarchies—as well as religious/ethnic fractions—remain on the ground, and structural injustice will continue (see also Hellsten, 2013).

This article argues then that while the gender specific processes and aid instruments have indeed brought important attention to women's plight in conflict and transitional situations, these efforts need to better take into account the deeply rooted structural injustices that prevent the realization of broader social justice that includes gender justice as its internal element and goal. While the transitional society may not turn into liberal democracy overnight—if it will ever—in its current value framework gender equality can still be a central goal. In planning and implementing gender focused programmes, such as the SCR 1325, more attention should then be paid to all social categorizations and power relations that define both men's and women's identities in particular societies and political contexts at the particular times of transition.

3 TRANSITIONAL JUSTICE AND AID

Post-colonial feminist argumentation reminds the global North to be better aware that the (liberal) concepts it presents as universal and/or global ideal is merely a one normative framework among many other cultural ideals for political values. When it comes to the impartiality of transitional justice mechanisms, this is important to acknowledge. During the recent years, more and more funds and other type of support have been channelled to TJ processes and mechanisms in various parts of the world. Much of the funds are channelled through wider support to multi-lateral actors and international institutions, such as the UN systems and the International Criminal Court (ICC). Similarly, large part of TJ support goes either in parallel with or through wider development programmes under the recent development-security-governance nexus (de Greiff & Duthie, 2009: 43–64; Duffield, 2005: 16–24; Hellsten, 2012, 2013; Pham & Vinck, 2007; World Bank, 2011). Nevertheless, the ambiguity of the concept of TJ as well as the *ad hoc* nature of the support for TJ mechanisms leaves room for criticism and misinterpretations. First, it is particularly difficult to convince the global South that external support for TJ is impartial and non-political, when the concept itself is ideologically tied with political and economic liberalization, i.e. economic and political transition *towards liberal democracy*. Consequently, the external financial support for TJ has, for the most part, been used to build institutions (representative bodies, courts/the order of law, etc.) and structures (special justice processes, truth commissions, elections, etc.) that are typical for the Northern historical and current conceptualization of political liberalism (see de Greiff & Duthie, 2009; 2005; Hellsten, 2012, 2013; Teitel, 2003). In other words, TJ processes, per se, are based on a *social and political ideal* that is to be achieved through them. To a much lesser extent they deal with the local root causes of the existing, concrete injustices that have caused the original conflicts.

In development co-operation, the Northern partners tend to focus on the ideal end-state that they wish will be realized in the (near) future. At the same time, the recipient countries struggle with complex conflicts and historical injustices, and different parties of the conflict in question have their own interests and goals. Thus, the *mutual consent on shared values and objectives* is only partial, frequently yielding a subsequent *lack of political will* on the part of domestic authorities to carry out agreed objectives. Until recently, many African governments were willing to appear to agree with the joint ideals for development in order to maintain the goodwill of the international community. However, this position is rapidly changing with the new partnerships with Brazil, Russia, India, China and South

Africa (BRICS), and expanding South–South and South–East collaboration. These collaborations have less normative conditions related to ‘deepening democracy’, ‘good governance’, ‘respect for human rights’ or ‘strife for equality’ (gender parity or wider social equity). In the context of a changing world order in global political-economy, the governments particularly in Africa are more openly adapting to models of governance that are alternatives to the Western ideal of liberal democracy. The recent African Union (AU) initiatives against the ICC shows clearly that many African leaders are ready to take bold steps to withdraw themselves from those TJ mechanisms they feel are threatening their power or traditional social order and hierarchy. This is rationalized by claiming the idea of TJ to be imperialist plot of the North that targets Africans. (*Daily Nation*, 2013; *New African*, 2012; Hellsten, 2013).

If the profound values of the development partners working on joint programming do not meet, the results will not be as wished for. In the North certain institutional processes, such as elections as representative institutions are seen as preconditions for pluralistic political liberalism that are needed in order to guarantee quality (including gender justice), individual rights and freedom. Without political commitment to these values, the same processes can be used in a manner that formally legitimizes even authoritarian and suppressive forms of governance and existing structures rather than trying to reform them. Instead of bringing real choices, in conflict prone societies elections can bring fear and violence. Rigging of the elections, political manipulation of ethnic loyalties, using of public resources for individual campaigning, controlling the state security agents to suffocate the opposition and media voices have already become casual practices in many conflict and post-conflict societies. In this very complex situation, despite the formal rhetoric on gender equality, promotion of women’s rights is often also continuously side-lined and directly violated and suppressed in the name of tradition, culture, state sovereignty or any other ethnic, religious and communal loyalties. Gender justice can be denied as forms of yet another ‘external imposition’, i.e., as a Trojan horse with the help of which the Northern partners plant the seeds of unwanted, and ‘un-African’ ‘political liberalism’ and ‘gender equality’.

4 SCR 1325: WOMEN, PEACE AND SECURITY VERSUS GENDER JUSTICE

Post-colonial feminism has pointed out that while in general women have often been active in taking national liberation and transitional efforts forward, they are often still not accepted as equal partners on the negotiation table where the principles of new political order are decided. Again, in the liberal, contractarian terms, women are not given the autonomy required from the makers of the social contract. The decisions remain to be made by men, who in most cases are also the perpetrators of the original conflicts. In the Northern African (Egypt, Libya, Morocco and Tunisia) and Middle East (Syria, Yemen, Iraq and Jordan) uprisings, women were protesting alongside with men for better governance and against corruption. However, once the formal change in leadership is achieved, women were in most cases expected to return to their ‘normal’ and ‘natural’ roles. Even if women have often been at the forefront during the transitional demands, they have largely kept quiet about the agenda for gender rights in countries where there is rampant gender injustice. Women have learned to play it safe and not display strong intentions of advancing gender equality in order not to lose even these the potential minor gains that they may achieve as a result of political change. Sometimes the result is the opposite and women will ‘loose the peace’ even more radically, if the radical patriarchal forces take

over.⁴ Because of deeply rooted structural injustices that women have to deal with in transitional and/or conflict prone societies, they have to play their cards well in order to maintain the delicate balance of peace (see Cutrufelli, 1983; Lewis, 2008; Mohanty, Russo, & Toures, 1991: 1–47; Maathai, 2009; Saunders, 2002: 1–37). Thus, instead of gaining influence women are expected to sacrifice their quest for freedom and empowerment. In order to find a delicate balance between the conflicting patriarchal communal hierarchies and social structures, women are expected to give up their gender based demands.

Recently complexities between national or intra-national liberation movements and feminist agendas seem to be even more in conflict with each other. The political changes we have seen recently have brought in power forms of governance that are restricting rather than widening women's participation. In these circumstance programmes with gender focus may push women to choose between 'the agenda for women's rights and reforms' and social stability to start with. In other words, if promoting gender justice might tip the delicate social balance for peace, it is set aside—again to wait for 'better time'.

The implementation of SCR 1325 also aims to build a society which respect equal rights and responsibilities of men and women. It clearly provides a normative contractarian framework that calls for women's equal participation not only in mediation of conflicts and peace-building, but in public decision-making in general.⁵

In many countries SCR 1325 indeed have had a wide impact on related legislations, regulations, policies and practices in various countries. In the global North, particularly in the European Union (EU), as well as in the UN programmes and missions, the number of women in security sector has also increased (police, military personnel, and peace keeping). As the recent Global Study on Implementation of the SCR 1325 shows, the results outside Europe have been less impressive as expected. The implementation processes have been very slow because of the lack of political will and interests (UNWOMEN, 2015). Rather ironically then, SCR 1325 works well in societies and political systems where gender equality has been strongly promoted historically and is already well adopted. Places where there is no tradition for the (liberal) values of equal rights, participation and individual autonomy, it is not as successful.

5 THE FUNDING FOR THE SCR 1325

The trend has also been that many European countries that already have relatively good gender equality, now promote the SCR 1325 'externally' elsewhere. At the same time African and Asian countries have focused on its 'internal' implementation (see Banerjee *et al.*, 2010; EU, 2008; Popovic, 2010; UNWOMEN, 2015).⁶ The external promotion is

⁴On behalf of the Egyptian women who were interviewed after the uprising Hala Kamal, an assistant professor at Cairo University and a member of the Women in Memory Forum said: 'We did not speak of our gender rights during these protests because it was not right time. We spoke for the political and social rights of all Egyptians. If we were to campaign for our rights as women in parallel with the revolution's national goal, that would have been called political opportunism' Atassi (2011). For the wider discussion see also Hellsten, 2012. On post-colonial feminism see Cutrufelli (1983: 155–79) and Gilliam (1991: 215–236).

⁵In NAPs, SCR 1325 is often tied together with implementation of other related Security Council resolutions, such as SCR 1820 (2008) on ending sexual violence and impunity as well as SCR 1888 (2009) that focuses on strengthening leadership. See the resolution at http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1325%282000%29.

⁶This article focuses only to the North South relationship in the implementation of SCR 1325 as this has been the most common form of international cooperation in the efforts to implement the resolution.

done via aid instruments, from direct financial bi-lateral aid to support given to NGOs and other non-state actors. Support is given to wider gender programmes as well as to more specific targeted projects and cross-learning or ‘twinning processes’. The instruments vary widely between the different actors, depending on the resources available, the motives and interests of the partners and on the overall political situation of both of the partnering countries (see, for example, Banerjee *et al.*, 2010; EU, 2008; Hellsten, 2013; Murungi, 2011; Shaw, 2010; UN, 2010).

UN agencies have been active in facilitating funding, initiating and supporting projects and programmes that implement the resolution in developing and conflict prone countries. However, as for the actual implementation of SCR 1325, particularly at a national level, the main responsibility lies in the hands of national governments. With the Paris Declaration and call for alignment with the national systems financial support has shifted towards governmental programming from the NGOs. This shift was meant to strengthen the nation state’s possibility to fulfil its duties to its citizens and increase governments’ ownership in the programmes (Popovic, 2010; Cabrera-Balleza & Popovic, 2011). Simultaneously the Northern partners are directing their support through the UN agencies who work with the local partners in different sectors. This overall direction, despite its good intentions, may in the longer run weaken civil society organizations (CSOs). These organization, however, tend to have more commitment to a transition towards gender justice than many government agencies. (see GNWP, 2014a; Hellsten, 2013; Popovic, 2010; Cabrera-Balleza & Popovic, 2011: 31–32).

In Europe, the implementation of the NAPs gets funding from various parts of the state budget as it is a part of the overall public sector performance. Some additional funding may be used particularly in the security sector project and collaboration with the conflict prone countries via ODA.⁷ As in any other development co-operation programme, in the implementation of SCR 1325, the balance between donor objectives and ownership by the recipient country is delicate. Local ownership as well as transparent and participatory funding approaches is needed for the recipient country to effectively develop and implement its programmes. At the same time, it is also important to ensure that the provision of funding leads to autonomy and not further dependency of a state. The challenge for producing tangible results in Africa in the implementation of SCR 1325 is that while external assistance helps to get the process going, it often reclines once the national action plan (NAP) has been prepared. The ownership is transferred to the partner country’s government, which is expected to budget funds to the realization of the action plan. If the government of the partner country does not prioritize gender equality, the process then almost immediately stalls or is, yet again, set to wait for ‘better timing’.

Many Northern countries—as a part of the implementation of their own NAPs—provide support to developing countries to engage more actively in domesticating SCR 1325. It is not based only on financial support to the governments or CSOs of the partner countries, but includes also earlier mentioned twinning processes. This means identifying country-to-country partnerships, such as between Liberia and Timor Leste with Ireland; and most

⁷It is not possible to get detailed statistics on the overall development funding for the SCR 1325 as its objectives are funded from various sources and through different programmes and instruments. Often the funding is linked to processes, programmes and projects that might have taken place before the SCR 1325, which related to wider security and justice sector reforms as well as gender programming. The reports on the costing mentioned earlier also take only random examples of different countries, but there is not available any comprehensive and consistent study that maps the funding for the SCR 1325 implementation in all the countries who have launched or are working on their NAPs (Popovic, 2010).

recently between Kenya and Finland. The twinning strategy entails exchange of experiences, lessons learned, and strategies during the action planning processes in the partnering countries. It is this twinning between Kenya and Finland that I will discuss more in detail next as it presents an interesting case study of the implementation of SCR 1325 via 'donor initiative'.⁸

6 SCR 1325 IN KENYA

Kenya is a heterogeneous and multi-ethnic country, which has succeeded, since its independence in 1963, to remain reasonably stable despite the wide spread political and economic turmoil in the region of Eastern and Horn of Africa. However, conflicts based on ethnic inclusion/exclusion and 'tyranny' of numbers have continued since independence (1963) with occasional blow outs and violent clashes. In Kenya, like in many other places, sexual violence and rape have been used as weapons in ethnic aggressions; also before and after the most violent periods. Additionally, the cultural context is chauvinistic, and many traditions continue to suppress women and prevent gender equality even during the non-violent periods. The manipulation of ethnicity for political purposes, and the targeting of women both through oppressive traditions as well as the use of sexual violence are still evident (HRW Human Rights Watch, 2008; KNCHR, 2008; Murungi, 2011). After the disputed 2007 general elections Kenya went through a violent experience of post electoral chaos that led to the loss of over thousand lives, displacement of more than half a million people and destruction of property and infrastructure, worth of millions of dollars (see KNCHR, 2008). In Kenya, as in many other African countries, emerging conflicts have their roots in injustices of the past. The colonial rule that used 'divide and rule strategy', and later left the post-colonial states to struggle in building 'nations' within arbitrarily contrived borders that failed to properly deal with the region's ethnic diversity cultivated deep seated ethnically based mistrust and inequalities. As reports by the Human Rights Watch (HRW) (2008) and the Kenya National Commission on Human Rights (KNCHR) (2008) on Kenyan post-2007 election violence have shown, for cultural and individual self-preservation, people learnt to support their own and distrust the others. In other words, these tensions and clashes are result of long-term structural injustices related to greed and grievances of the ethnic leaders and the peoples, as well as those of the former colonial powers. (see also Hellsten, 2008, 2013; and Murungi, 2011). In August 2010 new Constitution that promised to decentralize some political powers was finally passed. While the women's organizations were active in promoting gender equality in the new constitution, in this context again they were forced to make many compromises. Implementation of SCR 1325 was not directly even a part of the main discussions and debates. 2013 elections were more peaceful although the result and the elected government's further actions have divided the country ethnically maybe even more deeply and the tensions remain and the conflicts in various parts of the country continue. In the recent years, Kenya has also experienced an increase in terrorist attacks

⁸Twinning generally involves partnerships between resource-rich countries and resource-poor countries and can involve the development of NAPs on very different bases. Finland's own NAP was created to provide services to countries coming out of conflict. The situation in Finland and Kenya is very different politically, economically and culturally making the understanding of the partner's interests difficult. See on twinning: http://www.realizingrights.org/pdf/Working_Paper_on_NAPs_Twinning_and_Regional_Action_Plans_Final.pdf and on the implementation http://www.un.org/en/peacekeeping/documents/10year_impact_study_1325.pdf

and recruitment of the youth to extremist organizations. The conflict and increasing insecurity in Kenya has been fuelled by a spillover of violence from Somalia, where Kenyan Defense Forces were ordered by the government to fight Islamist insurgents since October 2011 (GNWP, 2014b).

Before the formal process of the implementation SCR 1325 was launched, the resolution had been lobbied for by local human rights and other women's empowerment organizations, such as Kenya Human Rights Commission, as well as well-known activists in the field. It however was never taken forward by the government, never gained wide national support or political interests. The formal process started soon after the 2007 post-election violence when the implementation of the resolution and twinning process with Finland was brought up at the highest political level of the two countries. Then President of Finland Tarja Halonen and then Vice President of the Kenyan Grand Coalition Government Kalonzo Musioka agreed in June 2009 that twinning on SCR 1325 between these countries could be taken forward. Kenya's interest was maybe international 'face-lift' more than actual commitment to gender justice. This, originally very much top-down approach, was worked on civil service level and gradually the process was sold to the relevant governments and state functionaries with the promise of financial support. This case illustrates what particular challenges the donor-led, top-town initiative and approach creates to the SCR partnering and implementation.

After the initiative was launched the stakeholders groups were created in order to have multiple actor presence. While non-state actors were keen on taking the process forward in order to improve gender equality, the Kenyan government's interest was more political. This initiative could offer a chance to improve the tarnished image of the country's leadership after the post-election violence (see, for example, Banerjee *et al.*, 2010; Hellsten, 2013; Murungi, 2011).

In Kenya, the state and grassroots' awareness of the SCR 1325 was very low to start with, and a lot of work had to be done in order to give content to the resolution in order to change it from mere numbers to have relevance to citizens'—and particularly women's—everyday life. Despite these efforts, the awareness or implementation of the resolution was not comprehensively localized at the grassroots. There were several Kenyan human and women's rights organizations which were interested and committed to take gender equality forward. However, this process remained sidelined with all the other ongoing reform processes (wider justice and security sector reform, constitutional reform, public sector reform, etc.). Instead of being able to use gender mainstreaming as a guiding value, gender equality became an additional element to these reform processes, and creating the KNAP became a process parallel with the wider reform agenda in the country. Even in the constitution making process that offered opportunities to promote better gender justice were in the end compromised to other political, ethnic and religious interest. Small steps forward were made, but again women had to sacrifice comprehensive gains in women's rights in the name of the wider mediation and stabilization processes of the divided society (Hellsten, 2013).

The international community had been funding since 2004 a wider gender focused programme Gender and Governance (GGP). As the GGP was administrated earlier by UNIFEM, (rebranded as UNWOMEN), it was not always clear whether the programme had Kenyan, UN and development partners' agenda. Even its work planning process was often heavily guided by the funding donor group despite the fact that the original implementing partners of the programme were NGO/CSOs with limited links with the government. Despite further planning, the programme remained managed by UNIFEM

and was often identified as a UNIFEM project rather than Kenya's own project. Linkages to the government institutions mandated to promote gender equality were weak and did not include any aspects of decision making for a long time, until more contacts were established with the former Ministry of Gender, Sports, Culture and Social Services, which itself was sidelined in the Kenyan decision-making and policy planning. Currently the GGP is winding down, and the external support to the SCR 1325 has become part of the wider support to the UN Country Office and now UNWOMEN's country strategy (see Banerjee *et al.*, 2010; Hellsten, 2013; UNWOMEN, 2012). Finland does no longer continue to fund the implementation of the SCR 1325 in a twinning format. Neither are the other development partners directly funding the implementation of KNAP but rather via UNWOMEN country programming.

The finalization of KNAP has been taking for a long time because of the governance, constitutional, structural transitions, as well as the challenges in implementation of the new constitution. Political turbulence around the ICC cases, in which both the president and the vice president were on trial accused of instigating 2007 post-election violence, the Kenyan Parliament's vote to withdraw from the Rome Statute and the AUs supporting attempts to defer and/or block the ICC trials, have been diverting the attention and energies elsewhere and increasing the unpopularity of any TJ measures. Kenya's gradual pull away from its Western development partners towards closer ties with the BRICS and its leaning to its African partners collaboration altogether takes Kenya further away from realizing transitional concept of justice which it sees patronizing and partial. This attitude is reflected in President Uhuru Kenyatta's speeches at the AU (12 October 2013) against the ICC (and its 'patrons' the UK and the US), and on the national Mashujaa Day (20 October 2013) for the support of Kenyans against foreign influences, which he accused of seeking to dominate and manipulate the country.⁹

These developments have not increased the government's interest in implementation of SCR 1325 any time soon, despite the fact that Kenya is actively attending to the conflicts in the region—not only in Somalia but also in the DRC. In these negotiations the gender issues are kept in the minimum at an official level. In Kenya NGOs have continued to be active in involving women in peace and conflict work. Less interest is paid in SCR 1325 maybe also because the international community has been less vocal in lobbying or funding their own initiative. The gender sector development partners appeared to be waiting the government to take the initial next steps, and do not use their funds to make this happen. The KNAP was finally completed in 2012. However, following the 2013 elections, the attempts to align it to the new government priorities and structures (because of the devolution of powers) have been stalling. The KNAP was to be adopted and launched by the Ministry of Interior and Coordination of National Government and Ministry of Developing and Planning during 2015, but the process appears to have further delays. The campaigning for the next elections of 2017 has already started, and SCR 1325 is left on the backburner again. Small wins have been achieved, and more training for the women in the security sector has been provided, and several seminars conferences held—but the 'reform level' results are still left waiting. The implementation of SCR 1325 and

⁹*Daily Nation* (2013) at <http://mobile.nation.co.ke/News/Uhuru-Kenyans-told-to-guard-against-colonialism/-/1950946/2040134/-/format/xhtml/-/g4rcbvz/-/index.html> and *New Vision* (2013) <http://www.newvision.co.ug/news/648328-uhuru-blasts-us-uk-in-his-au-speech--full-speech-below.html>. Otherwise Kenya's own mechanism have been working more effectively. For example Kenya's Truth, Justice and Reconciliation Commission (TJRC) for example, held 39 separate hearings for women across the country, women's peace committees have also been active. See GNWP 2014b and UNWOMEN 2015.

adoption of the KNAP in Kenya have been slow at the national and country levels. Despite the NGO activism overall very little has changed in terms of women's formal engagement in peace processes, and protection from sexual and gender-based violence during and after conflicts, or in women's engagement in post-conflict recovery in Kenya. The momentum seems never to be there as all other 'more important' issues take priority and the lack of political will continues to be one of the main problems in the SCR 1325 implementation. While Kenya is certainly not one of the worst conflict countries, its tendency to ethnic competition and conflict shows well the underlying tensions based on structural injustices that always have to be dealt with before gender justice.

Kenyan case is not the only one that has seen the process to stall and be sidelined. The Global Network of Women Peacebuilders annual reports as well as the Global Study on the Implementation of the SCR 1325 all have concluded the same in various African and Asian countries. Lack of resources and lack of political will have been stated as the major obstacles in improving gender justice through SCR 1325 implementation across the globe, but particularly in developing countries (see GNWP 2014a and 2014b; UNWOMEN, 2015).

7 WHY THE IDEAL OF POLITICAL LIBERALISM FAILS WOMEN IN AFRICA?

The contractarian ideal—as abstract and theoretical as it may be—captures well the core ethical assumption of *liberal political order*. The ideal of autonomous and fully rational decision makers—as in theories of Hobbes, Locke and Rawls—who from equal basis choose the principles of justice under which they can organize their society and its governance structure is clearly an abstraction—but it is also a distraction from reality. In practice, the issues of gender justice have often increased competition between women and men for the top positions. Even in global North women have to still struggle to show that they indeed are as independent, rational and reasonable as their male counterparts; that they make their decisions based on their rational self-interest and for their individual benefit. The post-colonial feminism argues along the communitarian lines, that this approach—both in theory and in development practice—simplifies the complex and uneven social relations and hierarchies of power. It also disregards ethnic and other communal loyalties, obligations and pressures that both men and women face in building nations, political structures, and systems of governance (Hellsten, 2008, 2009; Mohanty *et al.*, 1991).

It is important to see that neither men or women are not fully autonomous agents and cannot expected to be so, as we all are embedded in our social contexts and social duties, whether we were born in Africa or in Europe. If women's—as well as men's—identities are defined by using gender as the only, or at least, the major criteria for inclusion and exclusion, the causes of conflict and inequalities, that is, the intricacies of the underlying social hierarchies and communal loyalties, are radically ignored.¹⁰

In transitional societies women are often made to choose between defending their nation's sovereignty against external (or internal) enemies, and increasing gender justice. Moghadam (1994) argues that in its earlier days nationalist struggles and women's

¹⁰For detailed critique and practical examples, see Mohanty *et al.* (1991); and Saunders (2002); see also Aoláin *et al.* (2011).

emancipation were working hand in hand, but today feminists and nationalist view each other with suspicion and hostility. Earlier nationalism, later neo-nationalism and currently most often more narrowly, ethnic communitarianism, are not progressive forces for change towards better political order and social justice. Rather these tendencies tend to nullify the achieved advances in gender equality. Today's (neo-) nationalism tends to be retrogressive, conflict ridden and destructive phenomenon in which various national groups and ethnic communities are pitted against each other. In addition, the national project increasingly assigns to women the responsibility for the reproduction of the group—through family attachments, domesticity and maternal roles (Moghadam, 1994: 3–5; see also Hellsten, 2013). The result is that that in conflict situations gender bias becomes extreme, when society is 're-patriarchalized'. Particularly nationalist and ethnic conflicts are related often to supremacist ideology and supposed 'normal' hierarchies in human nature that tend to enforce patriarchy.

As Patricia Albanese (2001) asserts, nationalistic, tribally or otherwise ethnically based ideologies lead also to women's categorization: women are not only the weaker sex but they also have natural roles as the biological producers of the ethnic heritage and continuity of the nation or ethnic community. Domestic sphere and ethnic loyalties become the prime way of preserving cultural traditions that are perceived to be threatened in times of ethnic competition and conflict. Simultaneously, the structures of either aggression or resistance are militarized in attempts to revive traditional, authoritarian and patriarchal social forms and relations. Women are expected to represent their ethnic communities—and to be loyal to the interest of the leaders of these communities in political deals (Albanese, 2001: 45–147, see also Hellsten, 2013).

Thus, women are the targets and victims of gender-based violence not only because they are women, but also because they are female members of a certain ethnic group. Thus, in ethnically fragmented societies tend to have a rivalry over ethnic supremacy. In order to protect themselves and their families, it is difficult for women to form consistent and comprehensive solidarity. While we can find positive examples of women working across the ethnic lines in order to overcome conflicts and violence, majority of the women cannot join these efforts in fear of retaliation or in hope of a reward. Similarly even women in political positions often have to represent first and foremost their political party which often is one way or another ethnically affiliated. Second, they openly have to represent ethnic community they come from. For example, in Kenya, during and after the 2007 elections violence, there are particularly NGOs which work for ethnic unity in order to mediate ethnic hostilities and to prevent further conflicts between different communities. However, at the political institutions, including the rather ethnically based political parties, the hostility between women from different ethnic groups was very concrete. Women were not expected to defend the rights of women as a group across the ethnic borders but rather to defend their own communities and fight for (the inclusion of) their communities (see also Hellsten, 2013).

As post-colonial feminism has noted, despite women's shared burden, there is no automatic sisterhood or female solidarity across the globe—or even within a nation. Thus, understanding the context in which gender programmes and processes are taking place becomes more central than holding on the universal principles. While the NGOs may have more solidarity, women working for political parties and government bodies may focus more on securing their positions—and can be less willing to take forward any issues, including women's rights, that might jeopardize their personal benefits or the status quo of the system (Hellsten, 2008, 2009, 2012, 2013).

The formal TJ mechanisms, particularly, when set to different cultural settings may have unintended consequences. They processes may cover the persistent structural injustices by giving a false picture of obtained equality through mere numbers (women in decision making, sexual violence cases in the court, and convictions of perpetrators, etc.) (Aoláin, Haynes, & Cahn, 2011: 153–74; Greenberg & Zuckerman, 2009: 101–33; Hellsten, 2013; Scanlon & Muddell, 2009: 9–29; see also UNWOMEN, 2011).

In reference to our case study, while the work on SCR 1325 in Kenya has indeed increased awareness of international efforts to improve women's position, it has not succeeded to change the traditional hierarchies in the country. It is also not evident that gains women have made in reaching decision-making position is because of the resolution, or because of the women's organizations hard grass-root work on empowering themselves for very long time by now.

8 CONCLUSION

Democracy promotion together with gender justice is a complex issue, and sometimes people from different cultural contexts fail to understand the specific challenges faced in women's struggle for more equal society. Women's position in a society reflects the general value framework of that society; its commitment to social equality, participation, human rights. In order to promote international gender initiatives such as SCR 1325, there is a need to take into account the post-colonial/third world feminist critique seriously that emphasizes the complex and multi-layered nature of the struggles of women in developing, conflict-ridden, traditionally patriarchal societies. For gender initiatives to work, the programme design needs a full ownership of women of these countries, and particularly those working in the grass-root organizations. They will know how to set gender justice into the wider reform agenda in a manner that keeps the balance. National political support is needed, but if the process starts from top down, it is unlikely to have significant priority unless sizeable funding is promised. Women working in at the grassroots also know best how to deal with the various structural injustices and build in women's empowerment when dealing with these. The final social and political arrangements may not be 'liberal democracy', but nevertheless women's needs and rights might be better taken into account in the new governance arrangements if full system change is not pushed at once.

Similarly twinning processes should be jointly planned from the beginning and the twinning should focus on the actual needs and realities of the partners in the South. The process should be based on realistic timelines and detailed action plans with sufficient funding commitments—to both the relevant government institutions as well as to the NGOs and/or Community Based Organizations (CBOs). While bi-lateral aid often goes through the government and national public finance management, it is important to acknowledge that the cooperating governments may not always have the same priorities leave alone the same value goals. Thus, particularly the implementation of gender programmes often work more efficiently with organizations who operate also at the grassroots and can continue lobbying government on behalf of the citizens who are most vulnerable. The demand for gender equality to the governments in power has to come from the people and has to have a strong support, it cannot remain a project initiated and driven externally by development partners; until development partners themselves also may set it aside in the name of other priorities.

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