

CONFLICT AS CATALYST: THE ROLE OF CONFLICT IN CREATING POLITICAL SPACE FOR WOMEN

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Although the benefits associated with the presence of women in political decision-making positions are uncontested, global statistics relating to the number of women in political leadership roles paint a disappointing picture of underutilized resources. While rights-based advocacy, quotas, and economic incentives are commonly posited as effective strategies to increase the number of women active in public spaces, several studies have shown that the law alone is not sufficient to bring about changes in gender norms unless the underlying structural constructs that perpetuate inequalities privileging dominant groups are addressed first. Conflict, especially when driven by rejection of those inequalities, can hasten reform by exposing entire systems and practices to scrutiny and revision, thereby serving as a more effective catalyst for women's political advancement.

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I. INTRODUCTION

After reviewing data about the global percentages of women holding positions of power, one might be forgiven for questioning a statement attributed to Eleanor Roosevelt that “[n]o one can make you feel inferior without your consent.”¹ This Article aims to assess the status of women in domestic and global leadership roles along with conventional strategies for achieving power parity—including legal protections—before advancing the argument that conflict may be more effective in creating space for women to attain political power than more conventional strategies.² Accordingly, post-conflict transitions should be treated as critical windows for institutional redesign in which women’s political representation and associated rights may advance more rapidly than under conventional reform strategies that may have historically faltered.³

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1. “No one can make you feel inferior without your consent”, READER’S DIGEST, Sept. 1940, at 84. (attributing the quote to Eleanor Roosevelt).

2. See INT’L COMM. OF THE RED CROSS, HOW IS THE TERM “ARMED CONFLICT” DEFINED IN INTERNATIONAL HUMANITARIAN LAW? 5 - 6 (2024), https://www.icrc.org/sites/default/files/document_new/file_list/armed_conflict_defined_in_ihl.pdf (“[W]hether an armed conflict is an international armed conflict (IAC) or non-international armed conflict (NIAC) will largely determine which rules of IHL apply.”).

3. See Sarah Shair-Rosenfield & Reed M. Wood, *Governing Well Af-*

This Article proceeds in six parts. Part I outlines the continuing gap between formal legal commitments to gender equality and women's actual representation in positions of public power, while also noting the deficiencies in available data on women's participation in judicial and political institutions. Part II examines the two traditionally recognized pathways to greater political power for women: rights-based legal reform and economic and institutional incentives. Part III explores the possibility that conflict itself can create openings for change due to opportunities that arise after conflict, including access to leadership roles, constitution making, and political-party formation. Part IV considers the corollary issues that shape whether those opportunities translate into durable gains, such as quotas, the difference between peace negotiations and long-term peacebuilding, the neglect of women's economic inclusion, the risks of segregating women's issues, the need for transparency, the persistence of patriarchal norms, and the influence of international actors. Part V sets out recommendations by identifying the institutional and policy conditions necessary to consolidate women's post-conflict gains. Part VI concludes that while law is indispensable, lasting gender parity is most likely when periods of institutional rupture are used to dismantle rather than reproduce preexisting structures of exclusion.

II. CONTEXT

Across the spectrum of leadership roles, data indicate that the level of women's participation in public positions and institutions of power remains consistently low despite advances in international and regional laws,⁴ mandates from

ter War: How Improving Female Representation Prolongs Post-conflict Peace, 79 J. POL. 995, 1007 (2017) (“[C]ompared to other forms of conflict termination, negotiated settlements create more new opportunities for women's incorporation into positions of political leadership and the increase in female representation provides distinct prospects for breaking the conflict trap.”).

4. See, e.g., Frances Raday, *Gender and Democratic Citizenship: The Impact of CEDAW*, 10 INT'L J. CONST. L. 512, 527-30 (2012) (“[A] wide gap between the right to equality and its translation into living law and social practice.”); Yoshikuni Ono & Yuya Endo, *The Underrepresentation of Women in Politics: A Literature Review on Gender Bias in Political Recruitment Processes*, 30 INTERDISCIPLINARY INFO. SCI. 36, 36 (2024) (“Women are increasingly entering various fields worldwide; however, their presence in the political arena remains notably low.”).

international organizations such as the United Nations (UN),⁵ and ambitious plans of action for increasing development and equality for women and girls.⁶

As of January 2026, women were named heads of state in only 28 out of 193—or 14.51%—of UN member states, and women served as heads of government in only 30 of 193—or 15.54%—of member states.⁷ As of the same date, national cabinets in only fourteen countries were composed of at least 50% women who led policy portfolios.⁸ Likewise, only 27.5%

5. See, e.g., Fourth World Conference on Women, Beijing Declaration and Platform for Action, Beijing, China, Sept. 4–15, 1995, U.N. Doc. A/CONF.177/20/Rev.1 (1996); UN INTER-AGENCY NETWORK ON WOMEN AND GENDER EQUALITY, 25 YEARS AFTER BEIJING: A REVIEW OF THE UN SYSTEM'S SUPPORT FOR THE IMPLEMENTATION OF THE PLATFORM FOR ACTION, 2014 – 2019, at 8, 25, 55 (2020) [hereinafter 25 YEARS AFTER BEIJING], <https://digitalibrary.un.org/record/3895042/files/20142019en.pdf> (“In 2019, nearly 25 years after the adoption of the Beijing Declaration and Platform for Action, women comprised only 24 per cent of national parliamentarians, an increase of a mere 12 per cent since 1995.”).

6. See 25 YEARS AFTER BEIJING, *supra* note 5, at 8-17 (reviewing U.N. system efforts to implement the Beijing Declaration and Platform for Action). However, the Data Compendium for the Review of the UN System's Support for the Implementation of the Platform for Action reported that between 2014 and 2019 some advances were made in areas predicated on increasing women's participation in public life and decision-making, including in enhanced capacity-building, skills development, and creation of opportunities for mentorship, leadership training, and political campaigning. *Id.* at 11.

7. *Facts and Figures: Women's Leadership and Political Participation*, UNITED NATIONS WOMEN (Mar. 11, 2026) [hereinafter *Facts and Figures*], <https://www.unwomen.org/en/what-we-do/leadership-and-political-participation/facts-and-figures>. Although these numbers represent a marginal increase from data available as of January 2021, when women were named heads of state in only 9 out of 152—or 5.9%—of UN states and women served as heads of government in only 13 of 193—or 6.7%—of member states. *Women in Politics: 2021*, UNITED NATIONS WOMEN (Jan. 1, 2021), <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2021/Women-in-politics-2021-en.pdf>. At current rates of change, “gender equality in the highest positions of power will not be reached for another 130 years.” *Facts and Figures, supra*. Finally, according to a 2024 United Nations report, it will still take a staggering 137 years to “[e]nd extreme poverty for women and girls.” UNITED NATIONS, PROGRESS ON THE SUSTAINABLE DEVELOPMENT GOALS: THE GENDER SNAPSHOT 2024, at 8, <https://unstats.un.org/sdgs/gender-snapshot/2024/GenderSnapshot2024.pdf>.

8. *Facts and Figures, supra* note 7. This statistic represents a decrease of one country from September 2020. Rachel B. Vogelstein & Alexandra Bro, *Women's Power Index Tracks Women's Political Repre-*

of parliamentarians in upper or lower chambers worldwide were women.⁹

Data reporting the percentages of women participating in judiciaries and judicial processes are less available because statistics are not uniformly collected across regions or, more often, within individual countries.¹⁰ However, available data are similarly discouraging with respect to female heads of state and parliamentarians. Although women played a prominent judicial role in 57.2% of Organization for Economic Cooperation and Development (OECD) member countries in 2020 (excluding the United States), this number reflected only a slight increase of 3.9% compared to 2014 data.¹¹

Women's representation in constitutional courts is somewhat better. In 2016, the World Bank reported that women served as justices in 122 of the 153 countries utilizing constitutional courts,¹² although some studies show that women have almost never achieved 50% membership in them.¹³

sentation, COUNCIL ON FOREIGN RELS. (Feb. 4, 2020, at 12:00 EST), <https://www.cfr.org/blog/womens-power-index-tracks-womens-political-representation>.

9. *Facts and Figures*, *supra* note 7; see also *Global and Regional Averages of Women in National Parliaments*, INTER-PARLIAMENTARY UNION, <https://data.ipu.org/women-averages/> (displaying statistic tables of women's membership in national parliaments).

10. INT'L DEV. L. ORG., WOMEN DELIVERING JUSTICE: CONTRIBUTIONS, BARRIERS, PATHWAYS 38-41 (2018), <https://www.idlo.int/sites/default/files/pdfs/publications/IDLO%20-%20Women%20Delivering%20Justice%20-%202018.pdf>.

11. Ivan Caetano et al., *Women in the Judiciary - Where We Are Today*, INT'L ASSOC. OF WOMEN JUDGES (Apr. 9, 2025), https://www.iawj.org/content.aspx?page_id=5&club_id=882224&item_id=114357 (“[T]he countries with the greatest gender balance [are] predominantly civil law systems where women are recruited directly from law schools before they face possible career disruptions. On the other hand, in common law systems, women often face a statutory requirement of at least five or seven years post-qualification experience before they are legally qualified for posts in the judiciary.”).

12. INT'L DEV. L. ORG., *supra* note 10, at 39; see also WORLD BANK GRP., WOMEN, BUSINESS AND THE LAW, at 19 (2016), <https://openknowledge.worldbank.org/server/api/core/bitstreams/6f471052-ad17-5254-86ee-3e8142be7a3d/content> (reporting percentages of female justices in constitutional courts).

13. Beverly Baines, *Women Judges and Constitutional Courts: Why Not Nine Women?*, in CONSTITUTIONS AND GENDER 290, 290-320 (Helen Irving ed., 2017). One notable exception is Rwanda, where the first woman was appointed to the Supreme Court as early as 1995, and 50% of the

Promisingly, as of 2020, women were making inroads in apex courts, including in Ethiopia, Niger, Lesotho, Sudan, Côte d'Ivoire, and Zambia, where they served as Chief Justices.¹⁴

In international tribunals, the prevalence of women is similarly low. As of 2012, only 26% of the judges in the twenty-one international courts and tribunals were women.¹⁵ By mid-2015, that percentage had decreased; fewer than 20% were female.¹⁶ Data from 2018 indicated that there was only one international court in which the number of female judges exceeded 50%, and female judges represented less than 35% of the total number in all other international courts.¹⁷ As a UN body in particular, the ICJ has been a frequent focal point of criticism due to its absence of gender parity; since the court was established in 1945, only 4 of the 108 permanent judges and 4 out of 117 ad hoc judges have been women, according to a 2021 report.¹⁸ More recent data from April 2026 indicates that out of the 15 judges serving at the International Court of Justice (ICJ), only five are women,¹⁹ and at the International

justices of that court were comprised of women between 2008 and 2012. *Id.* at 300-02.

14. *Progress towards Parity: The Representation of Women in the Judiciary*, U.N. OFF. ON DRUGS & CRIME (Apr. 30, 2021), <https://www.unodc.org/dohadeclaration/en/news/2021/04/progress-towards-parity-the-representation-of-women-in-the-judiciary.html>.

15. Andrea Samardzija, *The Future Is Female: Gender Representation in International Courts and Tribunals*, LEIDEN L. BLOG (Dec. 10, 2019), <https://leidenlawblog.nl/articles/the-future-is-female-gender-representation-in-international-courts-and-tribunals>.

16. *Id.* In courts where gender was required to be taken into consideration during nomination and appointment processes, 32% of the judges were women. Nienke Grossman, *Achieving Sex-Representative International Court Benches*, 110 AM. J. INT'L L. 82, 92 (2016). In courts without gender requirements, only 15% of the judges were female. *Id.*

17. Priya Pillai, *Women in International Law: A Vanishing Act?*, OPINIO JURIS (Dec. 3, 2018), <http://opiniojuris.org/2018/12/03/women-in-international-law-a-vanishing-act/>.

18. Jessica Lynn Corsi, *Legal Justifications for Gender Parity on the Bench of the International Court of Justice: An Argument for Evolutive Interpretation of Article 9 of the ICJ Statute*, 34 LEIDEN J. INT'L L. 977, 978 (2021). The situation had improved only marginally by 2026 with the ICJ having only ever had "6 women judges compared to 109 men, with 5 of those women currently serving." GQUAL CAMPAIGN & U.N. WOMEN, VOICES FROM THE BENCH: SHAPING INTERNATIONAL JUSTICE 18 (2026), <https://www.un-women.org/sites/default/files/2026-03/voices-from-the-bench-women-shaping-international-justice-en.pdf>.

19. *Current Members*, INT'L CT. OF JUST., <https://www.icj-cij.org/cur->

Tribunal for the Law of the Sea, only 6 out of 21 judges are women.²⁰ The International Criminal Court, where 11 of the 18 judges are female, presents a more favorable example.²¹

In 2021, women comprised an average of 48.83% of members of UN treaty bodies.²² In 2020, the UN Inter-Agency Network on Women and Gender Equality found that only 10 out of 49 reporting UN entities had undertaken action to support the participation of women in justice processes, including transitional justice mechanisms.²³ These figures reflect persistent institutional gaps that continue to limit women's participation even within organizations formally committed to gender equality and help to explain why women remain underrepresented in decision-making roles more broadly.

The scarcity of women in decision-making roles around the world is puzzling given both the documented good governance effects of women's political participation and the broader cross-national associations between women's representation and institutional, social, and economic performance.²⁴ For example, the World Economic Forum reports that countries with more women in government subsequently experience improved economic performance.²⁵ When women

rent-members (last visited Apr. 4, 2026).

20. *Members*, INT'L TRIBUNAL FOR THE L. OF THE SEA, <https://www.ilos.org/en/main/the-tribunal/members/> (last visited Apr. 4, 2026).

21. *Current Judges*, INT'L CRIM. CT., <https://www.icc-cpi.int/judges/judges-who-s-who> (last visited Apr. 4, 2026).

22. However, representation of women across the ten Treaty Bodies was uneven; if the CEDAW Committee and the Committee on the Rights of the Child, both of which specifically focus on women's issues, are eliminated, the percentage of female members fell to 40%. Marcia V.J. Kran, *Symposium on Gender Representation: Women's Representation on the UN Human Rights Treaty Bodies – Action Needed to Achieve Parity*, OPINIO JURIS (Oct. 5, 2021), <https://opiniojuris.org/2021/10/05/symposium-on-gender-representation-womens-representation-on-the-un-human-rights-treaty-bodies-action-needed-to-achieve-parity/>.

23. 25 YEARS AFTER BEIJING, *supra* note 5, at 14.

24. This discussion focuses on consequentialist justifications for gender diversity, as opposed to justifications that are “merely” deontological. See Freya Baetens, *Identity and Diversity on the International Bench: Implications for the Legitimacy of International Adjudication*, in IDENTITY AND DIVERSITY ON THE INTERNATIONAL BENCH 1, 9 (2020) (“The consequentialist approach . . . places value not on diversity itself, but on the impact that the diverse perspectives brought by the judges and arbitrators may have on the judgments.”).

25. WOMEN POLITICAL LEADERS, REPRESENTATION MATTERS: WOMEN POLITICAL LEADERS 39-42 (2023) <https://www.oliverwymanforum.com/global->

have decision-making power, including not only participation rights but also opportunities to influence others' opinions,²⁶ "laws, rulings, and decisions are more likely to be inclusive, representative, and take diverse views into account."²⁷ Countries with greater proportions of women in positions of legislative power have lower levels of income inequality,²⁸ and gender-balanced legislatures more frequently address issues associated with women.²⁹ Women are often considered more responsive to the needs of diverse citizens, resulting in reduced rates of conflict, more robust democratic institutions, and higher levels of political stability.³⁰ Increased integration of women in the labor market promotes economic development and growth.³¹ Gender equality in governments also

[consumer-sentiment/2023/sep/representation-matters-women-political-leaders.html](https://www.weforum.org/stories/2023/11/women-government-representation/) ("Representation of women in politics comes with overall improved economic performance which we link to the correlation between representation and legal equality of economic opportunity."); see also Silvana Koch-Mehrin & Dominik Weh, *Countries with More Women in Government Are More Prosperous*, WORLD ECON. F. (Nov. 15, 2023), <https://www.weforum.org/stories/2023/11/women-government-representation/>.

26. Angela M. Banks, *Expanding Participation in Constitution Making: Challenges and Opportunities*, 49 WM & MARY L. REV. 1043, 1044 (2008).

27. Women Deliver, *Balancing the Power Equation: Women's Leadership in Politics, Businesses, and Communities 1* (2018), <https://womendeliver.org/wp-content/uploads/2018/09/Women-Leadership-Policy-Brief-9.23.18.pdf>; see also Org. for Econ. Coop. & Dev., *Women, Government and Policy Making in OECD Countries: Fostering Diversity for Inclusive Growth 11-13* (2014), https://www.oecd.org/content/dam/oecd/en/publications/reports/2014/04/women-government-and-policy-making-in-oecd-countries_g1g40869/9789264210745-en.pdf (explaining that greater gender diversity in government decision-making promotes more inclusive and representative policymaking).

28. Women Deliver, *supra* note 27, at 1.

29. See generally Craig Volden et al., *Women's Issues and Their Fates in the US Congress*, 6 Pol. Sci. Rsch. & Methods 679 (2018) (finding that women's issues receive greater attention and are more likely to advance in legislatures with greater female representation).

30. Saskia Brechenmacher & Caroline Hubbard, Carnegie Endowment for Int'l Peace, *Breaking the Cycle of Gender Exclusion in Political Party Development 5-6* (2020), <https://carnegieendowment.org/research/2020/03/breaking-the-cycle-of-gender-exclusion-in-political-party-development?lang=en>.

31. Elizabeth Asiedu et al., *The Effect of Women's Representation in Parliament and the Passing of Gender Sensitive Policies 2* (2018) (unpublished conference paper, Allied Soc. Sci. Ass'n Annual Meeting) <https://www.aeaweb.org/conference/2018/preliminary/paper/an5yEb5h>;

strengthens accountability across and within governmental bodies³² and correlates with decreased levels of corruption.³³ The presence of women on the bench is associated with more just judicial outcomes³⁴ and increased sensitivity to a variety of issues, including sexual assault and discrimination.³⁵ In the commercial world, companies with strong female leadership tend to show a 10.1% annual return on equity, as opposed to 7.4% in companies without female leadership.³⁶ In rural contexts, village councils led by women are more likely to support investments in clean drinking water, childhood immunizations, and education.³⁷ In the private sphere, female leadership within families results in increased levels of healthcare and education.³⁸ Finally, states with higher levels of gender equality have lower risks of civil conflict,³⁹ and peace negotiations that include women are 35% more likely to be successful fifteen years after the end of conflict.⁴⁰ Women's inclusion in decision-making bodies can reshape policy priorities, public spending, and legal reform in ways that plausibly contribute over time to more inclusive and prosperous governance.⁴¹

see also World Bank Grp., *supra* note 12, at 29 (“Legal gender differences are estimated to significantly decrease female labor force participation and undermine GDP growth.”).

32. Caetano et al., *supra* note 11.

33. Chandan Kumar Jha & Sudipta Sarangi, *Women and Corruption: What Positions Must They Hold to Make a Difference?*, 151 J. Econ. Behav. & Org. 219, 219 (2018).

34. Int'l Dev. L. Org., *supra* note 10, at 13.

35. Nienke Grossman, *Shattering the Glass Ceiling in International Adjudication*, 56 Va. J. Int'l L. 339, 341, 400-02 (2016).

36. Tatiana DiLanzo, *Women Deliver, Strengthen Girls' and Women's Political Participation and Decision-Making Power 5* (2018), https://womendeliver.org/wp-content/uploads/2016/09/2019-8-D4G_Brief_Political.pdf.

37. Jamille Bigio & Rachel Vogelstein, *Women Under Attack: The Backlash Against Female Politicians*, *Foreign Affs.* (Dec. 10, 2019), <https://www.foreignaffairs.com/articles/2019-12-10/women-under-attack>.

38. *Women Deliver*, *supra* note 27, at 1.

39. Srobana Bhattacharya & Courtney Burns, *What's War Got to Do with It? Post-Conflict Effects on Gender Equality in South and Southeast Asia, 1975–2006*, 6 J. Asian Sec. and Int'l Affs. 55, 58 (2019).

40. Marie O'Reilly et al., Int'l Peace Inst., *Reimagining Peacemaking: Women's Roles in Peace Processes* 12 (2015), <https://www.ipinst.org/wp-content/uploads/2015/06/IPI-E-pub-Reimagining-Peacemaking.pdf>.

41. Nam Kyu Kim, *When Does Women's Political Power Matter? Women's Representation and Legal Gender Equality of Economic Opportunity Across Contexts*, 14 Eur. Pol. Sci. Rev. 583, 597 (2022) (“Our anal-

Taken together, these data underscore a central premise of this Article: despite the proliferation of legal guarantees, policy commitments, and aspirational frameworks, women remain underrepresented across many institutions of public power. This persistent gap suggests that the problem is not merely formal exclusion but the endurance of deeply embedded structural, political, and cultural systems—systems that periods of conflict and post-conflict reconstruction may, however imperfectly, be uniquely positioned to disrupt and remake.

III. STRATEGIES FOR INCREASING WOMEN'S POLITICAL POWER

A. *Rights-Based Approach*

A rights-based approach is often advocated as a basis for increasing levels of women's political participation in times of peace as well as during post-conflict reconstruction efforts.⁴² As shown below, a number of international, regional, and domestic legal frameworks and policy recommendations provide legal bases for women's rights to serve in decision-making roles as a core aspect of the basic human right to participate in public and political life.⁴³

At the international level, Article 25 of the International Covenant on Civil and Political Rights (ICCPR) states that “[e]very citizen shall have the right and the opportunity,” without distinction as to sex and without unreasonable restriction, “[t]o take part in the conduct of public affairs, directly or

ysis demonstrates that the percentages of both female legislators and female ministers are positively associated with legal gender equality of economic opportunity.”).

42. U.N. Sustainable Dev. Grp., *Human Rights-Based Approach*, <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach> (last visited Apr. 4, 2026) (“The human rights-based approach (HRBA) is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.”); see generally Elaine Zuckerman & Marcia Greenberg, *The Gender Dimensions of Post-Conflict Reconstruction: An Analytical Framework for Policymakers*, 12 GENDER AND DEV. 70, 70 (2004) (“The normative foundation of this paper is rights-based, identifying three interrelated kinds of rights which must be guaranteed to women in the post-conflict period.”).

43. INT’L DEV. L. ORG., *supra* note 10, at 9.

through freely chosen representatives.”⁴⁴ The Covenant further protects the right to vote and to stand for election at genuine, periodic elections conducted with universal and equal suffrage, as well as the right to access public services on general terms of equality.⁴⁵ Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides that:

“States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.”⁴⁶

44. International Covenant on Civil and Political Rights art. 25, Dec. 16, 1966, 999 U.N.T.S. 171 (*entered into force* on Mar. 23, 1976) [hereinafter ICCPR]. 175 countries are party to the ICCPR by ratification, accession, or succession as of April 2026. *Ratification Status for CCPR—International Covenant on Civil and Political Rights*, U.N. OFF. HIGH COMM’R FOR HUM. RTS., https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR (last visited Apr. 4, 2026).

45. *Id.*; see also Tawhida Ahmed & Israel de Jesus Butler, *The European Union and Human Rights: An International Law Perspective*, 17 EUR. J. INT’L L. 771, 771 (2006) (arguing that although the European Union traditionally relied on its own regional legal framework in the area of human rights, it is actually bound by international laws to which it is a party and human rights treaties to which individual member states have acceded, including the ICCPR, as a matter of customary international law).

46. Convention on the Elimination of All Forms of Discrimination Against Women art. 7, Dec. 18, 1979, 1249 U.N.T.S. 13 (*entered into force* on Sept. 3, 1981) [hereinafter CEDAW]. 189 countries are party to CEDAW by ratification, accession, or succession as of April 2026. *Ratification Status for CEDAW—Convention on the Elimination of All Forms of Discrimination Against Women*, U.N. OFF. HIGH COMM’R FOR HUM. RTS., https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CEDAW (last visited Apr. 4, 2026). All Member States of the European Union are party to CEDAW. DIRECTORATE GEN. FOR INTERNAL POL’Y, POL’Y DEP’T, EUR. PARLIAMENT, HOW COULD THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) BE IMPLEMENTED IN THE EU LEGAL FRAMEWORK? 14 (2011), <https://www.europarl.europa.eu/RegData/etudes/note/join/2011/453193/IPOL->

Researchers have found that “CEDAW has real, independent effects on women’s rights ... [with] its largest effects on women’s political rights, smaller effects on women’s social rights, and virtually no effects on women’s economic rights.”⁴⁷

Regional law enacted by supranational governmental bodies such as the African Union (AU) or European Union (EU) may also protect women’s rights to hold elected office, to participate in public and political life, and to formulate government policy. For example, Articles 2, 3, 13, and 18 of the African Charter on Human and Peoples’ Rights generally prohibit discrimination on the basis of sex and protect the right of every citizen to participate in the government of “his country.”⁴⁸ Articles 12 and 14 of the Protocol to the African Charter state that due consideration shall be given to adequate gender representation in the nomination process and in the election of judges.⁴⁹ Similarly, Articles 1 and 23 of the American Convention on Human Rights ensure free and full exercise of rights and freedoms contained therein, including the right of all persons to participate in government without discrimination based on race, color, sex, language, religion, opinion, origin, economic status, or any other social condition.⁵⁰ In addition,

FEMM_NT(2011)453193_EN.pdf; see also Ruth Rubio-Marín, *Women’s Participation in the Public Domain under Human Rights Law: Towards A Participatory Equality Paradigm Shift*, in *GENDER PARITY AND MULTICULTURAL FEMINISM: TOWARDS A NEW SYNTHESIS* 66, 66-68 (Ruth Rubio-Marín & Will Kymlicka eds., 2018) (explaining the role of human rights law in ensuring women’s equal participation in political and public life, including voting, candidacy, public office, and policymaking).

47. Neil A. Englehart & Melissa K. Miller, *The CEDAW Effect: International Law’s Impact on Women’s Rights*, 13 J. HUM. RTS. 22, 23 (2014).

48. African Charter on Human and Peoples’ Rights arts. 2, 3, 13, 18, June 27, 1981, 1520 U.N.T.S. 217, Org. African Unity, https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf. The Charter was drafted and adopted by Assembly of Heads of State and Government of the Organization of African Unity (OAU), predecessor to the African Union. *Id.*

49. Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights arts. 12, 14, June 9, 1998, 3268 U.N.T.S. (Reg. No. 26363), <https://www.african-court.org/wpafc/wp-content/uploads/2020/10/2-PROTOCOL-TO-THE-AFRICAN-CHARTER-ON-HUMAN-AND-PEOPLES-RIGHTS-ON-THE-ESTABLISHMENT-OF-AN-AFRICAN-COURT-ON-HUMAN-AND-PEOPLES-RIGHTS.pdf>.

50. American Convention on Human Rights arts. 1, 23, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

Article 14 of the European Convention on Human Rights prohibits discrimination on the basis of “any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”⁵¹ Article 1 of Protocol 12 of the Convention for the Protection of Human Rights and Fundamental Freedoms further promotes the equality of all persons through the collective enforcement of a general prohibition of discrimination.⁵²

Soft law instruments, including non-binding resolutions and platform declarations, are not directly enforceable as such, but they may guide the interpretation and implementation of binding obligations relating to women’s participation in public and political life.⁵³ Over time, this may help shape customary international law when reflected in consistent state practice accompanied by *opinio juris*.⁵⁴ The 1995 Beijing Declaration and Platform for Action, adopted by 189 states as the result of the Fourth World Conference on Women, calls for the removal of all “obstacles to women’s active participation in all spheres of public and private life through a full and equal share in economic, social, cultural, and political decision-making.”⁵⁵ The 2030 Agenda for Sustainable Development,

51. Convention for the Protection of Human Rights and Fundamental Freedoms art. 14, Nov. 4, 1950, 213 U.N.T.S. 211, Eur. T.S. No. 5, as amended by Protocol No. 15 (entered into force on August 1, 2021).

52. Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms art. 1, Nov. 4, 2000, E.T.S. No. 177, 2465 U.N.T.S. 203.

53. See Alan Boyle, *Soft Law in International Law-Making*, in INTERNATIONAL LAW 124, 125–43 (Malcolm D. Evans ed., 6th ed. 2024) (describing soft law as non-binding instruments that may nonetheless influence international lawmaking).

54. Int’l L. Comm’n, *Draft Conclusions on Identification of Customary International Law, Conclusion 2*, in Report of the International Law Commission on the Work of Its Seventieth Session, U.N. Doc. A/73/10, at 122 (2018).

55. FOURTH WORLD CONFERENCE ON WOMEN, BEIJING DECLARATION AND PLATFORM FOR ACTION 7 (1995), <https://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>. Although progress implementing the Beijing Declaration and Platform has been inconsistent, see U.N. Secretary-General, *Review and Appraisal of the Implementation of the Beijing Declaration and Platform for Action and the Outcomes of the Twenty-Third Special Session of the General Assembly*, U.N. E/CN.6/2020/3, (Dec. 13, 2019), one notable area in which significant progress has been made is in the number of national action plans on women, peace and security increasing from 19 in 2010 to 112 in 2025. *The Beijing Declaration and Platform for Action at 30*,

adopted by all UN member states in 2015, sets forth a blueprint for global peace and prosperity.⁵⁶ Goals 5 and 16 aim to achieve gender equality and reaffirm the right of women to participate in all levels of governance.⁵⁷ With respect to security and peacebuilding efforts, UN Security Council Resolution 1325 stresses the importance of women's "equal participation and full involvement in all efforts for the maintenance and promotion of peace and security[,] and the need to increase their role in decision-making with regard to conflict prevention and resolution."⁵⁸ It further urges member states to ensure increased representation of women at all decision-making levels in national, regional, and international institutions and to establish mechanisms for the prevention, management, and resolution of conflict.⁵⁹

Domestic laws also provide for gender equality and rights. Within Europe, for example, the constitutions of Belgium,⁶⁰ France,⁶¹ Portugal,⁶² and Slovenia⁶³ are among those that, through positive obligations of the state, protect equal

and Why That Matters for Gender Equality, UNITED NATIONS SUSTAINABLE DEV. GRP. (Mar. 7, 2025), <https://unsdg.un.org/latest/stories/beijing-declaration-and-platform-action-30-and-why-matters-gender-equality>. These national action plans empower women to lead conflict resolution, peacebuilding, and justice for sexual violence in global conflict zones. *Id.*

56. *The 17 Goals*, U.N. DEP'T OF ECON. & SOC. AFFS., <https://sdgs.un.org/goals> (last visited Apr. 4, 2026).

57. *Id.*; see also DiLANZO, *supra* note 36, at 1-2 (explaining that the Sustainable Development Goals link gender equality and inclusive governance to women's participation in political and public decision-making).

58. S.C. Res. 1325, pmbl. (Oct. 31, 2000). Implementation has remained inconsistent and incomplete despite the widespread adoption of national action plans. See *National Action Plans*, U.N. WOMEN ASIA-PACIFIC, <https://asiapacific.unwomen.org/en/focus-areas/peace-and-security/national-action-plans> (last visited Apr. 4, 2026) (stating that, as of Dec. 31, 2025, 116 countries and territories had adopted Women, Peace and Security national action plans); *Women, Peace and Security*, UNITED NATIONS, <https://www.un.org/en/peace-and-security/page/women-peace-and-security> (last visited Apr. 4, 2026) (reporting that in 2023 women comprised only 9.6% of negotiators, 13.7% of mediators, and 26.6% of signatories in peace processes).

59. *Id.*

60. 1994 CONST. art. 11 (Belg.).

61. 1958 CONST. art. 1 (Fr.).

62. Constituição da República Portuguesa [C.R.P.] [Constitution], art. 109 (Port.).

63. Ustava Republike Slovenije [Constitution] Dec. 23, 1991, art. 43 (Slovn.).

access of women to political office and the right to stand for election. In Latin America, Ecuador's constitution guarantees the right of everyone to participate in the affairs of public interest and ensures equality with respect to representation in decision-making entities of government.⁶⁴ The Constitution of Bolivia guarantees women and men equal participation in political life and equal access to the formation, exercise, and control of political power, while also requiring parity-based electoral rules in certain assembly elections.⁶⁵ Taken together, these constitutional guarantees illustrate that domestic legal systems can serve as an important foundation for women's equal participation in political life.

Despite these legal protections, women around the world are generally accorded only three-fourths of the legal rights available to men under international, regional, and domestic legal frameworks,⁶⁶ and in any event, legal language alone does not necessarily result in concrete change.⁶⁷ Further,

64. Constitution of Ecuador Sept. 28, 2008, art. 11(2) (Ecuador). The Ecuadorian Constitution not only protects participation in matters of public interest, but also affirmatively requires the State to promote parity between women and men in elected and appointed office and in governmental decision-making bodies, and to adopt affirmative-action measures to secure the participation of discriminated sectors. *Id.* art. 61(1)(2).

65. Constitución Política del Estado [Constitution] Jan. 25, 2009, arts. 11, 26, 147 (Bol.).

66. World Bank Grp., *supra* note 12, at 1.

67. Bhattacharya & Burns, *supra* note 39, at 56; Naomi R Cahn, Women in Post-Conflict Reconstruction: Dilemmas and Directions 12 *Wm & Mary J. Women & L.* 335, 344 (2006). In fact, in large part because the rights-based approach has often been ineffective in increasing percentages of women participating in public and political life, a number of countries have shifted to the use of quotas. See Éléonore Lépinard & Ruth Rubio-Marín, Transforming Gender Citizenship: The Irresistible Rise of Gender Quotas in Europe 1-2 (2018) (asserting that dissatisfaction with the limits of formal equality has helped drive the adoption of gender quotas); see also U.N. Women, Gender Equality and Women's Empowerment: Constitutional Jurisprudence 9 (2017), <https://www.idea.int/sites/default/files/publications/gender-equality-and-womens-empowerment-constitutional-jurisprudence.pdf> ("As is well-known, even the best drafted constitutions cannot change the lives of citizens by themselves. Numerous obstacles—including legislative and executive inertia or resistance to change, economic inequalities, social and cultural mores, and imbalance of power in government and society—must be overcome before the words of the constitution become meaningful tools for societal change."). In fact, explicit legal language may not be required in order for courts to protect women's rights if they are embedded—even if not explicitly set forth—in larger institutional, bureaucratic, and cultural frameworks. See Isabel Karpin & Karen O'Connell,

reliance on unenforced or unenforceable legal rights can provide only illusory benefits. The viability of a rights-based approach depends on the availability of effective judicial forums and the willingness of judges to enforce rights, which can be problematic when enabling jurisprudence is weak. The European Court of Human Rights, for example, has often been cautious in its treatment of claims centering on Article 14 of the European Convention on Human Rights.⁶⁸ The court has frequently declined to make a separate substantive determination once it has found a violation of another Convention provision. A review of forty-seven of the court's cases between 1979 and 2017 in which issues relating to women or gender equality were addressed reveals that the majority dealt with domestic or sexual violence, not positive obligations to protect and ensure women's rights.⁶⁹ The issues addressed by the nine gender-discrimination cases from that period included the right to wear a headscarf, women's rights to take a surname other than their husbands', and asylum rights.⁷⁰ Only one case, *Schmidt v. Germany*, addressed discriminatory employment practices, and the applicant in that case was male.⁷¹ That pattern, however, should not be read

Speaking into a Silence: Embedded Constitutionalism, the Australian Constitution, and the Rights of Women' in Beverly Baines, in *The Gender of Constitutional Jurisprudence* 22, 22 (Beverly Baines & Ruth Rubio-Marín eds., 2010) (arguing that women's rights may be judicially protected through embedded constitutionalism).

68. COUNCIL OF EUR., GENDER EQUALITY DIV., COMPILATION OF CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS ON GENDER EQUALITY ISSUES (2019) (summarizing ECHR cases involving gender equality issues). Cathérine Van de Graaf & Beril Onder, Exploring the Court's Reluctance to Investigate Article 14, STRASBOURG OBSERVERS (July 15, 2025), <https://strasbourgoobservers.com/2025/07/15/exploring-the-courts-reluctance-to-investigate-article-14/>; see also Lindsey Reynolds, Equinet at Work: The Compendium of Article 14 Cases From the European Court of Human Rights and the Written Observations Submitted to the ECtHR, EUR. NETWORK OF EQUALITY BODIES (Sept. 21, 2020), <https://equineteurope.org/equinet-at-work-the-compendium-article-14-cases/> (reporting that the ECtHR made a substantive Article 14 finding in only just over a third of reviewed cases).

69. See COUNCIL OF EUR., GENDER EQUALITY DIV., COMPILATION OF CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS ON GENDER EQUALITY ISSUES (2019) (summarizing ECHR cases involving gender equality issues), *supra*

70. *Id.* at 5-7, 34, 38; see U.N. WOMEN, GENDER EQUALITY AND WOMEN'S EMPOWERMENT: CONSTITUTIONAL JURISPRUDENCE 66-67 (2017).

71. *Karlheinz Schmidt v. Germany*, App. No. 13580/88, Eur. Ct. H.R. (July 18, 1994). In a similar vein, Lisa McIntosh Sundstrom, Valerie Sper-

as a comprehensive measure of the enforcement of women's rights in Europe because the Court in Strasbourg reviews only a narrow subset of disputes that survive domestic litigation and the Convention's admissibility filters.⁷² Due to the general lack of success enforcing a woman's right to equal participation in public life, advocates have shifted to creating and implementing permanent and temporary quotas as an alternative strategy to open doors to increased women's political power.⁷³ Research suggests that the mixed success of formal

ling, and Melike Sayoglu analyzed claims submitted through the year 2019 to the European Court of Human Rights by Russian citizens, who became eligible to submit individual claims in 1998. LISA MCINTOSH SUNDSTROM, VALERIE SPERLING & MELIKE SAYOGLU, *GENDER DISCRIMINATION CASES AT THE EUROPEAN COURT OF HUMAN RIGHTS: WHY SO FEW? COURTING GENDER JUSTICE 2* (2019). They found that as of that date, only three ECtHR case judgments involving sex discrimination claims by Russian applicants had been issued, and all of these concerned the violation of a man's rights, not women's rights. *Id.* The failure of the European Court of Human Rights to adequately protect women's rights has been criticized by scholars, see Liiri Oja & Alicia Ely Yamin, *Woman in the European Human Rights System: How Is the Reproductive Rights Jurisprudence of the European Court of Human Rights Constructing Narratives of Women's Citizenship*, 32 *COLUM. J. GENDER L.* 62, 62, 95 (2016). Ivana Radacic argues that "the Court's jurisprudence has been largely impotent in challenging gender discrimination in . . . member states." Ivana Radacic, *Gender Equality Jurisprudence of the European Court of Human Rights*, 19 *EUR. J. INT'L L.* 841, 841 (2008). For an analysis of gender-related jurisprudence of courts within pluralist legal systems in Africa, Asia and the Pacific, Latin America and the Caribbean, and the Middle East and North Africa, see U.N. *WOMEN*, *supra* note 67, at 15. Interestingly, this study includes an analysis of fifteen court cases relating to women's access to public life, including women's ability to participate in political life and states' obligations to take measures to remove barriers to women's exercise of their civil and political rights. *Id.* at 8-15. In four opinions relating to electoral quotas, courts adopted a substantive equality analysis, acknowledging that special measures or differential treatment to achieve equality are permissible. *Id.* at 61. The jurisprudence of European courts with respect to gender equality might therefore be considered less advanced than that of courts in countries often viewed as less developed.

72. See *EUR. CT. H.R., ANALYSIS OF STATISTICS 2025*, at 3 (Jan. 2026), <https://www.echr.coe.int/documents/d/echr/stats-analysis-2025-eng> (showing that in 2025 the Court decided 38,573 applications, of which 31,562—about 82%—were disposed of by inadmissibility or strike-out rather than judgment on the merits, and that of 31,800 newly allocated applications, 22,750—about 72%—were identified from the outset as likely single-judge inadmissibility cases).

73. See *generally* LÉPINARD & RUBIO-MARÍN, *supra* note 67 (arguing that the limits of rights-based equality have helped drive the rise of gender quotas).

guarantees of women's equal participation in public life is attributable less to the absence of judicial commitments than to weak implementation, inadequate monitoring, and ineffective sanctions, although in some jurisdictions courts have also constrained progress by failing to interpret equality guarantees through a substantive-equality lens.⁷⁴

B. Economic Incentives

An alternative to the rights-based strategy emerged in the European Union on December 16, 2020, when breaches of the Rule of Law were found to threaten sound financial management of the Union budget.⁷⁵ The regulation, Rule of Law Conditionality for Access to EU Funds, represents a new mechanism for enforcing the Rule of Law in EU member states, including gender equality provisions contained in the Lisbon Treaty⁷⁶ and the Charter of Fundamental Rights of the European Union.⁷⁷ To date, however, the best-documented EU withholdings have not rested on non-enforcement of women's equality guarantees standing alone; rather, proceedings in Hungary show suspensions tied to corruption, procure-

74. See ANNA GUERRAGGIO & FLORENCIA TATEOSSIAN, U.N. DEV. PROGRAM, REFLECTIONS: LESSONS FROM EVALUATIONS: BOOSTING WOMEN'S POLITICAL PARTICIPATION 1, 3-8 (2025) ("The adoption of special temporary measures, including gender quota legislation, has proved effective in improving women's participation in national and local decision-making.").

75. Agnese Krivade, *Parliament Approves the "Rule of Law Conditionality" for Access to EU Funds*, EUR. PARLIAMENT (Dec. 16, 2020), <https://www.europarl.europa.eu/news/en/press-room/20201211IPR93622/parliament-approves-the-rule-of-law-conditionality-for-access-to-eu-funds>.

76. Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community arts. 1, 2, Dec. 13, 2007, 2007 O.J. (C306) 1.

77. Charter of Fundamental Rights of the European Union arts. 21, 23, Dec. 18, 2000, 2000 O.J. (C364). Another strategy was used by the European Commission in 2012 when it initiated a directive on gender balance in non-executive directors of companies listed on stock exchanges. *Gender Balance on Boards*, EUR. PARLIAMENT (Dec. 15, 2024), <https://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-gender-balance-on-boards>. Penalties for failing to comply included exclusion from public tenders for companies that did not introduce transparent appointment procedures and removal of exemptions for companies with workforces consisting of less than 10% women. *Id.*

ment failures, judicial-independence deficits, and broader Charter-compliance concerns.⁷⁸

Outside Europe, more common economic levers have been electoral finance incentives and sanctions rather than supranational budget freezes. Comparative research describes payments and penalties in party-finance systems as one route to improving women's representation,⁷⁹ while regional practice includes rejection of non-compliant candidate lists in Algeria's local government quota system,⁸⁰ fines for parties that fail quota rules in El Salvador,⁸¹ and incentive structures for parties whose candidate lists reach at least 50% women candidates to receive additional public funding in Côte d'Ivoire.⁸² More broadly still, development finance institutions increasingly rely on positive economic incentives, including results-based financing tied to gender outcomes and internal funding markers that steer lending and grantmaking toward gender equality objectives.⁸³

78. Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on Measures for the Protection of the Union Budget Against Breaches of the Principles of the Rule of Law in Hungary, 2022 O.J. (L 325) 94.

79. Ragnhild Muriaas, Amy G. Mazur & Season Hoard, *Payments and Penalties for Democracy: Gendered Electoral Financing in Action Worldwide*, 116 AM. POL. SCI. REV. 502, 502–15 (2022).

80. *Access Quota Information: Legislated Gender Quotas for Local Governments*, U.N. WOMEN (Jan. 1, 2023), <https://localgov.unwomen.org/access-quota-information>.

81. *When Quotas Go Wrong—and What to Do About It*, INTER-PARLIAMENTARY UNION (Mar. 10, 2022, at 09:00), <https://www.ipu.org/news/case-studies/2022-03/when-quotas-go-wrong-and-what-do-about-it>.

82. *Représentativité des Femmes dans les Assemblées Élués: Le Projet de Loi Adopté en Commission*, CÔTE D'IVOIRE GOV'T (July 17, 2019), <https://www.gouv.ci/actualite/representativite-des-femmes-dans-les-assemblees-elues-le-projet-de-loi-adopte-en-commission-2483> (stating that article 4 of the bill provides that any political party or grouping whose list reaches at least 50% women candidates will receive additional public funding).

83. See HYUNJI LEE ET AL., WORLD BANK RESULTS-BASED FINANCING FOR BETTER GENDER OUTCOMES vi-x (2024), <https://www.gprba.org/sites/default/files/publication/downloads/2025-01/GPRBA-Gender-RBF.pdf> (describing results-based financing used to incentivize gender-related outcomes); see also Elena Bardasi, Maria Elena Pinglo & Serena Fogaroli, *Maximizing the Impact of Gender Equality Support at the World Bank Group*, WORLD BANK GRP. INDEP. EVALUATION GRP. (Dec. 12, 2024), <https://ieg.worldbankgroup.org/blog/maximizing-impact-gender-equality-support-world-bank-group> (explaining that internal gender tags and flags shape lending incentives); ANURADHA SETH, U.N. WOMEN, ENGENDERING FISCAL SPACE: A POLICY FRAMEWORK FOR FINANCING GENDER EQUALITY 6

IV. CONFLICT AS CATALYST

Perhaps counterintuitively, conflict may present a more effective catalyst for women's political advancement than litigation does.⁸⁴ A number of studies demonstrate that women are often better able to achieve gender parity following conflict than during times of peace.⁸⁵ Of the 193 UN member states, 23.8% can be considered post-conflict.⁸⁶ These countries are among those reporting the highest levels of women's political representation. In February 2019, 30 of the top 114 countries reporting high levels of women's representation in lower or unitary legislative houses were post-conflict,⁸⁷ but that number had decreased to just 21 out of the top 114 coun-

(2025), <https://www.unwomen.org/en/digital-library/publications/2025/04/engendering-fiscal-space-a-policy-framework-for-financing-gender-equality> (advocating gender-responsive benchmarks and financing tools to direct resources toward gender equality).

84. "Conflict" in this context refers to organized armed contestation over government or territory severe enough to disrupt ordinary political life and state institutions.

85. Bhattacharya & Burns, *supra* note 39, at 57.

86. For the purposes of this Article, 46 countries were identified as "post-conflict" using lists created by the United Nations Development Programme and the World Bank. U.N. DEV. PROGRAMME, CRISIS PREVENTION AND RECOVERY REPORT 2008: POST-CONFLICT ECONOMIC RECOVERY 7 (2008), <https://www.undp.org/sites/g/files/zskgke326/files/publications/undp-cpr-post-conflict-economic-recovery-enable-local-ingenuity-report-2008.pdf>; *List of Fragile and Conflict-Affected Situations*, WORLD BANK GRP. (2022), <https://thedocs.worldbank.org/en/doc/9b8fbdb62f7183ce-f819729cc9073671-0090082022/original/FCSList-FY06toFY22.pdf>. For the latest data, see *FY26 List of Fragile and Conflict-affected Situations*, WORLD BANK GRP. (2025), <https://thedocs.worldbank.org/en/doc/5c7e4e268baaafa6ef38d924be9279be-0090082025/original/FCSListFY26.pdf>. Note that a similar analysis applies in countries that have experienced other types of large-scale upheaval or dissolution such as members of the former Soviet Union.

87. This represents 26.3% of the total number of reporting countries. INTER-PARLIAMENTARY UNION, *supra* note 81; see also *Harmonized List of Fragile Situations FY 19*, WORLD BANK, <https://thedocs.worldbank.org/en/doc/b7176d1485821af6f7638e63e266c717-0090082025/original/FCSList-FY06toFY25.pdf> (last visited May 7, 2026) (listing 36 nations or territories as "[f]ragile [s]ituations"); *Monthly Ranking of Women in National Parliaments*, INTER-PARLIAMENTARY UNION (Jan. 1, 2019), https://data.ipu.org/women-ranking/?date_month=1&date_year=2019 (ranking by percentage of women in lower or single house parliaments in January 2019).

tries by April 2026.⁸⁸ As of September 2020, post-conflict Rwanda still had the highest percentage of female legislators at 56%, twenty-six years after the end of the genocide and Rwandan civil war.⁸⁹ Additionally, as of 2018, the only international court with over 50% female members, the African Court on Human and Peoples' Rights,⁹⁰ was also the court with the highest percentage of post-conflict ratifying states with two-thirds of member states having emerged from recent conflict.⁹¹

The reasons for this phenomenon are complex. During times of peace and stability, institutional, religious, and cultural factors, along with structural inequalities,⁹² often impede gender parity.⁹³ Some of these factors include: underdevelopment, poverty, and economic crises, which tend to disproportionately impact women;⁹⁴ girls' inability to complete ed-

88. *FY26 List of Fragile and Conflict-Affected Situations*, WORLD BANK, <https://thedocs.worldbank.org/en/doc/5c7e4e268baaafa6ef38d924be9279be-0090082025/original/FCSListFY26.pdf> (last visited May 7, 2026) (using "post-conflict" as an author-defined shorthand, based on the World Bank's FY2026 Fragile and Conflict-Affected Situations list and historical FY2006–FY2025 classifications, for 35 countries and territories that appeared on a World Bank conflict/fragility list and later exited it); *Monthly Ranking of Women in National Parliaments*, INTER-PARLIAMENTARY UNION (Apr. 1, 2026), https://data.ipu.org/women-ranking/?date_year=2026&date_month=04 (ranking by percentage of women in lower or single house parliaments).

89. Vogelstein & Bro, *supra* note 8. As of 2020, only four national legislatures in the world had 50% or more female members.

90. Pillai, *supra* note 17.

91. *Welcome to the African Court*, AFR. CT. ON HUM. & PEOPLES' RTS., <https://www.african-court.org/afchpr/welcome-to-the-african-court-2/> (last visited May 5, 2026).

92. Structural inequality is a system of privilege created by institutions within an economy, including the law, business practices, and government policies. MIRJANA NAJCEVSKA, *STRUCTURAL DISCRIMINATION - DEFINITIONS, APPROACHES AND TRENDS* (2010), <https://www.ohchr.org/Documents/Issues/Racism/IWG/Session8/MirjanaNajcevska.doc>. Structural inequality differs from individual forms of inequality, in which gender bias is exhibited by individual behavior. *Id.*

93. Gender analyses should be undertaken with care since gender can intersect with other hierarchies based on caste, class, or religion. Bhat-tacharya & Burns, *supra* note 39, at 56.

94. UNITED NATIONS WOMEN, *THE BEIJING DECLARATION AND PLATFORM FOR ACTION TURNS 20*, 9-12 (2015), <https://sdgs.un.org/sites/default/files/publications/1776The%20Beijing%20Declaration%20and%20Platform%20for%20Action%20turns%2020.pdf>; see KATRIN ELBORGH-WOYTEK ET AL., INT'L MONETARY FUND, *WOMEN, WORK, AND THE*

educational programs;⁹⁵ gender-related gaps in employment and income;⁹⁶ and prevailing social and cultural perceptions of masculinity and femininity, which often confine women to the family sphere and do not encourage them to become politically active.⁹⁷ Unequal divisions of family responsibilities, lack of access to childcare, and the high cost of political campaigns also interfere with women's participation in public life.⁹⁸ The recalibration process unfolds across four stages: entrenched barriers before conflict, disruption during conflict, reform in the immediate aftermath, and either consolidation or rollback over time.⁹⁹ The causal mechanism, therefore, runs not directly from conflict to equality, but from conflict-induced changes in intervening variables to stronger outcomes for women.¹⁰⁰ Where those intervening shifts occur, women's political participation and rights tend to improve because the structural roadblocks that constrained them in peacetime weaken and a new social contract is crafted.¹⁰¹

ECONOMY: MACROECONOMIC GAINS FROM GENDER EQUITY 12 (2013), <https://www.imf.org/external/pubs/ft/sdn/2013/sdn1310.pdf> (explaining that poverty and economic crisis often disproportionately burden women).

95. Valerie M. Hudson, *Leveling the Field: A Global Inventory of Gender Equality for Women*, WORLD POLITICS REV. (Sept. 1, 2015), <https://www.worldpoliticsreview.com/articles/16572/leveling-the-field-a-global-inventory-of-gender-equality-for-women>.

96. ELBORGH-WOYTEK ET AL., *supra* note 94, at 4-6. Recent studies also show that as women enter the workforce and take on roles and jobs previously limited to men, those same jobs are paid less. *Id.* at 9.

97. DiLANZO, *supra* note 36, at 1; INTER-AM. COMM'N ON HUM. RTS., THE ROAD TO SUBSTANTIVE DEMOCRACY: WOMEN'S POLITICAL PARTICIPATION IN THE AMERICAS 39 (2011), <https://www.oas.org/en/iachr/women/docs/pdf/politicalpart.pdf>.

98. INTER-AM. COMM'N ON HUM. RTS., *supra* note 97, at 39; *see also* ELBORGH-WOYTEK ET AL., *supra* note 94, at 14 (noting that care burdens and structural economic barriers constrain women's public participation).

99. *See* Siwan Anderson & Maria Micaela Sviatschi, *Gender and Armed Conflict*, 40 ECON. POL'Y 807, 809-13 (2025) (analyzing women's roles and experiences before, during, and after armed conflict).

100. *See* Julie Arostegui, *Gender, Conflict, and Peace-Building: How Conflict Can Catalyze Positive Change for Women*, 21 GENDER & DEV. 533, 546-47 (2013) (explaining that conflict can expand women's roles and create new platforms and opportunities for change in the post-conflict period).

101. *See* U.N. WOMEN, *Building Inclusive and Peaceful Societies in the Aftermath of Conflict*, in PREVENTING CONFLICT, TRANSFORMING JUSTICE, SECURING THE PEACE: A GLOBAL STUDY ON THE IMPLEMENTATION OF

Conflict, as destructive as it is in other ways, can remove many of the barriers that impede gender parity.¹⁰² This is in part because pre-existing patriarchal norms and institutions—as well as deeply ingrained racial, ethnic, and gender inequalities—that often contribute to conflict are destroyed or discredited, ultimately requiring restructuring or rebuilding altogether.¹⁰³ Post-conflict reconstruction efforts, often supported by international advisers, can provide opportunities to bring states into compliance with international norms and best practices.¹⁰⁴ Rwanda is especially illustrative: its post-genocide

UNITED NATIONS SECURITY COUNCIL RESOLUTION 1325, at 165-84 (2015), https://wps.unwomen.org/pdf/en/GlobalStudy_EN_Web.pdf (explaining that post-conflict governance reforms create a unique window to transform discriminatory social structures and that women are often excluded from the processes that determine post-conflict power distribution, wealth-sharing, and justice).

102. Melanie M. Hughes & Aili M. Tripp, *Civil War and Trajectories of Change in Women's Political Representation in Africa, 1985–2010*, 93 SOC. FORCES 1513, 1513 (2015). “In [African] countries exiting armed conflict in these recent years, women’s movement into national legislatures follows a trajectory of social change that is much faster and more extensive than what we observe in other African countries.” *Id.* However, during conflict itself, women’s rights tend to decrease dramatically, due in large measure to the rate of violence carried out against women. Bhattacharya & Burns, *supra* note 39, at 58. Similarly, women are at increased risk during other public emergencies such as COVID-19. See DAG HAMMARSKJÖLD FOUNDATION, BUILDING CAPACITIES FOR PREVENTION AND SUSTAINING PEACE AT THE COUNTRY LEVEL: WHAT CAN THE UN PEACEBUILDING ARCHITECTURE LEARN FROM THE COVID-19 PANDEMIC? 3 (2020), https://gnwp.org/wp-content/uploads/11-COVID19-and-Peacebuilding-Architecture_Roundtable-Meeting-Note.pdf (“Both mobility and connectivity restrictions disproportionately affect women. Globally, women are 23% less likely than men to use mobile internet. They are also likely to be more affected by mobility restrictions, since these are exacerbated by pre-existing patriarchal norms. Moreover, as primary carers in many families and communities, women find themselves faced with a heightened burden of unpaid domestic labor, which limits their capacities to be involved in peacebuilding efforts.”).

103. Bhattacharya & Burns, *supra* note 39, at 59. Such shifts can occur even in poor, populous conservative contexts with deeply patriarchal societal structures, such as Bangladesh. Naomi Hossain, *Post-Conflict Ruptures and the Space for Women's Empowerment in Bangladesh*, 68 WOMEN'S STUD. INT'L F. 104, 105 (2018).

104. However, international oversight during post-conflict reconstruction processes can be problematic if handled poorly. In the past, some international advisers have viewed collapsed countries as clean slates, allowing for the creation of entirely new legal orders from scratch. Dan E. Stigall, *Comparative Law and State-Building: The Organic Minimalist Approach to Legal Reconstruction*, 29 LOY. L.A. INT'L & COMPAR. L. REV.

constitutional reforms and quota system emerged through collaboration among the United Nations, Rwanda's national gender institutions, and domestic civil society.¹⁰⁵

However, even when conflict and post-conflict reconstruction disrupt the social, political, and institutional barriers that once limited women's participation, the gains produced by that upheaval are unlikely to endure unless new constitutional and legal commitments are reinforced through supporting jurisprudence. Germany is a case in point; following the downfall of the Nazi regime after World War II, a new constitution was enacted at the federal level and revisions to the various *Länder* constitutions occurred in waves.¹⁰⁶ Despite language in state constitutions requiring gender equality, by 2010 virtually no decisions from Germany's constitutional court had interpreted or enforced these requirements.¹⁰⁷ On a more nuanced level, reconstruction strategies following conflict can have hidden impacts on gender issues.¹⁰⁸

1, 22 (2007). Bruce Oswald argues that a clear legal basis must be established in order for international peacekeepers to interfere in existing legal frameworks during post-conflict reconstruction processes. Bruce M. Oswald, *Model Codes for Criminal Justice and Peace Operations: Some Legal Issues*, 9 J. CONFLICT & SEC. L. 253, 263-64 (2004).

105. See *Rwanda: Women's Leadership and Participation*, UN WOMEN AFRICA, <https://africa.unwomen.org/en/where-we-are/west-and-central-africa/rwanda/rwanda-womens-leadership-and-participation> (last visited Apr. 4, 2026) ("For over two decades, UN Women, and its predecessor UNIFEM, have been supporting a gender responsive governance system in Rwanda. The most prominent gain were landmark constitutional reforms that embedded gender equality clauses in Rwanda's 2003 Constitution. Following the incorporation of a 30 per cent gender quota in the constitution, the number of women parliamentarians has risen dramatically and has reached an average of 60 per cent in successive elections.").

106. Donald P. Kommers, *The Basic Law: A Fifty Year Assessment*, 53 S.M.U. L. REV. 477, 477-80 (2000) (describing the impact of the German Basic Law); Arthur B. Gunlicks, *Land Constitutions in Germany*, 28 PUBLIUS : J. FED. 105, 105-07 (1998) (identifying the reunification of East and West Germany as one such wave of constitutional modernization).

107. Blanca Rodríguez Ruiz & Ute Sacksofsky, *Gender in the German Constitution*, in *THE GENDER OF CONSTITUTIONAL JURISPRUDENCE* 149, 149 (Beverly Baines & Ruth Rubio-Marín eds., 2005). By contrast, a large body of gender-related jurisprudence has emerged from the federal Constitutional Court. *Id.*

108. See Jill Vickers, *Is Federalism Gendered? Incorporating Gender into Studies of Federalism*, 43 J. FEDERALISM 1, 1 (2012) (positing that federated frameworks and institutions, commonly part of restructuring efforts after conflict, can impact gender parity in a variety of ways).

Numerous case studies demonstrate that conflict can create increased political opportunities for women. For example, in seventeen post-conflict African countries, women achieved twice the rates of legislative representation attained by women in countries not recovering from conflict;¹⁰⁹ in the immediate post-conflict phase in Rwanda, a stunning 64% of parliamentarians were female, the highest percentage in the world.¹¹⁰ In Uganda, women took leadership positions in business, academia, civil society organizations, and religious institutions from which they had been excluded prior to conflict.¹¹¹ In thirteen post-conflict countries in South and Southeast Asia, shifts in institutional and cultural norms created new political space for women.¹¹² For example, Nepal's postwar transition and the 2006 Comprehensive Peace Agreement enabled women to win 197 of 601 seats in the 2008 Constituent Assembly, a dramatic break from earlier patterns of exclusion.¹¹³ Similarly, in Timor-Leste, post-con-

109. Aili M Tripp, *Women's Movements and Constitution Making after Civil Unrest and Conflict in Africa: The Cases of Kenya and Somalia*, 12 POL. & GENDER 78, 81 (2016).

110. Hudson, *supra* note 95. However, Rwanda's startling percentage of female parliamentarians might also have a dark underside. As Elin Bjarnegård and Peter Zetterberg argue, there is evidence President Kagame has used his country's well publicized gender-forward statistics to "dress[] its increasingly authoritarian governance in democratic clothing." Elin Bjarnegård & Peter Zetterberg, *How Autocrats Weaponize Women's Rights*, 33 J. DEMOCRACY 60, 60 (2022). This theory mirrors one proposed by Oona Hathaway, who challenges the idea that "state action is critically shaped by the persuasive power of legitimate legal obligations." Oona Hathaway, *Do Human Rights Treaties Make a Difference?*, 111 YALE L.J. 1935, 1938 (2002). Hathaway, using a database comprised of experiences of 166 nations over a nearly forty-year period in five areas of human rights law, finds that "treaty ratification is not infrequently associated with worse human rights ratings than otherwise expected," concluding that "countries that take the relatively costless step of treaty ratification may thereby offset pressure for costly changes in policies." *Id.* at 1941. "Because monitoring and enforcement are usually minimal, the expression by a country of commitment to the treaty's goals need not be consistent with the country's actual course of action." *Id.*

111. Tripp, *supra* note 109, at 80.

112. Bhattacharya & Burns, *supra* note 39, at 60.

113. INT'L INST. FOR DEMOCRACY & ELECTORAL ASSISTANCE, WOMEN MEMBERS OF THE CONSTITUENT ASSEMBLY: A STUDY ON CONTRIBUTION OF WOMEN IN CONSTITUTION MAKING IN NEPAL 50-52 (2011), <https://www.idea.int/sites/default/files/publications/women-members-of-the-constituent-assembly.pdf>; see also INCLUSIVE PEACE & TRANSITION INST., CASE STUDY SERIES: WOMEN IN PEACE AND TRANSITION PROCESSES - NEPAL

flict institutional redesign translated into formal access in the form of electoral laws that required at least one woman in every group of three candidates. As a result, women now hold approximately 35% of seats in parliament.¹¹⁴

Several counterexamples and qualifying cases show why this argument should be framed as an empirical tendency rather than an infallible rule. Afghanistan provides one such illustration.¹¹⁵ After the Taliban were removed from power in late 2001, the new Afghan constitutional and political order produced substantial gains for women relative to the 1990s.¹¹⁶ The 2004 Constitution guaranteed equality and reserved parliamentary seats for women; girls' schooling expanded dramatically, women entered public and government service, and by 2021 women's visibility in public life increased markedly.¹¹⁷ However, after the Taliban's return to power in August 2021, those gains were rapidly reversed through a dense web of decrees excluding women and girls from education, work, movement, political office, and public space.¹¹⁸

(2008–2012) 1–4 (2017), <https://www.inclusivepeace.org/wp-content/uploads/2021/05/case-study-women-nepal-2008-2012-en.pdf> (“At the time, this gave Nepal the highest percentage of women parliamentarians in Asia and the fifteenth-highest worldwide.”).

114. *Country Profiles: Timor-Leste*, U.N. GENDER QUOTA PORTAL, <https://genderquota.org/country-profiles?countryId=98> (last visited Apr. 4, 2026).

115. See CLAYTON THOMAS & SARAH R. COLLINS, CONG. RSCH. SERV., IF11646, AFGHAN WOMEN AND GIRLS: STATUS AND CONGRESSIONAL ACTION 1–2 (2021), https://www.congress.gov/crs_external_products/IF/PDF/IF11646/IF11646.5.pdf (describing measurable gains for Afghan women after 2001 but emphasizing their vulnerability in the event of a Taliban return to power); U.N. WOMEN, *Women in Afghanistan: From Almost Everywhere to Almost Nowhere* (Aug. 15, 2023), <https://www.unwomen.org/en/news-stories/feature-story/2023/08/women-in-afghanistan-from-almost-everywhere-to-almost-nowhere> (contrasting the expansion of women's rights and public participation between 2001 and 2021 with their rapid dismantling after August 2021).

116. See THOMAS & COLLINS, *supra* note 115, at 1–2.

117. *Id.*

118. *Taliban Edicts Suffocating Women and Girls in Afghanistan: UN Experts*, OFFICE OF THE U.N. HIGH COMM'R FOR HUM. RTS. (June 19, 2023), <https://www.ohchr.org/en/press-releases/2023/06/taliban-edicts-suffocating-women-and-girls-afghanistan-un-experts>; *Afghanistan: Ten Facts About the World's Most Severe Women's Rights Crisis*, U.N. WOMEN (Aug. 14, 2025), <https://www.unwomen.org/en/news-stories/press-release/2025/08/afghanistan-ten-facts-about-the-worlds-most-severe-womens-rights-crisis>.

The Afghanistan example therefore suggests that the party that prevails in conflict and the kind of post-conflict order constructed are of critical importance.¹¹⁹ Conflict does not invariably improve women's status, but it can create an opening for reform by weakening old barriers.

Conflict itself can alter pre-existing narratives about women, gender, power, and leadership; as "[g]endered roles and hierarchies can shift and change when female militants become part of a resistance movement."¹²⁰ In conflict, "[w]omen take on multiple roles from perpetrator of violence to planner, and this 'deviant' behaviour can muddle gender roles."¹²¹ In cases where women become combatants, they are able to assume positions of power that may have otherwise been exclusively reserved for men.¹²² Altogether, although international law can exert pressure to improve gender parity, post-conflict countries are more likely to experience substantial change because conflict can unsettle entrenched gender hierarchies and open political space for women in ways that peacetime conditions often do not.¹²³

A. *Opportunities Following Conflict*

As discussed below, opportunities for women to achieve increased levels of power following the end of conflict are varied. In particular, post-conflict transitions can create openings for women to assume leadership roles, influence the design of new constitutional frameworks, and shape the formation of political parties and other institutions that will structure future governance. These are opportunities that neither rights-based approaches nor economic incentives reliably provide.

119. Bhattacharya & Burns, *supra* note 39, at 56-58, 75-77 (arguing that post-conflict gender-equality outcomes depend heavily on conflict termination and the nature of the postwar political order).

120. Shreyas V. Parashar, *Women, Militancy, and Security: The South Asian Conundrum*, in GENDER AND INTERNATIONAL SECURITY: FEMINIST PERSPECTIVES 168-87 (Laura Sjoberg ed., 2009).

121. Bhattacharya & Burns, *supra* note 39, at 61.

122. *Id.*

123. Tripp, *supra* note 109, at 80.

1. Leadership Roles

Conflict affects women differently than men, as they face exacerbated harms and disproportionate impacts as compared to men.¹²⁴ Subsequently, women's roles during peacebuilding and post-conflict reconstruction also differ. During the conflict itself, women who were left in charge of family responsibilities gained leadership skills while male family members were fighting. During all stages of the reconstruction process, women continue to gain leadership experience across multiple spheres, including in security, governance, justice, reconciliation, and socio-economic development.¹²⁵ Additionally, women are uniquely effective in contributing to processes that rebuild infrastructure, repair relationships, and restore traditions, law, and customs.¹²⁶ In Colombia, for example, "women comprised 20 percent of the government negotiating team and 43 percent of FARC delegates," and women frequently negotiated ceasefires with armed groups, resulting in the release of hostages.¹²⁷ Women in Colombia also monitored human rights violations, assisted in countering drug trafficking, and ensured that victims of war crimes were included in accountability and reconciliation mechanisms.¹²⁸

124. Thomas Plümper & Eric Neumayer, *The Unequal Burden of War: The Effect of Armed Conflict on the Gender Gap in Life Expectancy*, 60 Int'l Org. 723, 723-24 (2006) (finding that, although men are the primary direct victims of armed conflict, the indirect consequences of interstate and civil wars affect women more adversely than men over the conflict period).

125. Camille Pampell Conaway, *The Role of Women in Stabilization and Reconstruction*, U.S. INST. OF PEACE (Aug. 1, 2006), <https://web.archive.org/web/20241010074459/https://www.usip.org/publications/2006/08/role-women-stabilization-and-reconstruction>. In 2020, thirteen of fifty-five reporting entities disclosed undertaking actions to increase women's leadership and participation in conflict prevention, resolution, peacebuilding, humanitarian action, and crisis response. *Facts and Figures: Women, Peace, and Security*, U.N. WOMEN (Oct. 18, 2024), <https://www.unwomen.org/en/articles/facts-and-figures/facts-and-figures-women-peace-and-security>.

126. Conaway, *supra* note 125.

127. Jamille Bigio & Rachel B. Vogelstein, *Women's Participation in Peace Processes: Colombia*, COUNCIL ON FOREIGN RELS. (Dec. 15, 2017, at 14:25), <https://www.cfr.org/articles/womens-participation-peace-processes-colombia> ("Women's participation on both sides of the formal negotiating table and in civil society helped ensure the success of the years-long Colombian peacemaking effort with the FARC.").

128. *Id.*; see also Nancy Lindborg, *The Essential Role of Women in Peacebuilding*, U.S. INST. OF PEACE (Nov. 20,

2. *Constitution Building*

In recent years, women have participated in post-conflict constitutional processes in increasing numbers, contributing to redistributions of power and the creation of new blueprints for their countries.¹²⁹ In Kenya and Somalia, for example, women's movements helped shape new constitutional language in the areas of equality, customary law, antidiscrimination, violence against women, quotas, and citizenship rights.¹³⁰ In Kenya, women's organizations helped secure constitutional provisions stating women and men are entitled to "equal opportunities in political, economic, cultural and social spheres[,] that "not more than two thirds of members of elective or appointed bodies can be of the same gender[,] and that women have equal rights to matrimonial property following the dissolution of a marriage.¹³¹ In Somalia, women's mobilization during the 2019 Somali Women's Convention produced a Charter demanding that women's rights be enshrined in the revised Constitution and calling for women to receive "a fifty per cent quota across all three levels of government."¹³² In post-conflict settings, civil society organizations can be particularly effective in lobbying and creating space for women's participation in constitutional processes.¹³³

2017), <https://web.archive.org/web/20181014232740/https://www.usip.org/publications/2017/11/essential-role-women-peacebuilding> ("In 2015, U.S. Institute of Peace launched a project in Colombia to support a network of women peacebuilders and women-led organizations committed to nonviolence and mediation.").

129. See generally Vivien Hart, *Constitution Making and the Right to Take Part in a Public Affair*, in *FRAMING THE STATE IN TIMES OF TRANSITION: CASE STUDIES IN CONSTITUTION MAKING 20* (Laurel E. Miller & Louis Aucoin eds., 2010) (explaining that women's participation in constitution making can reshape power and institutional design).

130. Tripp, *supra* note 109, at 78.

131. Pilar Domingo et al., *Women and Power: Shaping the Development of Kenya's 2010 Constitution* 8-9, 21 (2016), <https://media.odi.org/documents/10292.pdf>.

132. *Women's Charter for Somalia Issued at Three Day Somali Women's Convention*, U.N.: Somalia (Mar. 8, 2019), <https://soma-lia.un.org/en/28700-women%E2%80%99s-charter-somalia-issued-three-day-somali-women%E2%80%99s-convention>.

133. However, see *infra* Part IV, for caveats.

3. *Political Parties*

Conflict can also create opportunities for women during the formation of new political parties,¹³⁴ although the scale and durability of those opportunities often turn on both the type of conflict and who prevails at its end.¹³⁵ Where a civil war ends in victory for a rebel movement or other non-state armed group that is ideologically committed to broader social transformation, women's inclusion in successor parties and post-conflict institutions may be higher, particularly if women's emancipation formed part of the movement's revolutionary program rather than a purely tactical wartime expedient.¹³⁶ By contrast, if women are sidelined when nascent parties are built or relegated to non-decision making roles, reforms adopted during the transition can stall or be rolled back, allowing male-dominated patronage networks, candidate-selection practices, and other patriarchal institutions to reassert themselves. This matters not only for women's representation, but also because exclusion weakens democratic legitimacy, diminishes policy responsiveness, and can undermine the longer-term resilience of the post-conflict order.¹³⁷ In the

134. Brechenmacher & Hubbard, *supra* note 30, at 5 ("Processes of party formation represent a potential opportunity to break these patterns. The development of party structures, constitutions, and rules can enable women and other marginalized groups to push for greater representation. Moreover, party formation often occurs in periods of mobilization and political flux, creating openings to unsettle existing power structures and bring new issues onto political agendas.").

135. *Id.*

136. *Id.*; see also Kai M. Thaler, *Civil Wars as Critical Junctures: Conceptual Grounding and Empirical Potential*, *Rev. Int'l Stud.* 1, 2–6 (2024) ("[E]ven when women's empowerment has not been a specific war aim of rebels or the government in a civil war, it has resulted through several mechanisms.").

137. BRECHENMACHER & HUBBARD, *supra* note 30, at 18–20; see also Elizabeth L. Brannon, *Labored Legacies: The Post-conflict Implications of Women's Wartime Participation*, 62 *J. PEACE RSCH.* 1629, 1629–31 (2025) (arguing that when women's wartime roles are not translated into post-conflict party inclusion, patriarchal backlash can close political space and limit women's postwar access); see also Marie E. Berry & Milli Lake, *Women's Rights After War: On Gender Interventions and Enduring Hierarchies*, 17 *ANN. REV. L. & SOC. SCI.* 459, 459–63, 474–77 (2021) (reviewing scholarship showing that postwar gender reforms often remain fragile and can leave deeper hierarchies intact if they do not transform underlying institutions and power relations).

long term, excluding women from nascent political parties can affect the return of patriarchal institutions and processes.¹³⁸

V. COROLLARY ISSUES

Several corollary issues related to the potential advantages that conflict may have in achieving increased levels of gender parity should be kept in mind.

A. Quotas

Quotas can be a particularly effective tool during post-conflict reconstruction processes to reduce political, economic, social, cultural, and religious constraints that previously prevented women from fully participating in public and private spheres.¹³⁹ Quotas may be permanent or temporary measures to be discontinued when gender balance or parity is achieved.¹⁴⁰ Some studies have found that gender quotas

138. BRECHENMACHER & HUBBARD, *supra* note 30, at 18–20.

139. *Gender Quotas Database: About*, INT'L INST. FOR DEMOCRACY & ELECTORAL ASSISTANCE, <https://www.idea.int/data-tools/data/gender-quotas-database/about> (last visited Apr. 4, 2026). As Chilean Senator Sergio Pérez, President of the Inter-Parliamentary Union, noted, “The trend in post-conflict countries to institute mechanisms, such as quotas and reserved seats, which ensure the presence and participation of women in the newly-created institutions has been quite effective. In fact, in addition to the regular place of Nordic countries, the last five years have seen post-conflict countries feature prominently in the top 30 of the IPU’s world ranking of women in national parliaments.” *Women in Parliaments 2003: Nordic and Post-Conflict Countries in the Lead*, INTER-PARLIAMENTARY UNION (Mar. 1, 2004), <http://archive.ipu.org/press-e/gen183.htm> (quoting Chilean Senator Sergio Pérez, President of the IPU); see also LÉPINARD & RUBIO-MARÍN, *supra* note 67, at 1-2, 7, 9 (discussing the theory that because the rights-based approach has often been ineffective in increasing the number of women participating in public and political life, a number of countries have shifted to the use of quotas).

140. ROSAMUND SHREEVES ET AL., WOMEN IN POLITICS IN THE EU: STATE OF PLAY 8 (2019), [https://www.europarl.europa.eu/Reg-Data/etudes/BRIE/2019/635548/EPRS_BRI\(2019\)635548_EN.pdf](https://www.europarl.europa.eu/Reg-Data/etudes/BRIE/2019/635548/EPRS_BRI(2019)635548_EN.pdf). Gender quotas generally operate in three ways: reserved seats, legislated candidate quotas (often with a minimum percentage floor), and voluntary party quotas. Int’l Inst. for Democracy & Electoral Assistance, *Gender Quotas Database*, <https://www.idea.int/data-tools/data/gender-quotas-database/quotas> (last visited Apr. 4, 2026); see, e.g., Loi Constitutionnelle no 99-569 du 8 juill. 1999 relative à l’égalité entre les femmes et les hommes [Constitutional Law No. 99-569 of July 8, 1999 on Equality Between Women and Men], Journal officiel de la République française [Official Gazette of France], no. 157, 9 juill. 1999 (authorizing legislation to promote women’s

can have the single greatest impact on constitutional processes, elections of local and national legislative bodies, the establishment of transitional justice mechanisms, and institutional reforms because they challenge the norm that politics is a masculine sphere.¹⁴¹ They also accustom people to the presence of women in decision-making positions and provide opportunities for women to gain leadership skills.

However, the effectiveness of quotas is not guaranteed. If quotas are introduced but not respected or enforced, they may be counterproductive.¹⁴² In Brazil, for example, because of political financing practices, “quotas have never been a threat to men’s power in politics.”¹⁴³ The nature of specific quotas may also impact their effectiveness. In the European Union, gender quotas have had mixed results on women’s parliamentary representation, depending on the nature of quotas and their compatibility with the electoral systems in place.¹⁴⁴ Specificity of language is also important. In December 2020, for example, the city of Paris illustrated how gender-balancing rules may operate in gender-neutral terms when the city was fined under a law designed to correct gender imbalances by requiring that no more than 60% of appointments to top civil service positions in a given year go to one gender; the fine was triggered because the female mayor

and men’s equal access to elective office).

141. Conaway, *supra* note 125. Quotas have made a significant difference in the composition of international tribunals; in mid-2015, women comprised only 15% of the judges in the eight tribunals with no quotas or aspirational statements, but 33% of judges on courts with quotas or aspirational representativeness language were women. Grossman, *supra* note 35, at 342.

142. Hudson, *supra* note 95.

143. Paula Moura, *Do Quotas for Female Politicians Work?*, THE ATLANTIC (Oct. 10, 2014), <https://www.theatlantic.com/international/archive/2014/10/do-quotas-for-female-politicians-work/381320/> (quoting Celi Pinto, a political-science professor at Universidade Federal do Rio Grande do Sul); see also Teresa Sacchet, *Why Gender Quotas Don’t Work in Brazil? The Role of the Electoral System and Political Finance*, 95 COLOMBIA INT’L 25, 25-33 (2018) (arguing that a central reason for women’s low electoral success in Brazil is the way electoral funds are managed and due to campaign-finance disparities in a highly individualized electoral system create imbalances that are difficult for women to overcome).

144. EUROPEAN PARLIAMENT DIRECTORATE GENERAL FOR INTERNAL POLICIES, *ELECTORAL GENDER QUOTA SYSTEMS AND THEIR IMPLEMENTATION IN EUROPE: UPDATE 2013*, at 20 (2013), [https://www.europarl.europa.eu/RegData/etudes/note/join/2013/493011/IPOL-FEMM_NT\(2013\)493011_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/note/join/2013/493011/IPOL-FEMM_NT(2013)493011_EN.pdf).

appointed eleven women to fill sixteen of the city's most important management positions.¹⁴⁵

Other factors may have a negative impact on the effectiveness of quotas. Although gender-based quotas are likely to trigger significant equal protection objections in domestic constitutional analysis, some constitutional systems and international equality frameworks permit temporary special measures to accelerate equality by providing time limited structural remedies for countries facing severe gender underrepresentation.¹⁴⁶ Additionally, male politicians may view quotas as ceilings for women's participation instead of entry portals.¹⁴⁷ Quotas may also create an impression of women as tokens who did not legitimately earn their positions.¹⁴⁸ Once elected, women may not be placed in leadership roles, assigned responsibilities that would heighten their profiles, or provide opportunities for professional growth.¹⁴⁹ Scholars of sociology have noted that women are often promoted only to positions, sectors, and institutions that are either undervalued

145. Aurelien Breeden, *City of Paris Fined Nearly \$110,000 for Appointing Too Many Women*, N.Y. TIMES (Dec. 22, 2020), <https://www.nytimes.com/2020/12/16/world/europe/paris-too-many-women-fine.html>.

146. *Compare* United States v. Virginia, 518 U.S. 515, 531–33 (1996) (holding that state sex classifications require an “exceedingly persuasive justification” (quoting Mississippi Univ. for Women v. Hogan, 458 U.S. 718, 724 (1982)), with Convention on the Elimination of All Forms of Discrimination Against Women, art. 4(1), Dec. 18, 1979, 1249 U.N.T.S. 13 (providing that “temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination”).

147. ÅSHILD FALCH, AFFIRMATIVE ACTION: A KICK-START WITH LIMITATIONS 3 (2010), https://cdn.cloud.prio.org/files/a2f9c8f3-f8a3-4e8b-949a-97dc9117d5ff/PRIO_Policy_Brief_02_Affirmative_action.pdf.

148. JILLIAN ABBALLE, GENDER-SENSITIVE PROVISIONS IN PEACE AGREEMENTS AND WOMEN'S POLITICAL AND ECONOMIC INCLUSION POST-CONFLICT 1-2 (2020), https://gnwp.org/wp-content/uploads/GNWP-NYU_ResearchReport2020-final-web.pdf. Perceptions of tokenism can remove women from feminist and other support systems that would render their work more effective. *Id.* at 2 n.6; see also Nicole Smith, *Why Gender Provisions in Peace Agreements are Not Enough to Ensure Post-Conflict Progress for Women*, COUNCIL ON FOREIGN RELS. (July 20, 2020, at 9:45 AM EST), <https://www.cfr.org/blog/why-gender-provisions-peace-agreements-are-not-enough-ensure-post-conflict-progress-women> (arguing that tokenism can isolate women from the support networks needed for effective participation).

149. INTER-PARLIAMENTARY UNION, *supra* note 139.

or powerless,¹⁵⁰ or else sidelined into committees focusing on so-called “women’s issues.”¹⁵¹

Women themselves may face personal challenges as the result of attaining positions pursuant to quotas. As the first females in leadership roles, they may suffer from imposter syndromes or feel the need to act cautiously in order to avoid causing friction with male colleagues instead of acting decisively to implement needed change.¹⁵² There is some empirical support for this concern. A recent meta-analysis found that women score modestly higher than men on measures of the impostor phenomenon, while a large body of leadership research shows that women are more likely to face backlash for demonstrating overt dominance or assertiveness, which may incentivize caution in male-dominated institutions.¹⁵³

B. Ending Conflict versus Building Peace

Ending violence differs from building lasting peace, and different roles may be available to women in each phase. Belligerents tend to be invited to peace negotiations since the goal is cessation of violence.¹⁵⁴ However, women, who rarely

150. Stéphanie Hennette Vauchez, *More Women – But Which Women? The Rule and the Politics of Gender Balance at the European Court of Human Rights*, 26 EUR. J. INT’L L. 195, 212 (2015).

151. *Id.*; see also *Women in Justice: Interview with Judge Aileen Donnelly*, EUR. JUD. TRAINING NETWORK (Oct. 15, 2024), <https://ejtn.eu/news/women-in-justice-interview-with-judge-aileen-donnelly/> (“Although there are more women judges now, obstacles still remain. A current barrier is the lack of work given to women in certain areas of the law, which are traditionally seen as the prerogative of men. An example of this is the commercial law. More women judges adjudicating across all areas of law will be crucial in debunking the perception that women are not suited to some particular area of law.”).

152. Vogelstein & Bro, *supra* note 8.

153. See Paul C. Price et al., *Gender Differences in Impostor Phenomenon: A Meta-Analytic Review*, 7 CURRENT RSCH. BEHAV. SCI. 100155, 100155 (2024) (finding that women scored higher than men on impostor-phenomenon measures across 115 effect sizes and more than 40,000 participants); Hannah B. Eareckson & Madeline E. Heilman, *Explaining Penalties and Rewards for Gender Norm Violations: A Unified Theory*, 90 SEX ROLES 1701, 1701-16 (2024) (reviewing evidence that women in leadership risk social and professional penalties for counter-stereotypically assertive behavior).

154. As Gates and Strøm state, “[t]he degree to which power-sharing agreements are able to promote civil peace thus depends in part

take up arms,¹⁵⁵ are often not considered legitimate participants and are therefore excluded from peace and power sharing negotiations.¹⁵⁶ On the other hand, during subsequent efforts to build credible institutions that promote democratic rule and lasting peace, more diverse inputs from women and others may be more readily included.¹⁵⁷

One significant problem is that peace negotiations, which are commonly a power-sharing bargaining process among arms-bearing belligerents, often take place behind closed doors.¹⁵⁸ By the time these agreements are signed, the most important positions of power may have been allocated, leaving women and other nonbelligerent groups disenfran-

on the relative military capacity of the fighting parties.” SCOTT GATES & KAARE STRØM, *POWER-SHARING, AGENCY AND CIVIL CONFLICT: POWER-SHARING AGREEMENTS, NEGOTIATIONS AND PEACE PROCESSES* iii (2007), <https://www.prio.org/Publications/Publication/?x=7325>.

155. Jakana L. Thomas & Reed M. Wood, *The Social Origins of Female Combatants*, 35 *CONFLICT MGMT. & PEACE SCI.* 215, 215–16 (2018) (explaining that armed conflict has traditionally involved a highly gendered division of labor, with women more commonly serving in support roles and far fewer participating in direct combat); JOSHUA S. GOLDSTEIN, *WAR AND GENDER: HOW GENDER SHAPES THE WAR SYSTEM AND VICE VERSA* 59–127 (2001) (describing the near-total historical exclusion of women from combat forces while acknowledging important exceptions).

156. O'REILLY ET AL., *supra* note 40, at 1. Recommended participants in peace processes and power-sharing agreements ideally include all parties to the conflict and any potential spoilers. The goals of power-sharing agreements include distributing proportional allocations of government positions and benefits. GATES & STRØM, *supra* note 154, at 1. However, power-sharing processes are often criticized for closing political spaces for non-dominant groups, including women, serving the interests of dominant groups, and perpetuating political representation along the lines of conflict. Timofey Agarin & Allison McCulloch, *How Power-Sharing Includes and Excludes Non-Dominant Communities: Introduction to the Special Issue*, 41 *INT'L POL. SCI. REV.* 3, 4–6 (2019).

157. O'REILLY ET AL., *supra* note 40, at 1; *see also* Smith, *supra* note 148 (explaining that later institution-building phases may create greater space for women's inclusion). In Northern Ireland, for example, ongoing peace talks have extended beyond the cessation of violence; they have also included ways to establish new democratic principles and rules. Jennifer Thomson, *Feminising Politics, Politicising Feminism? Women in Post-Conflict Northern Irish Politics*, 14 *BRITISH POL.* 181, 184 (2019).

158. GATES & STRØM, *supra* note 154, at 1; *see also* Banks, *supra* note 26, at 1057 (“Traditionally, peace negotiations take place amongst the individuals and entities that possess the power to effectuate a cessation of hostilities. These negotiations often lead to a constitution or political power-sharing agreement.”).

chised.¹⁵⁹ Female negotiators and mediators who could promote women's participation and platforms during power-sharing negotiations are exceedingly rare; between 1992 and 2011, only 2% of chief mediators and 9% of negotiators in peace processes were female.¹⁶⁰

C. Promoting Economic Growth

Peace negotiations do not tend to address issues that promote long-term economic growth, including for women; nor do they tend to address structural reforms that would further inclusive economies.¹⁶¹ In a study of 660 peace agreements analyzed by the Global Network of Women Peacebuilders and the Center for Global Affairs of the School of Professional Studies at New York University, only 36 agreements included economic provisions impacting women.¹⁶² Thus, short-term gains won during peace processes may be undermined by the absence of meaningful long-term economic strategies.

159. This problem exists not only during peace negotiations. During the Constitutional Assembly in Nepal, for example, key decisions were made behind closed doors outside plenary sessions. Thus, women were excluded from effective decision-making despite a mandatory 33% quota for women. THANIA PAFFENHOLZ ET AL., U.N. WOMEN, MAKING WOMEN COUNT - NOT JUST COUNTING WOMEN: ASSESSING WOMEN'S INCLUSION AND INFLUENCE ON PEACE NEGOTIATIONS 24 (2016), https://wps.un-women.org/pdf/research/Making_Women_Count.pdf.

160. O'REILLY ET AL., *supra* note 40, at 1; *see also* U. N. WOMEN, WOMEN'S PARTICIPATION IN PEACE NEGOTIATIONS: CONNECTIONS BETWEEN PRESENCE AND INFLUENCE 3 (2012), <https://reliefweb.int/sites/reliefweb.int/files/resources/03AWomenPeaceNeg.pdf> (finding women strikingly underrepresented as negotiators, signatories, and chief mediators in formal peace processes); KATRINA LEE KOO & JACQUI TRUE, TOWARD INCLUSIVE PEACE: MAPPING GENDER-SENSITIVE PEACE AGREEMENTS 2000-2016, at 6 (2018), https://bridges.monash.edu/articles/report/Toward_Inclusive_Peace_Mapping_Gender-Sensitive_Peace_Agreements_2000-2016/7126370/Toward_Inclusive_Peace_Mapping_Gender-Sensitive_Peace_Agreements_2000-2016.pdf (arguing that women are often excluded from key power-sharing decisions before peace agreements are finalized); Smith, *supra* note 148 (observing that women's civil society spaces can empower women while also reflecting exclusion from formal politics).

161. Smith, *supra* note 148.

162. ABBALLE, *supra* note 148, at 6-7. ("It appears that whereas some powerholders are willing to agree to gender quotas to accelerate women's political participation, no similar measure is used to generate significant improvements in women's economic status.").

Conversely, a growing body of evidence suggests that women's meaningful participation in peacebuilding and post-conflict reconstruction can expand the economic horizon of recovery beyond simply improving descriptive representation. A UN Women's global study found that conflict-affected communities experiencing the most rapid rates of economic recovery and poverty reduction were those in which women reported higher levels of empowerment.¹⁶³ It further notes that women are more likely to spend income on family health, education, and related issues that support long-run social recovery and human-capital formation.¹⁶⁴ At the same time, the International Monetary Fund cautions that post-conflict growth depends on macroeconomic stabilization, financing, and institutional reform.¹⁶⁵

D. Isolating versus Mainstreaming Women's Issues

The role of civil society organizations (CSOs) can be variable as women seek to gain power and crucial experience as leaders in political spheres. The importance of CSOs during post-conflict reconstruction processes and efforts to combat violence against women is not disputed.¹⁶⁶ Often, CSOs fill

163. U.N. WOMEN, *supra* note 101, at 171-72 (“[C]onflict-affected communities that experienced the most rapid economic recovery and poverty reduction were those that had more women reporting higher levels of empowerment.”).

164. *Id.* (“[W]omen are more likely to spend their income on family needs including health care and education, thus making a proportionately larger contribution to post-conflict social recovery.”).

165. See INT'L MONETARY FUND, REGIONAL ECONOMIC OUTLOOK: MIDDLE EAST & CENTRAL ASIA 26-36 (2025), <https://www.imf.org/-/media/files/publications/reo/mcd-cca/2025/october/english/ch2.pdf> (“Boosting the chances of a successful post-conflict recovery requires a comprehensive strategy, calibrated to . . . three core priorities . . . : macroeconomic stabilization, securing external financing—including through international support and debt relief—and strengthening institutions.”).

166. Article 9 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (commonly called the Istanbul Convention), for example, calls upon parties to “recognise, encourage and support, at all levels, the work of relevant nongovernmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations.” Council Of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence art. 9, May 11, 2011, C.E.T.S. No. 210, <https://rm.coe.int/168008482e> [hereinafter Istanbul Convention] (*entered into force* Aug. 1, 2014).

state protection gaps by providing survivors of gender-based violence with medical, psychosocial, and legal support while also advocating for legal and institutional reforms necessary for durable reconstruction.¹⁶⁷ However, although CSOs can provide safe spaces for women to build social, professional, and personal skills, they can also represent spaces of last resort for women who are excluded from mainstream processes that would provide actual political and decision-making power.¹⁶⁸ CSOs can also deliver ambiguous results with respect to issues they focus on. Although they can provide effective platforms for politicizing issues outside traditional public spheres, such as marital rape, domestic violence, and reproductive rights, CSOs can also have the unintended consequences of removing these issues from mainstream agendas and relegating them to political margins.¹⁶⁹

167. See *They Came Together Not to Be Silenced—Gender-Based Violence in Conflict & the Role of Women’s Rights Organisations*, KVINNA TILL KVINNA FOUND. (Mar. 5, 2024), <https://kvinnatillkvinna.org/publications/they-came-together-not-to-be-silenced-gender-based-violence-in-conflict-the-role-of-womens-rights-organisations/> (explaining that where states were unprepared, unable, or unwilling to respond, local women’s rights organizations played an essential role by providing protection, medical and psychosocial support, and legal aid to survivors, and by driving change); see also Agathe Christien & Jeni Klugman, *Advancing Women’s Participation in Post-Conflict Reconstruction*, GEORGETOWN INST. FOR WOMEN, PEACE & SEC. (Nov. 10, 2020), <https://giwps.georgetown.edu/resource/advancing-womens-participation-in-post-conflict-reconstruction/> (recommending support for women’s civil society and grassroots initiatives and investment in grassroots justice actors as part of post-conflict reconstruction).

168. Bhattacharya & Burns, *supra* note 39, at 59; see also Thomson, *supra* note 157, at 189.

169. During post-conflict political processes in Nepal and Burundi, women’s issues were isolated in political parties’ “women’s wings” and separate caucuses, preventing women from “effectively provoking the political leadership into operationalizing gender-equality goals or recognizing the value of women’s participation in the political realm beyond women’s issues.” FALCH, *supra* note 147, at 3. The debate surrounding mainstreaming versus segregating women’s issues takes place in judicial systems as well. In Brazil, for example, feminists charged that singling out one court to hear domestic violence cases had the impact of trivializing them and sending a message that domestic violence was a “family crime” and not a “real crime.” CHERYL THOMAS ET AL., *DEVELOPING LEGISLATION ON VIOLENCE AGAINST WOMEN AND GIRLS* 801 (2011), <https://web.archive.org/web/20130203153130/https://www.end-vawnow.org/uploads/modules/pdf/1355776748.pdf>. For a discussion of concerns about the existence of separate and gendered spheres inhibiting

E. Increasing Transparency

Studies have shown that gender bias is more likely to occur when processes are based on obscure criteria and outcomes are kept confidential.¹⁷⁰ Transparent nomination and selection processes increase the ability of women to achieve political presence and voice within courts and political institutions.¹⁷¹ In the European Parliament, for example, a Guidance Note prepared at the request of the European Parliament's Committee on Women's Rights and Gender Equality found that "political parties are the gatekeepers to gender balance in political decision making because they control "the secret garden of nominations."¹⁷² The Guidance Note's main conclusion was that an effective "quota system must be compatible with the electoral system in place and that quota rules must be supplemented with rules concerning rank order as well as effective legal sanctions."¹⁷³ In practice, transparency measures work best when parties and appointing bodies use open calls for applications, publish eligibility criteria and timelines, disclose vacancies, and combine quotas with rank order rules and concrete sanctions that result in placing women in genuinely winnable positions instead of delivering mere paper victories.¹⁷⁴

the goal of equal participation in public and political spheres, see RUTH RUBIO-MARÍN & WILL KYMLICKA, GENDER PARITY AND MULTICULTURAL FEMINISM: TOWARDS A NEW SYNTHESIS 7 (2018), <https://doi.org/10.1093/oso/9780198829621.001.0001>.

170. Marieke C.L. Van den Brink et al., *Transparency as a Tool for Gender Equality*, 33 ORG. STUD. 1459, 1459 (2010).

171. Samardzija, *supra* note 15.

172. EUROPEAN PARLIAMENT DIRECTORATE GENERAL FOR INTERNAL POLICIES, *supra* note 144, at 2, 5.

173. *Id.*

174. See EUROPEAN INST. FOR GENDER EQUALITY, GENDER BALANCE IN POLITICS 1 (2024), <https://eige.europa.eu/sites/default/files/documents/gender-balance-in-politics.pdf> (explaining that quotas are most effective when accompanied by deterrent sanctions and "zipped lists" or similar rank-order rules that place women in winnable seats). By contrast, processes dominated by informal networking, limited information about vacancies, confidential or unreasoned evaluations, or "merit" procedures without accountability tend to preserve male gatekeeping behind a façade of fairness, which in turn weakens women's access not only to legislatures but also to courts and other sites of public power. See Nancy B. Arrington, *Judicial Merit Selection: Beliefs about Fairness and the Undermining of Gender Diversity on the Bench*, 74 POL. RSCH. Q. 1152, 1153–54, 1163–64 (2021) (arguing that "merit" selection can obscure accountability and make

To improve gender balance, nomination and appointment processes to international courts, including to the European Court of Human Rights, are required to be open and transparent. The Council of Europe Parliamentary Assembly Resolution 1646 from 2009 mandates that:

“the process of nominating candidates to the Court must reflect the principles of democratic procedure, transparency and non-discrimination. In the absence of a real choice among the candidates submitted by a state party to the Convention, the Assembly shall reject lists submitted to it. In addition, in the absence of a fair, transparent and consistent national selection procedure, the Assembly may reject such lists.”¹⁷⁵

Even so, increased transparency alone may not be enough to foster gender equality in the face of gendered opposition and counter mobilization efforts.¹⁷⁶

F. *Changing Social and Cultural Norms and Assumptions*

Social and cultural norms continue to reflect patriarchal systems and institutions in many countries, where women are

observers more accepting of all-male benches because the process appears fair); see Karen Medina, *Selection Processes of International Tribunals*, INT’L ASS’N OF WOMEN JUDGES (Nov. 28, 2023, at 18:20), https://www.iawj.org/content.aspx?page_id=2507&club_id=882224&item_id=5010 (“[A] more transparent approach would enhance equal access to diverse candidates, and increased information on available vacancies could create more opportunities for women.”).

175. Parliamentary Assembly, *Council of Europe, Resolution 1646: Nomination of Candidates and Election of Judges to the European Court of Human Rights*, COUNCIL OF EUR. (Jan. 27, 2009), <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17704&lang=en>.

176. Vachez, *supra* note 150, at 205. An added obstacle to gender parity can arise in two-stage selection processes that take place at both domestic and international levels. Despite transparent international requirements, state pre-selection processes may be opaque and non-representative, hobbling ultimate outcomes at the international level. See Baetens, *supra* note 24, at 19 (explaining that diversity on international benches depends not only on international selection rules, but also on the domestic nomination processes that determine which candidates reach the international stage). Liesbeth Lijnzaad emphasizes the importance of selection and nomination processes in Liesbeth Lijnzaad, *The Smurfette Principle: Reflections about Gender and the Nomination of Women to the International Bench*, in *IDENTITY AND DIVERSITY ON THE INTERNATIONAL BENCH: WHO IS THE JUDGE?* 29, 31 (Freya Baetens ed., 2020), <https://doi.org/10.1093/oso/9780198870753.003.0002>.

often relegated to so-called “safe spaces” removed from positions of actual power.¹⁷⁷ They can also influence roles women themselves are willing to assume as well as their attitudes towards the work they do. In Northern Ireland, for example, regressive attitudes to women’s formal political involvement have been explained by social and cultural factors existing in the region.¹⁷⁸ Even when women engage in leadership roles, structural inequities in the home, such as unequal distribution of domestic work and financial resources, persist and influence their effectiveness.¹⁷⁹

The Istanbul Convention is one example of an international treaty that recognizes the connection between social and cultural norms, structural inequalities, and violence against women.¹⁸⁰ The Convention obliges parties to “take the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.”¹⁸¹

Care should also be taken to avoid uncritically embracing assumptions that the mere presence of women in positions of power will automatically result in more just outcomes. Women are not a monolithic body, and superficial typecasting can pare their identities down to “frozen and ‘subjectified’” stereotypes.¹⁸² Rather than collapsing women into a single representative category, institutions should adapt and become responsive to differently situated women.¹⁸³

177. SABRINA KARIM & KYLE BEARDSLEY, EQUAL OPPORTUNITY PEACEKEEPING: WOMEN, PEACE, AND SECURITY IN POST-CONFLICT STATES 27-31 (2017).

178. Thomson, *supra* note 157, at 183.

179. BRECHENMACHER & HUBBARD, *supra* note 30, at 3-5.

180. See Istanbul Convention, *supra* note 166 (recognizing the link between gender-based violence, structural inequality, and social norms).

181. *Id.* art. 12.

182. Carey L Hogg, *Women’s Political Representation in Post-Conflict Rwanda: A Politics of Inclusion or Exclusion?*, 11 J. INT’L WOMEN’S STUDS. 34, 34 (2009).

183. See Melanie M. Hughes & Joshua Kjerulf Dubrow, *Intersectionality and Women’s Political Empowerment Worldwide*, in MEASURING WOMEN’S POLITICAL EMPOWERMENT ACROSS THE GLOBE 77, 77-78 (2018) (“[E]mpowerment for some women may not mean empowerment for all.”).

G. Addressing Issues of Power

When power and rights are transferred from the control of elites to previously underrepresented groups, backlash is to be expected. The Istanbul Convention recognizes this, finding that “violence against women is a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women.”¹⁸⁴

Women may be able to achieve positions of influence more successfully when balances of power among political elites are not threatened. In Rwanda, for example, gender equity proposals put forth by advocates during the constitutional drafting process were more readily adopted when they did not disrupt existing power structures within political parties.¹⁸⁵ However, this strategy can constrain the effectiveness of women’s participation and ultimately operate to the detriment of advocating for and carrying out long lasting institutional change that would eliminate structural discrimination.

Achieving power can also have negative consequences with respect to women’s safety. As women attain positions of power, physical and sexual violence, sexual harassment, psychological threats, and intimidation often increase.¹⁸⁶ For example, in 2017, 55% of female officials in Côte d’Ivoire, Honduras, Tanzania, and Tunisia were subjected to violence while carrying out political party activities.¹⁸⁷ Similarly, a 2018 survey of female European parliamentarians and staffers found that 58.2% had experienced threats of violence online, including threats of rape or death,¹⁸⁸ and a 2023 Europe-wide

184. Istanbul Convention, *supra* note 166, pmb1.

185. Banks, *supra* note 26, at 1066.

186. Roudabeh Kishi, *Special Report: Gender, Inclusion, and Conflict*, ARMED CONFLICT LOCATION & EVENT DATA PROJECT (Dec. 27, 2017), <https://acleddata.com/2017/12/27/special-report-gender-inclusion-and-conflict/>; see also Bigio & Vogelstein, *supra* note 37 (describing the rise in physical, sexual, and psychological violence directed at women as they gain political power); BRECHENMACHER & HUBBARD, *supra* note 30, at 15, 30 (arguing that women seeking political power often face intimidation, harassment, and violence that reinforce exclusion from party politics).

187. NAT’L DEMOCRATIC INST. TO THE U. N. SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, #NOTTHECOST: STOPPING VIOLENCE AGAINST WOMEN IN POLITICS 12 (2018), <https://www.ndi.org/sites/default/files/NDI%20Submission.pdf>.

188. INTER-PARLIAMENTARY UNION, SEXISM, HARASSMENT AND

survey conducted by the Council of European Municipalities and Regions found that although 32% of respondents had experienced violence, only 29% of those affected had reported it, and perpetrators faced consequences in only 22% of cases.¹⁸⁹

Regional and international movements to end violence against female leaders are increasing. In 2015, state parties to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women endorsed a proclamation committing political parties, trade unions, and social organizations to develop strategies to eradicate political violence against women.¹⁹⁰ Nevertheless, in practice, few systematic measures have been undertaken to reduce violence against women in politics. As an example, between 2014 and 2019, support for actions to prevent, investigate and punish violence against women in politics was reported by the fewest number of UN entities participating in the review of the UN system's support for the implementation of the Platform for Action.¹⁹¹

H. International Oversight

The presence of international funders and organizations in post-conflict settings can positively impact the protection and growth of women's rights. By providing funding independent of national patronage networks, they may introduce new norms and standards that promote and ensure gender equality in contexts that were previously unequal.¹⁹² International organizations can also influence the adoption of parliamen-

VIOLENCE AGAINST WOMEN IN PARLIAMENTS IN EUROPE 1 (2018), <https://www.ipu.org/resources/publications/issue-briefs/2018-10/sexism-harassment-and-violence-against-women-in-parliaments-in-europe>.

189. Ionel Zamfir, Violence Against Women Active in Politics in the EU: A Serious Obstacle to Political Participation 7 (2024), [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/759600/EPRS_BRI\(2024\)759600_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/759600/EPRS_BRI(2024)759600_EN.pdf).

190. Organization of American States Inter-American Commission of Women, Declaration on Political Harassment and Violence Against Women 3-11 (2015), <https://www.oas.org/es/mesecvi/docs/DeclaracionViolenciaPolitica-EN.pdf>.

191. 25 Years After Beijing, *supra* note 5, at 11.

192. Tripp, *supra* note 109, at 82. Post-conflict Rwanda, where women still had the highest percentage of female legislators twenty-six years after the end of the genocide, presents a strong example of this phenomenon. See Section III, *supra*.

tary and other quotas¹⁹³ and monitor women's participation in the implementation of peace agreements.¹⁹⁴

International organizations and their agendas in post-conflict settings, however, are not without controversy. International actors, while able to provide valuable oversight and funding, often suffer from short attention spans that result in premature withdrawal of support and financial aid.¹⁹⁵ International funding may also decrease the legitimacy of change in the eyes of local populations, negatively impact long-term sustainability of development, and risk changing local religious and cultural values in illegitimate or inappropriate ways.¹⁹⁶

VI. POLICY RECOMMENDATIONS

As opposed to recommending the initiation of conflict as a means to overcome longstanding discriminatory norms and practices, this Article instead proposes considering periods immediately following conflict as unique opportunities for reforming discriminatory structural barriers that have prevented women from achieving leadership positions. These periods can shut quickly, however, eliminating valuable opportunities to introduce substantive changes that can set the stage for durable peace and gender equality. Potential strategies to

193. See Mona Lena Krook et al., *Military Invasion and Women's Political Representation: Gender Quotas in Post-Conflict Afghanistan and Iraq*, 12 INT'L FEMINIST J. POL. 66, 66 (2010) (showing that international actors can influence the adoption of gender quotas in post-conflict settings). While the reserved seats policy in Afghanistan was primarily driven by the top-down efforts of the U.N., the legislative quota in Iraq emerged mainly through the bottom-up mobilization of women's groups. *Id.* at 70. While international norms greatly influenced the adoption of gender quotas in Afghanistan, several scholars argue that indigenous women's movements provided a catalyst for these debates. *Id.* (referring to Dahlerup and Nordlund's 2004 article, Nordlund's 2004 article, and Ballington and Dahlerup's 2006 article). There is reason to question the extent to which those demands arose from the Afghan women's movement. *Id.* at 71.

194. ABBALLE, *supra* note 148, at 5.

195. JANE STROMSETH ET AL., CAN MIGHT MAKE RIGHTS? BUILDING THE RULE OF LAW AFTER MILITARY INTERVENTIONS 8 (2006).

196. See Stigall, *supra* note 104, at 24-25 ("Minimalism also counsels that organic institutions be empowered and revitalized, rather than new entities and institutions be created from whole cloth. This not only avoids a legitimacy deficit and fosters greater security, it decreases the cost of state-building.").

consider during immediate post-conflict timeframes are set forth below:

Engage in broad consultations as soon as possible following the end of conflict and include all parties involved either directly or peripherally in the conflict. Do not purport to speak on behalf of women or others without engaging with them directly. Seek perspectives and expertise on the causes of stagnation of women's upward trajectories prior to the conflict, whether and how disenfranchisement contributed to the conflict, and what openings they see for attaining leadership positions following the conflict. Inquire as to what changes would make their paths easier, including, for example, child-care, protection from domestic and political violence, and higher rates of pay.

Be sensitive to the fact that women are not a monolithic whole; as is the case with other groups, they have different lived experiences. There may be spoilers within women's groups, including those who were able to achieve political power in male-dominated contexts and have an interest in solidifying this legacy by sidelining the advancement of other women. Be linguistically inclusive during consultations; rural women, for example, may only be able to participate in local languages. Be cognizant of including women from vulnerable groups, including illiterate women and those from minority ethnic groups.

Promote intercultural dialogues, especially in contexts in which ethnic, cultural, and other differences contributed to conflict. Intercultural dialogues can explore causes of the conflict and potential paths forward. Seek input and assistance from a variety of actors, including educated and non-educated women, women of mixed heritage, and members of the diaspora, each of which may have had divergent experiences. These groups represent valuable resources in post-conflict contexts, and excluding any of them can have the unintended consequence of creating spoilers who disrupt change.

Conduct civic education programs, which are crucial to inform populations and government officials of legal obligations under peace accords, international law, and domestic constitutional and legal frameworks. In order to build effective advocacy strategies and movements to protect and enforce women's rights, women's groups must understand their legal rights and the parameters of relevant legal frameworks. Civic

education should be carried out widely, including in rural areas.

Gather data, including baseline statistics. Transparently maintain data to accurately track the presence and absence of women in leadership roles and any changes that take place over time. Transparency of data facilitates opportunities for advocacy, enables the efficient distribution of grants, and provides a platform to track government responses.

Monitor and report changes. Implement rigorous monitoring, reporting, and evaluation requirements to track compliance with relevant laws and guidelines, as well as improvements or declines in rates of women's leadership opportunities. Publicize the results.

Consider establishing quotas. Establish minimum numbers of women serving in leadership positions in government and other public spaces. Do not permit quotas to be met by appointing women to subsidiary positions such as Deputy Directors that lack actual decision-making power.

Maintain public transparency. Because elite preferences for political processes held behind closed doors tend to exclude women from substantive decision making, require any meetings that involve decision making be open to the public and media.

Protect independent media. Ensure that media are engaged, invited to meetings, and protected. Independent media are a critical presence to keep the public informed and hold government leaders accountable. They are often targets of violence when elite power is challenged.

Be specific regarding terminology. During legal and constitutional reform processes, be cognizant of potential implications of language. For example, setting a quota of 35% as a baseline can be interpreted by spoilers as an upper limit to numbers of positions reserved for women.

Consider the impact of electoral systems. Seek expertise to help determine which electoral systems most effectively support women's ability to participate in and win elections. If necessary, electoral reform grounded in equality rights should be undertaken.

Consider the benefits of providing economic incentives. Consider introducing economic incentives for businesses and government institutions that encourage compliance with quota requirements or otherwise promote women's leadership.

Engage in criminal justice reform. Advocate for the introduction of laws that criminalize political violence, including against women.

Advocate for international legal protections. Advocate for domestic accession to and compliance with relevant international conventions, including CEDAW. Public education campaigns should include information about duties under international law and remedies for non-compliance.

Conduct legal and judicial training. Carry out legal and judicial training programs for women on states' obligations under regional and international laws and strategies for implementing such laws.

Conduct leadership, advocacy, and negotiation training. Create platforms for women to develop cohesive agendas, build public speaking skills, and develop concrete negotiation experience. Fractured movements lacking unified vision and goals provide opportunities for spoilers and outside actors to exploit progress.

Build international networks. Encourage women to join regional professional networks (for example, the International Association of Women Judges). These organizations can provide valuable support, technical resources, and networks of expertise.

Build cross-sectoral support networks. Implement cross-sectoral support programs for women who are in leadership roles, including those who are the first in their positions. Encourage cross-sectoral support strategies among women working in government, civil society, academia, faith-based institutions, women's movements, and corporate roles.

Promote a culture of mentorship. Implement formal mentorship programs to enable younger women to benefit from the guidance and advice of more experienced mentors who have wisdom to share.

Remain aware of dangers of reverting to conflict. Be aware of the dangers of backsliding into conflict. Renewed conflict presents dangers of eliminating all gains that have been achieved and re-entrenching patriarchal norms and practices.

VII. CONCLUSION

In 1979, philosopher Audre Lorde said, "the master's tools will never dismantle the master's house. They may allow us temporarily to beat him at his own game, but they will never

enable us to bring about genuine change.”¹⁹⁷ It can be argued that in the context of equalizing women’s political power, this statement will continue to hold weight as long as women are underrepresented in the bodies responsible for making laws and building governance institutions.¹⁹⁸

Although necessary to establish foundational legal frameworks, laws alone are not sufficient to bring about change in gender norms unless they also address underlying structural constructs that perpetuate inequalities privileging dominant groups. Conflict, especially when driven by rejection of those inequalities, can hasten reform by exposing entire systems and practices to scrutiny and revision. To ensure that previously existing patriarchal institutions and practices are not reinstated, women should be included at all stages of post-conflict reconstruction activities. Support and solidarity among women and women’s groups are also crucial to avoid perceptions of power scarcity and “covert competition and indirect aggression”¹⁹⁹ that can splinter efforts and advances. Increasing space for women’s political participation is worth the effort for everyone; results include lower levels of income inequality, increased respect for diverse needs, higher levels of political responsiveness, decreased corruption, and longer periods of stability and peace.

197. Audre Lorde, *The Master’s Tools Will Never Dismantle the Master’s House*, Address at “The Personal and the Political” Panel at the Second Sex Conference (Oct. 29, 1979), <https://awpc.catt-center.iastate.edu/communication/masters-tools-will-never-dismantle-masters-house-oct-29-1979>.

198. *Id.*

199. Bonnie Marcus, *The Dark Side of Female Rivalry in the Workplace and What to Do about It*, FORBES (Jan. 13, 2016, at 18:51 EST), <https://www.forbes.com/sites/bonniemarcus/2016/01/13/the-dark-side-of-female-rivalry-in-the-workplace-and-what-to-do-about-it/>.