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agreement to develop a comprehensive human rights framework throughout the peace process, this acknowledgement of the significance of gender concerns within the ongoing process has made it possible for women's rights organizations to focus on the above issues. Attempts to consolidate the gains accomplished by women at great personal and social cost during the conflict, and the creation of structures for the official and legal recognition of the public roles occupied by women—both aspects that give women some degree of autonomy and independence—must become the major focus of this activity.

In a situation where "normalcy" has meant subordination, exposure to violence, and denial of autonomy and dignity, understanding the dilemmas encountered by many women who are contemplating a return to genuine "normalcy" as a part of the peace process is essential. Those who are active in the peace process at any level must address these concerns. They must ensure that, rather than being further pushed into their victimhood and rather than becoming mere objects worthy of "care" and "protection" by men and the patriarchal state, women who have overcome the "cavalry" of life during conflict with courage and determination have thereby been empowered to continue living their lives in dignity and respect. Much work remains to be done in areas of social and cultural transformation, as part of the process of conflict-transformation and peace building, if the rights of women are to be recognized and respected in the post-conflict era in Sri Lanka.

## Improving the Status of Women in the Wake of War: Overcoming Structural Obstacles

JULIE MERTUS\*

*The first day the NATO planes began to bomb was on the 24th of March, a Wednesday. Our villages were surrounded with military and Serbian police. On Thursday, the houses began to burn [in the village "Krisha e Vogel"]. We who were on the other side of the River Drini saw what was happening. There was smoke and flames, rising and spreading.*

*That same morning a family came down our road on a tractor. They were from that village on fire. They did not have the words to explain how they escaped. All they could say is a policeman came and told them to go across the river and get out of the village. They were shaken and scared. I took them into my family's home and I was scared about what was happening.*

*On Friday morning, the houses were still burning. From the front door of my mother's house I could see a lot of people leaving the village and heading toward the river. People in my village were scared to do anything. I told my mother that I must go help. She pled with me to stay, but I insisted. My brother got our tractor and went with me.*

*When we got down to the river, we saw that they were all women and children—some very small children, some babies. They were crying, shouting. At the moment we got closer, everyone began to scream, "please help us, please help us." They told us that for two days and two nights, forces had surrounded their village. During this time, the people didn't have food, didn't have water, and their houses were burning. The*

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police separated the women and children from their men. They threw them out of their homes. The police directed the women to take their children and go down them and themselves in the river.

*At that moment I was no longer afraid. I knew what we had to do. The people all wanted to get on the tractor at the same time. So I said, "Do not be afraid, we can take you all." I stayed on the far side of the river bank and helped women and children to get onto my brother's tractor. He drove them to the other side. Eventually, some other people from our village came with tractors and began to help. And, back and forth and back and forth like this . . . we brought over about 500 of them. The river was deep, strong and very cold. We were afraid the whole time that someone would fall in or that the water would rise too high and swallow the tractors.*

*After about an hour and a half, almost everyone was at the other side. There was one very old woman walking with two younger women and three children. They weren't yet at the river. I went to get them. At that moment, police started to lob grenades over us. I told them to keep moving and somehow we got them over the river.<sup>1</sup>*

Marta learned later that Serbian police and paramilitary had attempted to murder all 120 of the men in the village. Some were tied and burned alive in their houses; others were shot execution-style in mass pits. Two men escaped the massacre by feigning death while the other bodies piled on top of them. After the military left, they crawled from underneath their dead friends and ran to Marta's village. Less than two days later, the entire village fled across the mountains into Albania.

When the NATO bombing ended, the women from Krusha e Vogel returned as soon as they could. They discovered a ghost town. All of their Serb neighbors had fled. While every Serbian house remained standing, Albanian homes had been razed to the ground. Picking through the scarred landscape, the women found the charred remains of many of their men. In a rage, the women set fire to the Serbian homes, burning them to the ground. The next thing they did

1. Interview with anonymous, in Krusha e Vogel, Kostova (Aug. 2000).

was to make makeshift homes for themselves and learn how to perform the farming tasks normally undertaken by men. With the help of a local woman's group that was founded during the war and funded by western European donors, the women learned how to drive and became proficient in running their own farms.

Today, although a handful of men have returned and a few boys have matured to manhood, the village remains populated largely by women and children. Although life is hard, by all accounts the women are doing extremely well. In contrast to the pre-war times, women have enhanced decision-making authority in village life. Among the successful business ventures, they grow grapes that are shipped to Slovenia and bottled under a Slovenian label. They also run a driving school in nearby Prizren, operate a small library, and staff a women's center that, among other purposes, serves—in the words of one teenager—"as a place just to be and to be sad." Although the education level of girls remains low compared with that of boys, more girls are enrolled in school for longer periods of time than prior to the war. Moreover, contact with visiting journalists and humanitarian assistance workers has created greater awareness among women as to the larger legal, social and political issues affecting their lives.

Is this case an illustration of the ways in which women and girls can gain rights as a result of violent conflict? Not exactly. The case is a good example of the short-term gains women might experience in wartime as they learn new skills and develop self-esteem and decision-making capacity while undertaking roles normally reserved for men.<sup>2</sup> However, the case also demonstrates that wartime power shifts in gender relations are likely to be superficial and short lived.<sup>3</sup> Although the women of Krusha e Vogel are taking an active role in the reconstruction process, men are still in control of resources. The women of Krusha e Vogel are more likely than men to confront poverty, and less likely to be the recipients of foreign assistance. Moreover, despite the existence of formal legal

2. Patrick Matlou, *Upsetting the Cart: Forced Migration and Gender Issues, the African Experience, in ENGENDERING FORCED MIGRATION: THEORY AND PRACTICE* 128, 140 (Dorson, India ed., 1999); see also Vanessa Farr, *Gendering Demilitarization as a Peacebuilding Tool*, at 13-16 (June 2002) (Bonn International Center for Conversion Paper 20), available at <http://www.bicc.de/general/paper20/content.html>; DONNA RAMSEY MARSHALL, *WOMEN IN WAR AND PEACE: GRASSROOTS PEACEMAKING* 8 (2000), available at <http://www.usjka.org/pubs/peaceworks/pwvks34.pdf>; Neziwawe Madlala-Routledge, *New Bridges to Peace: Enhancing National and International Security by Expanding Policy Dialogues Among Women* (Apr. 27-28, 2001) (occasional paper from Women in International Security workshop), available at <http://wis.georgetown.edu/Routledge.pdf>.

3. Matlou, *supra* note 2, at 140.

protections, cultural practices still weigh heavily against women and girls. Girls from this village "marry out" to men from other villages; once they leave they are considered the property of their husband and rarely return. Motherhood remains the defining role of womanhood and women have little control over the timing and number of children they bear. Reported incidents of domestic violence have increased in the post-war period in Kosovo, a reflection not only of an enhanced willingness to report such incidents, but also of a widespread culture of violence and a general backlash against women.<sup>4</sup> Should a woman from Krusha e Vogel be abused by her husband or other male kin, the chances that her abuser would be convicted, even when evidence is presented, are extraordinarily low.<sup>5</sup> Incidences of violence against women are not monitored by international organizations in Kosovo as are other forms of violence, such as ethnic and political violence, despite being at least as common.<sup>6</sup>

A 2002 report by the United Nations entitled *Women, Peace and Security*, noted that "[d]iscrimination against women and girls and gender inequalities can persist or deepen during the period after conflict, thereby limiting the opportunities of women and girls to play a significant part in the design and implementation of the peace and reconciliation process."<sup>7</sup> The report recommended a rights-based approach to reconstruction as a way to avoid perpetuating situations of inequality and discrimination. Kosovo is a paradigmatic example of such an approach. There, a brigade of international lawyers and local and international women's human rights activists have tried to improve the laws and law enforcement practices on discrimination and violence against women in Kosovo. In these efforts they have used the language of rights and the instruments of democratic institution-building, undertaking such tasks as: fostering constitutional reform; enacting new legislation prohibiting discrimination and violence against women; introducing efforts to ensure that the legal system is sensitive to the particular needs of victims of sexual violence; recruiting and training women police

4. Interview with Sevdije Ahmeti, Center for the Protection of Women and Children, in Pristina, Kosovo (Aug. 2000).

5. Chris Carrin, *Gender Audit of Reconstruction Programmes in South Eastern Europe* (June 2000) (Urgent Action Fund & The Women's Commission for Refugee Women and Children), available at <http://www.bndg.de/~wplare/GENDER-AUDIT-OF-RECONS TRUCTION-PROGRAMMES--csGAudit.htm>.

6. Kvina ili Kvinna, *Getting it Right? A Gender Approach to UNMIK Administration in Kosovo* (2001), at 19 (on file with author).

7. UNITED NATIONS, WOMEN, PEACE AND SECURITY: STUDY SUBMITTED BY THE SECRETARY-GENERAL PURSUANT TO SECURITY COUNCIL RESOLUTION 1325 (2000), at 111 (2002) [hereinafter WOMEN, PEACE AND SECURITY].

officers; and adopting affirmative measures to ensure women's participation in elections and presence in the legislature.<sup>8</sup> Many of these measures have accomplished their goals: legal reforms have been enacted; judges and police have been trained on gender-based violence; women police officers have been recruited and women are participating in electoral politics. Why have these efforts had little impact on the lives of women? I suggest two propositions that can shed light on the answer to this question in the case of Kosovo and, perhaps, many other societies emerging from violent conflict.<sup>9</sup> The first proposition points to the limitations inherent in a rights-based approach, and the second focuses on particular structural challenges to including women in the peacebuilding process.

#### I. A LIBERAL RIGHTS-BASED APPROACH IS INSUFFICIENT FOR IMPROVING THE STATUS OF WOMEN

The dominant assumption of post-conflict reconstruction and peacebuilding projects focusing on women is that women's equality with men may be promoted through a system of legally enforceable individual rights. R.J. Vincent helpfully explains this system of rights:

A right in this sense can be thought of as consisting of five main elements: [1] a right holder (the subject of a right) [2] has a claim to some substance (the object of a right), [3] which he or she might assert, or demand, or enjoy, or enforce (exercising a right) [4] against some individual or group (the bearer of the correlative duty), [5] citing in support of his or her claim some particular ground (the justification of the right).<sup>10</sup>

Under a rights-based approach, women are empowered as capable, autonomous subjects of the law (and not mere objects) and states (and, in some cases, other duty-bearers) are burdened with the duty to recognize and respond appropriately to their demands.<sup>11</sup>

8. See *id.* at 112-15.

9. A cautionary note is in order before the lessons of Kosovo are applied elsewhere. Each conflict is different. The promise of positive social advances for women are greatest in cases like Kosovo where the struggle could be characterized as a "war of liberation" and where the political and social transformation of the society is the goal of the conflict (at least according to some fighters on one side of the dispute).

10. R.J. VINCENT, HUMAN RIGHTS AND INTERNATIONAL RELATIONS 8 (1986).

11. Jack Donnelly, *The Social Construction of International Human Rights*, in HUMAN