ANNEXURE A

TRANSITIONAL STATES- CASE STUDIES

**Nepal: Constitutional Reform and the Process of Crafting a democracy in Times of Conflict, and the Legacy of Fundamentalist Monarchical Values**

Nepal is a multiethnic country made up of almost 60 ethnic groups, different castes, and a variety of cultures and practices, where the education, employment and social participation opportunities for women and low—caste individuals are still very restricted[[1]](#footnote-2). The world's only Hindu monarchy, it was controlled by a hereditary primeministership until 1951. The nation's first election was held in 1959, but in 1960, King Mahendra dismissed the cabinet, dissolved parliament, and banned political parties. A 1962 constitution created a nonparty panchayat (council) system of government. After a 1980 referendum approved a modified version of the panchayat system, direct parliamentary elections were held in 1981. A dispute with India led to India's closing of most border crossings from March 1989 to July 1990, and the resultant economic crisis fueled demands for political reform. After months of violence, King Birendra Bir Bikram Shah Dev dissolved parliament. The opposition formed an interim government in April 1990, and a new constitution creating a constitutional monarchy and a bicameral legislature became effective on Nov. 9, 1990. Multiparty legislative elections held in May 1991 were won by the centrist Nepali Congress party; the Communists became the leading opposition party. Mid-term elections in November 1994, which were called after the government lost a parliamentary vote, resulted in a hung parliament and the communists, who emerged as the single largest party, formed a minority government[[2]](#footnote-3).

In 2005, as a consequence of the decade long civil war, the monarch Gyanendra Shah agreed to the terms of a 12 point agreement drafted on 22nd November by the Maoists and a seven-party alliance (SPA) of mainstream political factions. In 2006, a Comprehensive Peace Agreement was reached with the Maoists, who were engaged in armed conflict. The Maoists were to join hands with existing Parliament members, leading to the birth of a new interim Government. In 2008, Constituent Assembly elections results rendered the Maoists the victors with 220 out of 601 seats. A coalition Government was formed, with the Nepali Congress. An Interim Constitution was drafted in 2007 and is in place. In 2009,the Nepali Congress’s Prachanda resigned over differences with other parties and a new Government was formed by the CPN-UML which met with stiff resistance from the Maoists. After consecutive CPN-UML candidates failed to deliver primarily with the drafting of a permanent constitution, Maoist candidate Baburam Bhattarai was elected and currently holds position. However, he is yet to fulfill his manifesto[[3]](#footnote-4). Currently, the Constituent Assembly has been dissolved, due to differences on structure of the new Constitution. Its term is set to come to an end by September 28 2012, without extension, due to a Supreme Court order and a new Constitution cannot be drafted without an assembly or consensus[[4]](#footnote-5).

While Nepal is party to most human rights treaties, the domestic legal framework remains weak, and in most cases implementation of international instruments is deficient. Frequent changes in government; a political culture that does not value the protection of human rights; and weak governance are among the major factors affecting the human rights situation of people, particularly vulnerable groups such as Dalits, in the present context[[5]](#footnote-6).

After the adoption of the 1990 Constitution, strategic litigation was used as a means to introduce women’s concerns into law and government policy. Thus in the Meera Gurung[[6]](#footnote-7) case, a discriminatory requirement of residency based on marital status was overturned by the Supreme Court. Similarly, in the case of Meera Dhungana[[7]](#footnote-8) marital rape was recognized by the court. However, in the case of Meera Kumari[[8]](#footnote-9)the court refused to interfere in overturning a discriminatory provisions regarding land transfers.

More then 13,000 people have lost their lives over the last 12 years due to CPN (Maoists)'s insurgency and counter-insurgency organized by the state. About 300,000 people were displaced from their homes. Innocent civilians mostly women and children were the victims of the ongoing violent conflict where it was estimated that about 37,000 women were affected by the violent conflict. 419 (295 boys and 124 girls) innocent children have lost their lives. Around 40,000 children have been displaced due to the armed conflict and more than 8,000 children have been orphaned. A total of 19 People (2 women) have lost their life in the April 2006 movement where 5,000 people were wounded[[9]](#footnote-10).

Amnesty International reported that political parties in government actively subverted justice by demanding the withdrawal of criminal charges in hundreds of cases, including for serious human rights violations committed during the armed conflict. Torture and other ill-treatment in police custody remained widespread. Police increasingly suppressed Tibetan refugees’ right to freedom of association and expression. Exploitation of Nepalese migrant workers abroad, including forced labour, continued. Ethnic, religious and gender discrimination and violence against women and girls went largely unchallenged.

The UN Mission in Nepal, tasked with monitoring the Comprehensive Peace Agreement (CPA) of 2006, ended operations in January, but key elements of the CPA remained unfulfilled. Elected Prime Minister in February, Jhala Nath Khanal resigned on 14 August after failing to make progress on the peace process, including seeing through the drafting of a new Constitution. Baburam Bhattarai, vice chairperson of the Unified Communist Party of Nepal (Maoist) succeeded him, ultimately overseeing the extension of the mandate of the Constituent Assembly (CA) to 27 May 2012, and pledging to oversee completion of the new Constitution.

Article 5 of Nepal’s CPA provided for the creation of a Truth and Reconciliation Commission to investigate alleged human rights violations and crimes against humanity committed during the armed conflict. However, drafting of a bill to create the Commission has yet to be completed. The government continued to make interim payments to families of “conflict victims”, but failed to fulfil victims’ rights to truth and justice[[10]](#footnote-11). In addition, the Government has moved to empower the TRC to grant amnesties for international crimes and gross violations of international law committed during the conflict, though granting of amnesties for certain crimes, particularly genocide, crimes against humanity and war crimes, contravene principles under international law.

However, civil society with the active cooperation of Nepal’s women’s organizations has worked for gender justice in law and practice. The legal and strategic movement for equal property rights propelled the Supreme Court to issue a direction to the Parliament in 1995 to introduce an appropriate Bill within a year for the consideration of family laws relating to property. As a result, on 26September 2002, the laws were changed in the form of the 11th Amendment to the Country Code 1963, giving equal inheritance and property rights to women (Vedna Jivan, 2005)

Women in Nepal gained 33 per cent of the seats in the 2008 Constituent Assembly elections, an unprecedented achievement for Nepal and South Asia at large. The gains were made by setting a 50 per cent quota for the proportional representation segment of the election. A partnership initiative between local activists, lawyers, parliamentarians and public officials, facilitated by UNIFEM and the UN Democracy Fund, helped contribute to this.

Political party manifestos have already shifted endorsing women’s role in political decision-making and efforts to end violence against women. And in November 2008, a woman was elected as Vice-Chairperson of the Constituent Assembly after securing 69 per cent of the vote.

Nepali women, who played prominent roles in the country’s Maoist movement during a decade of conflict, have

so far found a place in peacemaking. But the focus has also been on what they can contribute to gender equality from that position. Towards that end, the UN partnership has assisted in a review of foreign constitutions, including the Rwandan Constitution, which explicitly refers to equal rights between women and men and establishes quotas for women.

A Nepal project reviewed all of the laws affecting persons with disabilities for their compliance with the CRPD. These laws included the civil code, the educational law, the Interim Constitution, (2007); the Children’s Act etc[[11]](#footnote-12). One of the major outcomes of this project in Nepal was the development of a MOU on the inclusion of disability rights in the fundamental rights chapter of the Nepalese Constitution that was presented to the Speaker of the Constituent Assembly. Along with the Nepal Disabled Women’s Association (NDWA), the forum for Women Law and Development initiated a public interest litigation challenging discrimination against reproductive health rights of women with disabilities.

In 2006, the Nepal Citizenship Act was passed, enabling children to claim citizenship through their mothers for the first time. The Gender Equality Act gave married women the right to keep inherited property, entitled women to use property without the consent of male family members and expanded divorce rights. The Act also extended the law to protect women, criminalizing domestic and sexual violence.

### The 2007 Foreign Employment Act not only bans discrimination based on gender but also adopts special measures to guarantee women’s security and rights when seeking jobs abroad. Nepali women migrants now receive information about the contractual obligations of the employer and about migrant assistance centres in destination countries. The new law also contains provisions to regulate recruiting agencies and includes programmes for the families of migrant workers.

UN Women provided legal expertise to the government to amend laws that discriminated against women’s right to migrate and to pass on their nationality to their children. Major positive changes in the law for women have been ushered in through the enactment of the Gender Equality Act, 2006; the Human Trafficking and Transportation (Control) Act, 2007 and Regulation, 2008; and Domestic Violence (Crime and Punishment) Act, 2009 and Regulation 2010.

In 2007, the Ministry of Finance introduced gender responsive budgeting, developing indicators to track the Government’s expenditure on gender equality. As a result, spending categorized as directly responsive to women went up from 11 percent in 2007 to 17 percent in 2010,an increase of more than 50 percent.4 Furthermore, in 2008, a 10 percent tax exemption was introduced for land registered in a woman’s name to drive implementation of laws on property and inheritance. The exemption, aimed at incentivizing families to share their property with their daughters, sisters and wives was subsequently increased to 25 percent in cities and 30 percent in rural areas. The impact of these measures has been significant: while in the 2001 census, 11 percent of households reported that some land was owned by women, according to data from 50 land revenue offices throughout Nepal, this figure had increased to 35 percent of households by 2009.[[12]](#footnote-13)

On 17 February 2011, **Nepal** became the first country in South Asia and the second in Asia to adopt a National Action Plan on the UN Security Council Resolutions 1325 and 1820. The Plan was a result of nationwide consultations between the Government of Nepal, women survivors, security sector personnel and civil society, and was backed by strong political will. In partnership with the Ministry of Women, Children and Social Welfare, National Commission for Women and local NGOs, UN Women’s programme Making Politics Work with Women has led to stronger leadership skills of women leaders and increased exposure of Constituent Assembly members to gender equality and women’s human rights issues in the context of constitution making process and contributed to a historic 33-percent representation of women in the Constituent Assembly in 2008. By adopting the Caste-based Discrimination and Untouchability Act in May 2011, Nepal has become a leader on the world stage in the fight against caste-based discrimination.

Advocacy by UN Women has ensured that the 8th, 9th and 10th Five Year Development Plans, Interim Plan and the current Three Year Plan reflect gender concerns. Supported in the development of Strategy and National Plan of Action on Safe Migration. The National Population and Housing Census for 2001 and 2011 now reflect gender disaggregated data, which have been used for evidence based advocacy for visibility of women’s economic activities, extended economic activities and care work[[13]](#footnote-14).

Hence, while conflict led to loss of life and human rights abuses, in a situation of impunity, the aftermath has presented a good opportunity for civil society and women’s organizations to initiate change for women. However, impunity and a weak rule of law create conditions for further discontent and instability in the country. Impunity remains entrenched and the lack of accountability for the perpetrators of serious crimes and human rights violations pervades.

Source : UN Women Submissions, Progress of The World’s Women UN 2010; FEDO Input UNDEF 2009; IPU 2009.

**Mongolia: Shift to Democracy and the Pitfalls of Importing Individualism into Welfare Polity**

Mongolia spreads across 1.5 million sq km of the Central Asian plateau, but its population is far smaller than the Mongol population of China. With 1.5 million sq. km. of land and 2.7 million people, Mongolia, is the world’s most sparsely populated country. The economy has shown steady growth in the recent past, reaching a real GDP growth rate of 8.9 percent and GDP per capita of $1,649 in 2008.With the expected launch of new large-scale mining projects, GDP is estimated to double by 2015. A third of the population lives in the capital, while around forty percent of the country's workforce herds livestock in the extensive pasturelands.

In 1919 the Chinese were finally overthrown with the help of Russian Soviet forces. In 1924 MPRP (Mongolian People’s Revolutionary Party) was formed. Mongolia became a One Party Communist state.

In 1990 Mongolia abandoned its 70-year-old Soviet-style one-party state and embraced political and economic reforms. MPRP legalized opposition parties yet continued to dominate the polls. Democracy and privatisation were enshrined in a new constitution, but the collapse of the economy after the withdrawal of Soviet support triggered widespread poverty and unemployment.

In 2008: MPRP’s questionable majority in the elections caused violent, demonstrations marked by bloodshed, in the capital. A 4-day state of emergency was declared on July 2nd. However, revised vote tallies led to MPRP remaining in power. In 2009, the economic crisis and the extreme winter gave rise to chronic poverty and unemployment. The Government, in an attempt to appease the disgruntled public who suspected the involvement of malpractices in the $5 billion mining contract, set up a HDF (Human Development Fund) to distribute the mining royalties to citizens.In2010, nearly ten thousand people protested in Ulaanbaatar demanding the dissolution of the Parliament. On April 22nd, an agreement pledging that the fund would reach the public after all in the form of tuition fees, health coverage, and cash handouts. Currently, concerns over the operation of the Tavan Tolgoi mine and its effect on water resources, labor rights, protectionism etc, dominate politics.

Mongolia has a human development index of 0.622 and ranks 100th out of 169 countries. The Millennium Development Goals (MDGs) are strongly embedded at the policy level, adopted by the parliament as development benchmarks in 2005 and then as the framework for the MDG-Based Comprehensive National Development Strategy (NDS) of 2008-2021. Mongolia is unique in having a ninth MDG to emphasize democratic governance and human rights as necessary conditions for the achievement of all the MDGs. The third national MDG progress report (2009) indicates that six of the nine MDGs are likely to be achieved by 2015. The three lagging behind are poverty reduction, gender equality and environmental sustainability.

Although women are active in most areas of Mongolia’s economy and society, gender inequalities persist in access to economic opportunities and political decision-making. On average, women earn less than men. In 2008, Mongolia had a major setback in women’s representation in parliament as the number of female members of parliament dropped to the record low of 3.9 percent, compared to the MDG 3 target of 30 percent by 2015.Barriers to women’s political participation includes high campaign costs, gender stereotyping and a hostile political environment.

The 2010 Universal Periodic Review (UPR) expressed concerns about poverty, erosion of public services and persistence of gender stereotypes. Limitations in realizing economic and social rights are hampering achievement of the MDGs. Corruption continues to be seen as a major cause of persistent inequality. The main challenges relate to enhancing accountability and transparency of the Government, expanding access to justice and increasing the role of political parties, civil society organizations and the private sector in promoting good governance.

Mongolia is affected by serious problems of land, water and ecosystem degradation, desertification and biodiversity loss. The country is prone to natural disasters including *dzud* (harsh winter conditions leading to widespread death of livestock), forest fires, floods and earthquakes. Climate change is contributing to a higher frequency of disasters, while response mechanisms are still insufficient. Only 45 percent of the population has access to safe water and 28 percent to adequate sanitation.

Mongol women enjoyed, or some would say endured, a vital role in the often times harsh nomadic life. In recent decades, women saw greater equality in education and the workplace. The period of socialist governance witnessed gains, particularly in education, health, and social welfare.  
However, the centuries-old nomadic lifestyle is coming under pressure from climate change and urbanization.[[14]](#footnote-15). The last presidential election was in 2009. Mongolia has had two women acting presidents; the first in the world was Sükhbaataryn Yanjmaa of Mongolia *(1953-1954)*. **Prime Minister Nyam-Osoryn Tuyaa functioned from July 22-30 1999.**

By the late 1980s, most women had entered the labor force in such sectors as trade, medicine, and education, but a “glass ceiling” frequently prevented promotion to leadership at work or in the professions. Government initiatives in modernization of health care provided medical services for women, who in fact constituted about three-quarters of the doctors by 1990. Maternity leave was generous, and crèches and nursery schools facilitated women’s working lives. Welfare benefits, such as pensions for the elderly and subsistence payments for widows and the disabled, also assisted women because they were often responsible for these groups. Moreover, in the rural areas, women herders were eligible for pensions, a unique policy in Asia. Opportunities for women’s education and for participation in politics increased. The government initiated compulsory education for girls in both urban and rural areas. By 1990, more than forty per cent of university and technical college graduates were women. In the government itself, women registered gains. They constituted about one-quarter of the Parliament (or Khural), but none reached the most important levers of government, including Prime Minister.  
  
The 1991 collapse of the Soviet Union and government policies since then have generated opportunities and problems for women. These dramatic changes have affected women. On the one hand, the socialist regime’s repression has ended, leading to less fear of government purges and to greater freedom and more choice for women. A multi-party political system and more outlets for dissent have expanded their political choices. On the other hand, economic failures have fallen disproportionately on women. Rates of female unemployment and poverty have soared, and despite economic growth since 2002, the percentage of those living in abject poverty (as of late 2007) remains above thirty per cent. More women than men are unemployed, as private companies, claiming that young women either take extended leaves or simply drop out of the labor force when they become pregnant, have often been reluctant to hire females. If they do, they frequently do not offer the fringe benefits that the socialist State had previously provided. In addition, the United Nations Development Program report[[15]](#footnote-16) notes that “there is a wage gap in Mongolia. Women are under-represented in sectors with higher pay.” Moreover, many working women spend as much as twenty-five hours a week on household chores, as they “carry a double burden with responsibilities at work and at home.” Government cutbacks have also hurt women. The socialist State’s support for pastoral nomads (construction of wells, supplying of trucks to bring animals and animal products to market, provision of veterinarians, etc.) have eroded, causing many families to abandon herding and to migrate to the capital where most, with scant economic prospects, live in abject poverty. The social safety net (special care for pregnant women, subsidies for food, energy, and housing, stable pensions, provision of crèches, etc.) has withered away. Health facilities have deteriorated, with State reductions in funding to hospitals for medicines, equipment, and supplies, in support for feldshers in the countryside, and in proper pay for public service doctors and nurses. These social problems have led to a rise in prostitution, trafficking of women, and street children of both sexes. In the rural sector, women are less recognized in their own right as herders and tend to be considered as unpaid family labour because of the conflation of households as production units and as social units, with a designated head. The gender norms that designate men as heads of household and the power relationships and mechanisms surrounding the allocation of resources have deprived them of assets disposed of by the state.

Women’s position in the economy has been transformed by the transition in complex ways and gender relations at all levels have influenced its course. While both women and men have lost employment and rights in the shrinking state sector, women have been affected more and in different ways than men. They are disadvantaged in the formal sector because of their care-giving obligations, having lost state entitlements that enabled them to take up paid employment. In the labour market, they are subject to discrimination as actual and potential child-bearers and higher educational qualifications do not make them more competitive than men.

When the democratic reform process started in1990, Mongolian women were a highly educated mass, but burdened with double or triple duties and were unassertive "passive" subjects with regard to state policy-making. The democratization process and the 1992 Constitution reaffirmed the equal rights of male and female citizens to civil and political activities. The democratization process has involved both the transformation of old structures and the emergence of new institutions and organizations. It has been accompanied by vigorous political debate, free expression and participation as well as an active private press. Over 20 different political parties have been created, which contest elections and shape the policy agenda. One encouraging trend is the recognition of the serious problems facing Mongol women. Educated women have banded together to form non-governmental organizations to criminalize domestic abuse, to improve conditions for women in the labor force, to conduct research on employment, prostitution, child labor, and inequalities in wages for women. One such organization concluded that “there is a clear need for government policies and schemes to improve the position of women in the labor force…” Foreign agencies, such as the United Nations Development Program and the World Bank, have experimented with provision of micro-credit for women seeking to increase their incomes and have issued reports on gender gaps in employment and sexual harassment in the workplace.   
  
An important change in the government has been the first appointment of women to significant positions in the Cabinet. Since 1999, two women have filled the post of Minister of Foreign Affairs. Finally, education favors women in future. More than seventy per cent of students in higher education are women, offering hope for their rise to managerial positions in the economy, health, education, and government and to attempts to address the problems faced by Mongol women. Mongolia’s election law in 2005 introduced a 30 per cent quota for female candidates nominated by political parties and coalitions.This was removed by another revision in 2007,68 just before an election. Despite strong lobbying by some members of Parliament and women activists, and a veto by the President, the quota was not restored. As a result, the June 2008 election saw a decline in women parliamentarians, from five to three. In 2011, legislated candidate quota was introduced into Mongolia's electoral legislation, requiring that at least 20 % of candidates on lists presented by political parties for both types of contests (majority and proportional) shall be women (Article 27.1,Election of the Parliament (State Great Hural), The electoral law also carries a provision for sanction if the quota is not met:”The General Election Commission or district committee shall decline to register the list of candidates in case it violates provisions under the Article 27, including the requirement on the legislated candidate quotas.”

NGOs previously associated with and controlled by the Mongolian People’s Revolutionary Party grew more autonomous, and in 1997, all NGOs became formally autonomous from both government and political parties. Women have played an active part in the democratization process and have been particularly dynamic in the growth of civil society and the voluntary sector. as well as in the media. In Mongolia, with the transition from socialism to a free market economy, manywomen’s organizations evolved from their strong affiliation with political parties and comprised of politically conscious and active women. The Women’s Conference in Beijing exposed Mongolians to many new ideas so their work thereafter reflected new approaches to influence decision making and to promote positive change outside of the election process. These ranged from the expansion of advocacy efforts, to include monitoring or watchdog activities to an expanded role in the legislative drafting process

Women’s NGOs have been active in framing and scrutinizing the laws guaranteeing civil, political rights and prohibiting discrimination against women, using CEDAW widely as the framework in drafting new laws and amending existing ones. In the course of these changes, the quota system for women’s representation was abandoned. The emphasis was put on enacting laws that specify the institutional framework and govern the functions of parliament. A constitutional court has been established to safeguard the constitution, which enshrines the principle of separation of powers of the legislature, the executive and the judiciary.[[16]](#footnote-17)

In Mongolia, currently there are 1,100 NGOs registered with the Ministry of Justice, and more than 30 are women’s organizations. Their focus ranges from the delivery of services to public affairs. The first phase is roughly 1992 to 1995, during which women’s NGOs concentrated on information transmission about the new political system. Successful examples include women’s NGOs joining efforts to increase the number of women in the 1996 parliamentary elections and the collective request of 23 organizations at the first women’s NGO conference for the government to form a national women’s council.

By late 1997, a seven-member coalition of women’s organizations—which is now 13—formed to monitor government implementation of the United Nations Convention for Elimination of All Forms of Discrimination Against Women, or CEDAW. The Women for Social Progress’ work with the parliament secretariat on a new election management law. In Mongolia, the Women Lawyers’ Association and the Center Against Violence drafted Mongolia’s first-ever domestic violence law, which has been enacted.

 Source: Rossabi M Women In Modern Mongolia; Nalini Burn and Oyuntsetseg Oidov, Women in Mongolia*: Mapping Progress under Transition; UNIFEM 2001*

**Afghanistan Conflict and Consensus Amid Pluralism**

Afghanistan's recent history is characterized by war and civil unrest. The Soviet Union invaded in 1979, but was forced to withdraw 10 years later by anti-Communist mujahidin forces supplied and trained by the US, Saudi Arabia, Pakistan, and others.Fighting subsequently continued among the various mujahidin factions, giving rise to a state of war lordism that eventually spawned the Taliban.Backed by foreign sponsors, the Taliban developed as a political force and eventually seized power. The Taliban were able to capture most of the country, aside from Northern Alliance strongholds primarily in the northeast, until US and allied military action in support of the opposition following the 11 September 2001 terrorist attacks forced the group's downfall. In late 2001, major leaders from the Afghan opposition groups and diaspora met in Bonn, Germany, and agreed on a plan for the formulation of a new government structure that resulted in the inauguration of Hamid KARZAI as Chairman of the Afghan Interim Authority (AIA) on 22 December 2001.

The AIA held a nationwide Loya Jirga (Grand Assembly) in June 2002, and KARZAI was elected President by secret ballot of the Transitional Islamic State of Afghanistan (TISA). The Transitional Authority has an 18-month mandate to hold a nationwide Loya Jirga to adopt a constitution and a 24-month mandate to hold nationwide elections. In December 2002, the TISA marked the one-year anniversary of the fall of the Taliban. In addition to occasionally violent political jockeying and ongoing military action to root out remaining terrorists and Taliban elements, the country suffers from enormous poverty, a crumbling infrastructure, and widespread land mines[[17]](#footnote-18).

Following five years of harsh Taliban rule, even the slightest improvement was initially hailed as a great leap forward for Afghan women, who had been largely closeted at home, with no access to education, jobs, even medical care in many instances[[18]](#footnote-19). But advances such as women in Parliament, female entrepreneurs, women’s rights activists and even a female provincial governor have been offset by the mounting evidence that negative practices such as ba’ad, domestic violence and honor killings have persisted to a significant extent in much of the country[[19]](#footnote-20). According to the human development index, two States in the region have been classified as having low human development: Timor-Leste (HDI=0.489) and Afghanistan (HDI=0.352).

Afghanistan has a long history of ratifying international conventions that protect human rights and this tradition did not start with the Post-Taliban era. As early as 1948 Afghanistan signed the Universal Declaration of Human Rights. In 1983, Afghanistan ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). The Post-Taliban Afghanistan experienced ratification of Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

However, rule of law is one of the most challenging issues that post-Taliban Afghanistan is facing. While lack of security in some parts of the country, makes it difficult for the state administrations to function and implement the laws, lack of rule of law, in turn, feeds into insecurity creating a vicious cycle which perpetuates itself. Embedded in such a context is the struggle towards gender equality and women’s access to economic rights.

The Ministry of Women’s Affairs was set up in 2002 as part of the transitional authority. Following UNAMA’s intervention, women’s representation in the June 2010 Consultative Peace Jirga increased from the initial 30 women contemplated by the government to 332 (21%). UNAMA advocacy for 25% women’s representation (as in the parliament) in the High Peace Council announced in July 2010 has so far been less successful; only eight women (all appointed by the President) are among its 70 members.

In **Afghanistan** there are only 512 women (1%) out of 86,000 in the national police; a 10-year target of 20% has been set. UN missions have assisted national police forces to establish special units for prevention of and response to SGBV.

Gender equality is a cross cutting theme in the Afghanistan National Development Strategy (ANDS) which also functions as a guideline for many NGOs and civil society organizations (democracy). The National Action Plan for the Women of Afghanistan (NAPWA), created by the Ministry of Women’s Affairs of Afghanistan (MoWA), clearly focuses on the need to reform laws in order to eliminate discriminatory practice (democracy)Afghanistan maintains that it is an Islamic state[[20]](#footnote-21) and sharia laws, are enforced by mullahs, which make resorting to the law difficult for women.

One reason women are not afforded adequate legal protection is that their status remains much lower than men. It is often dangerous for a woman to approach the justice system independently. The conservative framework of traditional Afghan society makes taking the problem outside the home shameful, often leaving the victim open to further victimization. Not only are women regarded as the property of their husbands and fathers, they are also considered the guardians of family honour and chastity. The presence of a woman in the office of a male lawyer or a judge could make her vulnerable to accusations of adultery, even in cases of rape. *Zená*, regardless of circumstance, is a crime. Women who use the legal system are caught on two fronts: they are seen as supporting the unpopular and corrupt government, and challenging the status quo. Illiteracy, social stigma, a corrupt justice system, conservative *mullah*s and tribal elders all add to the virtually insurmountable barriers to change. In rural areas, the decisions of the *jirgas* and *shuras*, structures that traditionally resolve family and social conflicts, are dictated by customary practices.

The problem is further exacerbated by the contradiction between formal and informal systems. Accessing the legal system can also be expensive. The costs involved prohibit most people from going to court. Someone must be hired to write the defense, and the plaintiffs must leave their village to go to the district office, which may involve renting a car and losing valuable working days. As most Afghan women cannot read or write, they are unaware of their rights; and their capacity to access legal information is low. Moreover, they suffer enormous social stigmas when accessing the formal justice system. The legal reforms and laws drafted to protect women’s rights in the post-Taliban era are seen as being imposed by the West and thought to be against the cultural traditions of Afghanistan. Many *mullahs* think the reforms are against *Shari’a* law. Lawyers and judges might not actually know what the current laws are or have access to them.

The process of drafting and revising the *Shia* Personal Status Law (SPSL), the Elimination of Violence Against Women Law (EVAW) and the *Sunni* Family Law (SFL) took place after 2002, in the context of the international “intervention” in Afghanistan. This process led to three laws affecting family affairs and women’s rights which were influenced by different stakeholders. The absence of a formal provision for public consultations gave these stakeholders the space to influence the law-drafting process, through contacts, lobbying efforts and participation in a variety of alliances based on common interests and a desire to shape Afghanistan’s legal context. This has also given Afghan civil and political society, religious groups and scholars the opportunity to influence these new pieces of legislation. In drafting the laws, the international community stayed in the background and let Afghan stakeholders act.

Critical junctures were utilized, such as an environment shaped by the Karzai government’s need for *Shia* votes in the parliamentary elections, and by the presence of a *Shia* Minister of Justice, in drafting the Shia Code. Initially, women’s organizations hit the streets in protest at the initial signed draft and petitions were signed by women’s coalitions, supported in the background by international community. Finally, On April 4, 2009, President Karzai announced that the Law would be reviewed. Around 60-80% of the recommendations drafted by the FLDC, and supported by the coalition, were included in the revised law, which was signed by President Karzai on July 20, 2009, and gazetted on July 27, 2009

.

In the case of the Sunni Code, the group of experts, FLDC prepared the draft reform, which was sent to the Ministry of Justice in March 2010, through the MoWA. MoWA’s legal department sent a letter to President Karzai’s office asking for the draft reform to be considered; this request was then sent to the Minister of Justice. After a meeting between MoWA, the FLDC and the Minister of Justice, the latter informed the committee that there was no need to reform the existing family law, as they would focus on new laws, and that the current Family Code, which was last reformed in 1979, was still very relevant.

In the case of the **Elimination of Violence Against Women Law (EVAW),** the process was more complex. A first draft was initiated and prepared by MoWA in 2005. It was reportedly done with little consultation outside the ministry. Copies were eventually leaked to MPs, the Afghan Women’s Network (AWN) and the UN Entity for Gender Equality and the Empowerment of Women (UN Women).

During that time, the parliamentary Commission on Women’s Affairs was also reviewing the MoWA draft.

MoWA submitted the draft EVAW to *Taqnin* (Legislative Drafting Unit), as per the formal legislative process. They eventually also accepted to send the AWN/UN Women draft to *Taqnin*, and the Commission on Women’s Affairs also shared their version as a consultative document. Attempts from MoWA and AWN to engage the Commission on Women’s Affairs have reportedly failed.57

To help *Taqnin* merge the drafts, another player entered the arena, with a close working relationship with *Taqnin* in the harmonization of criminal laws: the Criminal Law Working Group (CLWG). The CLWG comprises predominantly foreign experts from different agencies.

Finally, *Taqnin*’s version of the EVAW was signed by Presidential decree on July 6, 2009, and gazetted on August 1, 2009 In October 2009, it was reported that EVAW would be discussed in the Lower House. Based on Article 79, a law must still be sent to the National Assembly even though it has been signed by a Presidential decree. Fearing the losses would be greater than the gains, members of the coalition convinced the Commission on Women’s Affairs to withdraw EVAW from the parliamentary agenda. They thought this would give the judiciary the opportunity to implement it, and that further changes would be difficult to make once it was implemented.

UNIFEM has worked with the MOWA and the government and set in motion a number of initiatives to eliminate discrimination against women in law and practice. Gender Advisory Group. has undertaken advocacy on key issues of nation building, reconstruction and reform such as the Constitutional Loya Jirga process, violence against women, CEDAW etc. through establishment of the Gender and Law Working Group, the task force on CEDAW implementation. Policy and procedures for linkages with NGOs have been developed and strengthened. Gender trainers’ network has beenestablished. And MOWA has been serving as the secretariat for the Advisory Group on Gender (AGG), a multi donor coordination mechanism; providing policy advice and donor support to key processes such as the National Budget, and the Constitutional Loya Jirga.

*Mainstreaming Gender In Afghanistan's Legal Justice, Governance And Electoral Systems*

The Afghan Constitution promulgated by President Karzai on January 25, 2004 ensures that the citizens of Afghanistan, whether man or woman, have equal rights and dutiesbefore the law and that any kind of discrimination amongst citizens is prohibited. The constitution also guarantees a minimum of 2 seats per province in the National Assembly. In the run up to the process of constitution and legal reform, UNIFEM sought to bring together major actors in the sphere of justice and legal reform such as the MOWA’s Legal Department, the Ministry of Justice, Supreme Court judges, lawyers, legal experts, the Judicial Reform Committee, the Constitutional Commission and others in order to advance the cause of women’s legal rights and gender equality. The Afghan Women Lawyer and Professional Association has also published and disseminated a book on women rights in the constitution. Training for lawyers, judges and prospective Loya Jirga candidates was conducted. The Gender and Law Working Group (GLWG) was formed in December 2002, comprising key members of the government including the State Minister for Women Affairs (OSMOW) and MOWA, Supreme Court judges, legal experts, human rights activists and women’s civil society organizations to monitor the constitutional and legal reformprocesses to ensure that the constitution and legislation that emerge promote and protect gender equality and women’s rights

In 2003, UNIFEM provided a full time adviser specializing inIslamic and Gender Law to provide Technical assistance to the MOJ’s Legislative Department in drafting the Juvenile Criminal Code (in cooperation with UNICEF and the Italian Justice Project. In July 2004, UNIFEM collaborated with the Legislative Department on are view of the current family law to ensure that the law adheres to both Islamic and gender principles, without compromising legal international standards. Also in coordination with UNICEF, UNIFEM worked with the International Development Law Organization (IDLO), the International Institution of Higher Studies in Criminal Sciences (ISISC), and the JRC to support the inclusion of gender specific topics and perspective in the 16-month ‘Interim Training for the Afghan Judiciary’.

Women’s Development Centres (WDCs) have been established at provincial and community levels as institutions of community development and mobilization, utilizing a strategy that will ensure that the centres are autonomous and self-sustaining. These centres have been supported by UNIFEM. In Afghanistan, the Gender Donor Coordination Group acts as the mechanism to coordinate donor support to the Government in the areas of monitoring budgeting and piloting of the National Action Plan for Women of Afghanistan at the sub national level.

With the security situation continuing its steady decline, the political situation in Afghanistan is even more complex. The presence of the Taliban is felt more keenly with the government’s strategy of reconciliation and reintegration firmly on the political agenda. Despite various attempts over the past nine years by the international community, there are few hopeful signs for improving the lives of women. Nonetheless, efforts continue on the part of Afghan groups to bring laws related to women, such as the SPSL, EVAW and the SFL in line with the Afghan Constitution and the international treaties ratified by Afghanistan. But overall, the mood in the country remains gloomy, especially when it comes to the implementation of laws and the development of a more equitable legal framework.

Source: UNIFEM Submission, Afghanistan; UN 10 years’ review of resolution 1325

**East Timor: Revolution in Politics**

East Timor was a colony of Portugal until 1975. Immediately, Revolutionary Front for an Independent East Timor (Fretilin) seized power, but Indonesia invaded it as it already had control of West Timor. The ordinary citizens were caught between the excesses of the invading army and the insurgency of the Falentil, a sister organization of Fretilin. In 1991 media reports of the Dili massacre put Indonesian army’s activities in the spotlight, and a referendum was finally held in 1999, decided in favour of Independence. However, the Indonesian army retaliated with devastation and killing, before a multinational force intervened. In 2001, East Timor elected a Constituent Assembly Independence was officially granted in May 2002. A political crisis in 2006 led to armed struggle, which displaced about 150,000 people. A United Nations Integrated Mission in Timor-Leste (UNMIT) was established to help restore peace and increase police presence. Pursuant to United Nations Security Council Resolution 1338/01 of 31 January, the United Nations Transitional Administration in East Timor (UNTAET) was entrusted with the responsibility to ensure free and fair elections in cooperation with the Timorese people. According to the human development index, two States in the region have been classified as having low human development: Timor-Leste (HDI=0.489) and Afghanistan (HDI=0.352).

With the purpose of governing the election of the Constituent Assembly, UNTAET promulgated Regulation No. 2001/2 of 26 February (On the election of a Constituent Assembly to prepare a Constitution for an Independent and Democratic East Timor), later on amended by UNTAET Regulation No. 2002/3 of 23 March, and Regulation No. 2001/11 of 13 July (On Electoral Offences for the Election of a Constituent Assembly). In 2001, the United Nations transitional administration in East Timor (UNTAET) sought to ensure that women were involved in the country’s first election for the constituent assembly, UNTAET worked to strengthen women’s participation in various aspects of the electoral process. In 2001, Timor-Leste had a mixed electoral system, combining single member district elections with one national list to elect the 88 members. Although no quota was applied in the electoral laws, a quota of 30 percentwas established for women in the campaign offices for political parties, and a similar quota was established for women in public administration positions. Following this, the first direct, universal and secret elections were held. The then elected Constituent Assembly approved and decreed the Constitution of the Democratic Republic of Timor-Leste and, after its entry into force, the Constituent Assembly transformed itself into the National Parliament.

East Timor has a nominal head of state in the President, directly elected by the people. However, real power is in the hands of the leader of the majority party or coalition in the 65-seat, unicameral Parliament, who becomes the prime minister. The president and members of Parliament serve five-year terms, with the president eligible for a maximum of two terms. Elections are monitored by a National Election Commission An anticorruption commission was created in 2009. In March 2011, the government launched a transparency website of government accounts. The country was ranked 143 out of 183 countries surveyed in Transparency International’s 2011 Corruption Perceptions Index. (Freedom of The World, 2012)

East Timor is a secular state, though 98 percent of the population is Roman Catholic. Due process rights are often restricted or denied, owing largely to a lack of resources and personnel in the over-burdened court system. Alternative methods of dispute resolution and customary law are widely used, though they lack enforcement mechanisms and have other significant shortcomings, including unequal treatment of women. In July 2011, the Dili In September, 2011,the government promulgated a new civil code, which came into effect in March 2012; the government was criticized for limited public consultation on the code (Freedom of The World, 2012).

Gang violence is a problem—sometimes directed by rival elites or fueled by land disputes. The status and reintegration of the thousands of Timorese refugees who still remain in the Indonesian province of West Timor after fleeing the 1999 violence remained an unresolved issue in 2011. Community property comprises approximately 90 percent of the land in East Timor. In July and November 2011, the government approved laws establishing the legal framework and procedures by which to recognize ownership and grant registration titles for undisputed real estate property (Freedom of The World, 2012).

Equal rights for women are constitutionally guaranteed, but discrimination and gender inequality persists in practice and in traditional/customary law. Women hold approximately 30 percent of the seats in parliament. Amendments to the election laws in May 2011 increased the quota requiring one-third of candidates on party lists for parliamentary elections to be women. While a law against domestic violence was adopted in 2010, gender-based violence and domestic violence remain widespread. The 2009 penal code criminalizes abortion except in cases that endanger the health of the mother. (Freedom of The World, 2012) (Freedom of The World, 2012)

In September 2010, the National Parliament approved in general reading the two draft laws creating a Memory Institute and establishing the framework of a Reparations programme for victims of past human rights violations (including rape and sexual slavery).

A Truth Commission was established to investigate the violence surrounding East Timor’s 1999 referendum, and the human rights violations that had occurred during the 25 years of Indonesian occupation. In terms of active participation in the transitional justice processes the 'Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)' was composed of two women out of seven National Commissioners and eight women out of 29 Regional Commissioners. The bilateral 'Commission of Truth and Friendship Indonesia - Timor-Leste (CTF)' was composed of three women out of eight Timorese Commissioners.

The CAVR collected 1,642 from a total of 7,668 statements from women who were witnesses or victims of human rights violations. This is 21.4% of all statements gathered during the 18 months of operations. Additionally, 260 statements regarding violations reported by women were received as a submission from a women’s NGO. A total of 3,482 men and 1,384 women were involved in village-level participatory discussions on human rights violations held in 284 villages in more than 60 sub-districts. Sessions held specifically for women were conducted in 22 of these villages. The Commission’s research team conducted more than 200 interviews, mostly with women victims of human rights violations. The CAVR’s National Public Hearing on Women and Conflict, 28-29 April 2003, provided an opportunity for 14 women survivors of violations to tell their stories. Also during this hearing, four expert witnesses provided background information on these violations. A total of 18 women gave testimonies in other thematic public hearings. In its survey on mortality and human rights violations of 1,322 randomly selected households, the Commission interviewed at least one adult woman in each family on her experience of human rights violations, including questions related to possible sexual violations. In total, 1,718 women were interviewed as part of this survey.

Sexual violence against women was recurrent during the 1974-1999 conflict. The CAVR report demonstrated that use of rape and sexual torture was a widely accepted practice of members of the security forces at the time. These practices were covered by almost total impunity. The new Reparations Law, when enacted, will provide the first comprehensive form of redress that victims will receive, years - and even decades - after the offences were committed.

In order to strengthen the framework of state institutions and machineries to implement actions aimed at ending violence against women, and in accordance with the recommendations made by the 2009 CEDAW Report, the Law Against Domestic Violence (LADV) came into force on the 8th of July 2010. This Law classifies domestic violence as a public crime, thereby it requires police and prosecutors to investigate and prosecute. Given the culture of silence that commonly surrounds violence within the family, the LADV represents an important tool to reinforce victims’ rights to protection and justice.

To address shortcomings and challenges in the implementation of the Law, the Secretariat of Sate for the Promotion of Equality (SEPI), which was established on the 5th of September 2008, jointly with the Prosecutor General Office, National Police of Timor-Leste and UN actors is working to strengthen the understanding and the implementation of the Law. This includes provision of trainings to the Police, Prosecutors and Judges to ensure a gender sensitive management of cases of gender based violence.

A National Action Plan (NAP) on Gender Based Violence (GBV) is currently being drafted by SEPI. A Working Group to draft the NAP on Gender Based Violence GBV was formed in the 2nd quarter of 2011. This NAP on GBV to map out implementation of the LADV and two National Consultations have been held thus far, with multiple Steering Committee/WG meetings. It is envisioned that the draft will be finalized and presented to the Council of Ministers in the 1st quarter of 2012 (March).The Timorese Government is drafting a Gender Equality Law which, if adopted, would enhance equality between man and women

On August 23rd 2011 National Parliament passed the Civil Code (Law 10/2011), which establishes equality between men and women regarding rights and responsibilities within marriage and the family, as well as the same rights to inheritance. On the 14th of September 2011 the Gender Working Groups (GWGs) Resolution No 27/2011 was published in the Journal de Repubika. It establishes National Gender Working Groups in every Ministry and Secretary of State while at the District level, there will be District GWGs with mixed (inter-ministerial) membership. The establishment of such GWGs provides a mechanism for inter-sectoral cooperation and coordination within the Government to ensure concerted action on the promotion of gender equality and strives to strengthen the mainstreaming of gender into the design, analysis, implementation and monitoring of national and local plans, policies, programs and legislation in line with Article 17 of the Constitution of the democratic Republic of Timor-Leste.

On the 20th of December 2011 the Labour Law was approved by National Parliament. The Law safeguards the equality principle, prohibits any kind of discrimination based on gender and makes provision for equality between men and women regarding access to employment, work conditions and equal pay.

In Timor-Leste, the presence of various development agencies that promote the advancement of women resulted in an increase in the number of women’s non-governmental organizations and women’s rights advocates. Their actions pushed for the creation of a Gender Affairs Unit during the first and second transition period. Networks of women’s organizations, such as the *Rede Feto* Coalition, have emerged as mechanisms through which women can attempt to influence policy making and the political process. A

number of international agencies have pooled US$4,955,000 to subsidize the 2008 to 2011programme, Supporting Gender Equality and Women’s Rights. Another pooled multi-donor fund is the Transitional Support Program III of Timor-Leste.

A special measure to increase women’s participation in politics and decision-making was adopted when National Parliament increased the quota of women on the list of alternate candidates of political parties for Parliamentary elections through the approval of a second amendment Law no.7/2011 of 22 June 2011, to Law no. 6/2006.The importance given to equality of women is seen in the placement of the department of Promotion of Equality under a Secretary of State in the Cabinet of the Prime Minister.

In Timor-Leste**,** women in the national police have increased from less than 100 in 2000 to 577 (20%) in

2010, largely as a result of UN mission support, and women constitute 8% of the national defense forces.

The first female district police commissioner was appointed in September 2010 to lead a force of 100

police, including 24 women. Recently, demobilized women ex-combatants have been given the option

to join the security institutions. In Timor-Leste**,** despite the important role played by women in the diplomatic, armed and civilian fronts in the struggle for independence, they were neither consulted nor invited to negotiations between the governments of Portugal and Indonesia, brokered by the UN, in 1999. Seven years later, during the 2006 political crisis, and after the passing of Resolution 1325, women in senior positions in government and civil society were still not considered as mediators and were involved only in the aftermath to the crisis. This was despite major progress in advancing the role of women in politics and other aspects of society.

Source: Freedom Of The World 2012; UN 2010 Report on 10 Years’ review of R. 1325; UN Women Submission East Timor

**Fiji Regression and Repression**

In December 2006, the Fiji Military Forces headed by Commodore Frank Bainimarama (Commodore Bainimarama) removed the democratically elected government of Laisenia Qarase, citing racism, corruption and a country-wide *“clean-up campaign”* as the basis. Widespread and systematic human rights abuses followed, committed by the State and the military forces. Women’s human rights organizations have been on the frontline advocating for democracy and human rights - FWRM has been one of the very few organizations that continue to advocate for human rights at risk (and violations) to organizational and personal security.[[21]](#footnote-22)

In 10 April 2009, the Fiji Court of Appeal decision ruled that the actions of Fiji’s military in December 2006 were unlawful and unconstitutional. Following this ruling, the military regime purportedly abrogated the 1997 Constitution and imposed the full trappings of a military dictatorship through decrees, violence, fear and intimidation.

On 9 March 2012, Commodore Bainimarama announced the timeline and steps for formulating Fiji’s new Constitution.[[22]](#footnote-23) This Constitution is expected to be finalised by February 2013. No specific time line was announced for the election process however elections are expected to be held in September 2014.

This democratization process was identified and announced without public or general consultations with women/women’s rights organizations.

A five member Constitutional Commission was announced – three members on it are women.

In July 2012, two decrees[[23]](#footnote-24) were promulgated by the military regime compromising the independence and fairness of the constitution making process. The Commissioners released a media statement, excerpts of which were only covered by the mainstream media. This media statement highlighted the several concerns over the two decrees and its impact on the constitution making process.[[24]](#footnote-25) Women’s rights organizations, echoed similar concerns, including raising concerns on the environment which is not enabling for substantive and inclusive participation by women[[25]](#footnote-26).

**Challenges**

Many challenges are present for women and women’s organizations to be able to actively and substantially participate in public and political life.

*Intimidation and suppression of dissent by women’s organizations*

The military regime retaliates in several different ways towards women who exercise their right to participate in public and political process including physical violence, assault and torture by the military.

Discrediting women’s organizations by refusing to work with individuals or organizations working with “active & dissident” women’s groups is another tactic.For example*,* Fiji Women’s Crisis Centre (FWCC) partnered with the American Bar Association on a skills and advocacy capacity building training in Fiji to focus on prosecutors and judicial officers. However the regime appointed Director of Public Prosecutions refused to participate on the ground that the programme was as outside the mandate of women’s organizations. Media attacks against women and women’s organizations creating an environment of intimidation and disempowerment for participation by women generally, is also another method of intimidation by the government. On 17 April 2012, local newspaper Fiji Sun reported that the Land Force Commander of the Republic of Fiji Military Forces (RFMF) Colonel Mosese Tikoitoga “*warned members of the public not to be swayed by statements published by non-governmental organisations (NGO) in the country.”* Tikoitoga also stated that *“they are actually airing the views of their donors because they’re aware that if they don’t they’ll lose their money.”* Tikoitoga was reacting to the outcome statement from the participants of the Fiji Consultation on Women’s Participation in National Democratic Processes (Women’s Forum)[[26]](#footnote-27), held from 10 to 12 April. Regime appointed Attorney General Aiyaz Saiyad-Khaiyum attended this event as a State representative and spokesperson for the electoral reform process. His bodyguard that was present in the room started making enquiries of women who were asking questions to the panellist about the role of the military. A second women’s forum was held in June and the military again reacted aggressively by stating *“don’t mess with the military”.[[27]](#footnote-28)*

In June 2012, the FWRM, FWCC and FemLINKPACIFIC released a media statement raising concerns on the constitution making process and the decrees made in relation to the process.[[28]](#footnote-29) Commodore Bainimarama responded[[29]](#footnote-30) to this through the media by stating *“tone of the statement by the NGOs indicates that they feel they are very important.”* He said the constitution process is not for grandstanding and the Constituent Assembly will be made up of credible people who think positively about Fiji’s future and *“Shamima Ali is not in that league.”*

*Police intelligence*

Police intelligence *surveillance of women activists and organisations at the* different constitutional submission hearing venues is another tactic of intimidation and at trainings organized by certain women’s organizations. W*omen’s organizations have been excluded from the decision making pertaining to the constitutional reform and political transitional processes. For example,* the Fiji Constitutional Commission is responsible of conducting consultations with civil society groups as the country is in the process of writing the constitution. In the beginning, the consultations were conducted by a process of participants arriving at the venue, registering and then presenting.  But, for two particular sessions in Central Suva, it was through a booking procedure which was not advertised.  ELFA tried to get an appointment for several days however they were told that it was all booked, but was offered by Youth Assembly of Fiji Islands YAFI to share their time slot with ELFA. However, during the consultation, ELFA was denied the time to present its submission by the Constitutional Commission.

Furthermore, women of other ethnic groups especially Indofijian women appear more disenfranchised then before. Due to the racial tensions that have existed within the country and the many coups/political conflicts based on race, Indofijian women tend to consider themselves as second class citizens. This results in lack of active participation in public and political processes especially at national level. Due to the continuous racial and political conflicts Indofijian women tend to regard national processes such as the constitution making process more for the indigenous community than consider it as something for all Fiji citizens. The realities and experiences of this ethnic group of women are not considered nor are measures taken to break or overcome the barriers to promote their participation. Their participation during the constitution making process comparatively to itaukei women have been dismal.

*Media censorship*

Decrees, fines, contempt of court proceedings, military regime censors, including direct control by the regime have created an environment where the media operates arbitrarily and in fear. There is an absence of free and safe spaces to discuss issues and concerns of women, and for women to participate in the public and political spheres.As an example, three women’s organization FWCC, FWRM and FemLINKPACIFIC released a media statement[[30]](#footnote-31) voicing their conversation over the constitution making process, however none of the mainstream media outlets published the statement in its actual context and content. When attempts were made to put in the statement as a paid advertisement, the media outlets refused.

*Self censorship and “adaptation” by women and women’s groups*

Due to the entrenched fear and intimidation, including prevailing threats of legal persecution, some women and women’s organisation have over the last few years exercised a level of censorship in order to comply with the decrees in place. This has led to adjustments in organisational programs and activities.

FWRM also have formed partnerships with other women’s organisations that are ethno nationalist and fundamentalist in their approach. Whilst this is a good thing, in “normal” times FWRM would have forged a different kind of partnership with this organisation more centric to targeted human rights education and awareness for them.

*Militarisation*

The military is a male dominated profession and its structures are patriarchal, hierarchical and non participatory which displaces women to subordinate or *“soft”* positions in all levels in a society. Also, the presence of military and military values in the government creates an environment that does not enable civilians in particular women to *“question”* and *“critique”* the regime’s policies and decisions.

Furthermore, decisions are being made by the military and in an environment where military values are instilled. This leads to decisions being made from the perspectives of men who see violence, power, domination and *“protection”* over others as a means of governance. Over the last few years the number of military officers within the civil service has gradually increased with approximately 64% of military personnel in senior positions within the ministries and 43% of military personnel in the cabinet and civil service. There is only one woman minister in the military government and she holds the portfolio for women, poverty alleviation and social welfare.

Women’s participation in public and political spheres in Fiji continues to become more limited due to pervasive and continued gender stereotyping and discrimination.

**Opportunities**

Some opportunities have been created for women and women’s organisation during this time that allowed for a stronger and unified political voice.

*Women’s Forum*

The FWRM mobilised and created a partnership with three other women’s organisations to work together in solidarity to share resources, information and awareness and to have a stronger political “voice” – the Women’s Forum. This partnership allowed for a diverse and widespread community to be represented, including discussing issues affecting women (the challenges of this partnership are identified as above). Outcome statements were produced which yielded responses from the military regime. FWRM was able to seek the support of these women’s organisations to lobby for temporary special measures. Under normal circumstances this partnership may not have eventuated due to the differences in values.

*Tokenistic measures*

The military regime has been working strategically to gain popularity with the people through enacting decrees and policies that in a democratic context would take substantial lobbying and time to get passed as laws/legislations. Most of these decrees contain provisions that women’s rights organisations have been lobbying hard for with elected governments – for instance, the Crimes Decree and the Domestic Violence Decree. However whilst the laws has been passed dejure, there is lack of resources and budget allocated towards its effective implementation in de facto. No consultations also have been carried out when drafting the decrees or in its implementation in current time. The regime has also appointed Minister Dr Luveni as State representative to the national UNSCR 1325 committee. These tokenistic measures by the regime to appease women’s and human rights organisation has resulted in rift between women’s organisation and women activists that used to work together before.

Women’s public and political participation continues to regress in the undemocratic military State. The State is failing to take appropriate measures to eliminate discrimination against women in the political and public life and has not taken any substantive steps to promote women’s public and political participation. The militarisation of Fiji continues to oppress women’s human rights.

Source: APWLD Regional Consultation with UN Special Procedures, Nepal 2012

**Myanmar: Resistance and Rebuilding**

From 1962 to 2011, Myanmar was ruled by a military junta that suppressed almost all dissent and wielded absolute power in the face of international condemnation and sanctions. The generals who ran Myanmar stood accused of gross human rights abuses, including the forcible relocation of civilians and the widespread use of forced labour, including children.

The first general election in 20 years was held in 2010. This was hailed by the junta as an important step in the transition from military rule to a civilian democracy, though opposition groups alleged widespread fraud and condemned the election as a sham. It was boycotted by the main opposition group, Aung San Suu Kyi's National League for Democracy (NLD) - which had won a landslide victory in the previous multi-party election in 1990 but was not allowed to govern.A nominally civilian government led by President Thein Sein - who served as a general and then prime minister under the junta - was installed in March 2011[[31]](#footnote-32).

A new constitution brought in by the junta in 2008 entrenched the primacy of the military. A quarter of seats in both parliamentary chambers are reserved for the military, and three key ministerial posts - interior, defence and border affairs - must be held by serving generals. A series of reforms in the months since the new government took up office has led to hopes that decades of international isolation could be coming to an end[[32]](#footnote-33).

Aung San Suu Kyi, Leader of National League for Democracy (NLD) and daughter of independence hero General Aung San, entered politics in 1988 amid pro-democracy protests. She wasplaced under house arrest in 1989. When she arrived back in Rangoon, from Britain in 1988 - to look after her critically ill mother - Myanmar was in the midst of major political upheaval. Thousands of students, office workers and monks took to the streets demanding democratic reform against the then-dictator, General Ne Win.

Ms Suu Kyi was soon propelled into leading the revolt. But the demonstrations were brutally suppressed by the army, who seized power in a coup on 18 September 1988.The military government called national elections in May 1990. Aung San Suu Kyi's NLD convincingly won the polls, despite the fact that she herself was under house arrest and disqualified from standing. But the junta refused to hand over control, and has remained in power ever since. She has been under house-arrest for 15 years between 1989 and 2010. Released after 2010 election, from which she was barred. She was allowed to register NLD in 2011.NLD swept the polls in the by-elections in 2012 April. Weeks later, Ms Suu Kyi took the oath in parliament and became the leader of the opposition[[33]](#footnote-34).

Currently, 95% of local level (district, township, and administration of ward or village) administrations are men[[34]](#footnote-35). Currently there is only one woman as the Minister of Health in the formation of Union Government , even though, the constitution guarantee that there is no discriminatory policy against women. There is no national strategic plan and mechanism on increasing women’s participation in public and political life in Myanmar/ [[35]](#footnote-36).

Myanmar has already ratified CEDAW treaty since 1997.In Myanmar, there is no political party that has gender sensitive policy in party structure. But in the last bi-election, NLD party prescribed that women , ethnic and young people are more preferable to be selected as the NLD candidates[[36]](#footnote-37).

Activist groups have great influence on public opinion. The biggest and the most influence activist group in Myanmar do not have gender sensitive plans even though a lots of women are actively committed in this groups. More women organizations have been formed and existing women organizations are enthusiastic in political issue to promote women issues as human issues[[37]](#footnote-38).

As the organizations are so young, they have a lot of challenges to promote capacity and technical skills.

Source: BBC Country Profile; APWLD Regional Consultation with UN Special Procedures, Nepal 2012

1. Govt Submission [↑](#footnote-ref-2)
2. A Brief History of Nepal <http://www.nepalhomepage.com/general/history.html> [↑](#footnote-ref-3)
3. Freedom in the World 2012 – Nepal, Freedom House [↑](#footnote-ref-4)
4. PRASHANT JHA **Nepal stares at constitutional crisis as party positions harden The Hindu** KATHMANDU, May 26, 2012 [↑](#footnote-ref-5)
5. Fedo INPUT [↑](#footnote-ref-6)
6. Meera Gurung v. Her Majesty’s Government Department of Central Immigration, Ministry of Home Affairs

   (1994) Supreme Court of Nepal. [↑](#footnote-ref-7)
7. Meera Dhungana *on behalf of FWLD* and another v Government of Nepal Writ No. 3392 of 1993, 2 August 1995 [↑](#footnote-ref-8)
8. Meera Kumari and Mira Khanal v. His Majesty’s Government, Ministry of Law, Justice and Parliamentary

   Affairs, Secretariat of the Council of Ministers, House of Representatives, National Assembly (1995) Supreme

   Court of Nepal. [↑](#footnote-ref-9)
9. Samira Paudel Women's Role in Peace Building in Nepal; Nepal democracy<http://www.nepaldemocracy.org/gender/role_women_peacebuilding.htm> retrieved 24/9/12 [↑](#footnote-ref-10)
10. Amnesty Internation Report 2012 Nepal [↑](#footnote-ref-11)
11. Rangita de Silva de Alwis**,**The Intersections of the CEDAW and CRPD: Integrating Women’s Rights and Disability Rights into Concrete Action in Four Asian CountriesWellesley Centers for Women CSW March 4, 2010United Nations [↑](#footnote-ref-12)
12. Progress of the World’s Women [↑](#footnote-ref-13)
13. <http://www.unwomensouthasia.org/un-women-in-south-asia-2/un-women-in-nepal/results-from-the-field-nepal/> [↑](#footnote-ref-14)
14. <http://www.bbc.co.uk/news/world-asia-pacific-15460528> [↑](#footnote-ref-15)
15. United Nations Development Program, Mongolia Human Development Report 2007: Employment and Poverty in Mongolia: Executive Summary (Ulaanbaatar, 2007), pp. 26, 28.  
     [↑](#footnote-ref-16)
16. Nalini Burn and Oyuntsetseg Oidov: Women in Mongolia: Mapping Progress under Transition UNIFEM 2001 [↑](#footnote-ref-17)
17. The World factbook- Afghanistan [↑](#footnote-ref-18)
18. *GlobalPost Special Report titled "Life Sentence: Women and Justice in Afghanistan.*

    <http://www.globalpost.com/dispatch/news/regions/asia-pacific/afghanistan/120306/afghan-women-trapped-tribal-court-system?page=0,1> [↑](#footnote-ref-19)
19. Ibid. [↑](#footnote-ref-20)
20. Articles 2&3 constitution of Afghanistan. [↑](#footnote-ref-21)
21. http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/FJ/FWRM\_UPR\_FJI\_S07\_2010\_Fiji\_WomensRightsMovement\_annex1.pdf [↑](#footnote-ref-22)
22. http://www.fiji.gov.fj/index.php?option=com\_content&view=article&id=5722:pm-bainimarama-announcement-on-the-constitutional-consultation&catid=50:speeches&Itemid=168 [↑](#footnote-ref-23)
23. Fiji Constitutional Process (Constituent Assembly and Adoption of Constitution) Decree 2012 and the Fiji Constitutional Process (Constitution Commission) Decree 2012. [↑](#footnote-ref-24)
24. <http://intelligentsiya.blogspot.com/2012/07/fiji-constitution-commission-press.html> [↑](#footnote-ref-25)
25. <http://www.scoop.co.nz/stories/WO1207/S00632/ngochr-commends-fiji-constitution-commission-statement.htm> [↑](#footnote-ref-26)
26. <http://www.fwrm.org.fj/content/balance/balancejune2012.pdf> [↑](#footnote-ref-27)
27. http://www.fijisun.com.fj/2012/06/09/%E2%80%98don%E2%80%99t-mess-with-army%E2%80%99/ [↑](#footnote-ref-28)
28. <http://www.fwrm.org.fj/index.php/news/media-releases/2012/270-ngos-concerned-about-constitution-making-process> [↑](#footnote-ref-29)
29. http://fijitoday.wordpress.com/2012/08/14/pm-says-constituent-assembly-will-be-made-up-of-credible-people-tell-shamima-ali-from-me-she-is-not-in-that-league-womens-crisis-centre-excluded-from-constituent-ass/ [↑](#footnote-ref-30)
30. <http://www.fwrm.org.fj/index.php/news/media-releases/2012/270-ngos-concerned-about-constitution-making-process> [↑](#footnote-ref-31)
31. BBC Country profile [↑](#footnote-ref-32)
32. Ibid [↑](#footnote-ref-33)
33. BBC Country profile, profile of Aung San Suu Kyi [↑](#footnote-ref-34)
34. APWLD Consultation 2012 [↑](#footnote-ref-35)
35. Ibid [↑](#footnote-ref-36)
36. Asia Pacific Regional Consultation with UN Special Procedures, September 2012 APWLD 2012 [↑](#footnote-ref-37)
37. Ibid. [↑](#footnote-ref-38)