

Gender and Statebuilding: Implications of State Responsiveness to Violence against Women in Post-conflict Rwanda, Uganda and Kenya.

Diana Koester, Green Templeton College.

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Abstract

Statebuilding 'success' in providing security for women has varied significantly across postconflict countries. This thesis asks what explains this variation. To address this question it contrasts expectations provided by literature on post-conflict statebuilding with those offered by relevant feminist scholarship, including feminist institutionalism and policy formation. It then assesses their explanatory power in accounting for differing state responses to violence against women in post-conflict Rwanda, Uganda and Kenya. The thesis finds that Rwanda became more successful in providing security for women than Uganda and Kenya because legacies of 'intense' conflict, low post-conflict capacity and a combination of informal institutions provided greater opportunities to re-define the public-private divide and thereby establish violence against women as a public priority. The effects of these factors were different - and often inverse - from what literature on post-conflict statebuilding would lead us to anticipate. This is due to one fundamental oversight in this area of scholarship: Its failure to recognize women's distinct relationships with the state.

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1. Introduction

Men and women experience wars differently. Most notably, they face different forms of associated violence. Since the vast majority of fighting forces are men, so are the majority of those directly killed or injured by armed violence.

Women, by contrast, disproportionately suffer from the indirect effects of war.[1] These include significant increases of gender-based violence. Rape of women and girls has thus served as a strategy of war in innumerable conflicts, recently including those in Eastern DRC, Darfur, Sierra Leone, Liberia, Bosnia-Herzegovina, East Timor and Rwanda. [2]

Conflict-related violence against women does not stop following the ceasefire.[3] In fact, it tends to increase further.[4] Sexual violence and abuse thus continues in refugee camps; around local military or international peacekeeping bases; and, due to a post-war rise in trafficking of women, across conflict-affected territories.[5]

Domestic violence also escalates during and after war. As documented in East Timor[6], Liberia[7], Afghanistan[8], and Kosovo[9], conflicts continue in the home when traumatized

[1] See e.g. World Bank, *World Development Report 2011: Conflict, Security and Development* (Washington, DC: World Bank, 2011). Christin Ormhaug, Patrick Marsh and Helga Hernes, *Armed Conflict Deaths Disaggregated by Gender* (Oslo: Prio, 2009). Jacqui True, *The Political Economy of Violence Against Women* (New York, Oxford: Oxford University Press, 2012).
[2] For an overview see e.g. Megan Bastick, Karin Grimm and Rahel Kunz, *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector* (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2007).
[3] See e.g. Donna Pankhurst, ''What is wrong with men?': Revisiting violence against women in conflict and peacebuilding', *Peacebuilding,* 4:2, 2016. Elisabeth Porter, 'Feminists building peace and reconciliation: beyond post-conflict', *Peacebuilding,* 4:2, 2016, 210-225. True, *Political Economy*.
[4] E.g. Bastick et al., *Sexual Violence in Armed Conflict*. Elisabeth Porter, 'Feminists building peace and reconciliation: beyond post-conflict', *Peacebuilding,* 4:2, 2016, 210-225.
[5] See e.g. United Nations Population Fund, *The State of the World's Population: The Good, The Bad, The Promising: Migration in the 21st Century* (New York: UNFPA, 2006). Sarah Martin, ''Must Boys be Boys?' Ending Sexual Abuse and Exploitation in UN Peacekeeping Missions', *Refugees International*, 2005. Charles Anthony Smith and Brandon Miller de la Cuesta, 'Human Trafficking in Conflict Zones: The Role of Peacekeepers and the Formation of Networks', *Human Rights Review,* 12, 2011. Sarah E. Mendelson, *Barracks and Brothels: Peacekeepers and Human Trafficking in the Balkans*, CSIS, 2005.
[6] E.g. Nina Hall, 'East Timorese Women Challenge Domestic Violence', *Australian Journal of Political Science*, 44: 2, 2009.

combatants return, often with a stronger sense of their masculinity depending on the use of violence and frustrated because they are unable to perform the masculine role of breadwinner in the devastated post-war economy. The continued availability of arms means that these post-conflict conflicts in families are not only more frequent but also more likely to be lethal.[10]

Men and women's different experiences of conflict and post-conflict environments have clear implications for efforts to build peace after civil war: If peacebuilding is to 'work' for everyone, it must address men and women's specific needs. In particular, it must respond to their distinct experiences of insecurity. After all, the provision of security is the defining function of the state and has been understood as the key measure of statebuilding 'success'.[11]

1. Variation in statebuilding 'success' for women: Post-conflict state responses to domestic and sexual violence.

However, the extent to which post-conflict states 'succeed' in addressing women's specific security needs has varied significantly. [12] The strength of legal protections from domestic and sexual violence thus differs considerably between conflict-affected countries. Out of sixteen post-conflict states in Africa[13], for example, seven have developed comprehensive laws against both domestic and sexual violence[14], while three lack protections in one of these areas[15] and six have failed to develop both legislation on domestic violence and full legal

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[7] Marion Couldrey and Tim Morris, eds., *Sexual Violence Weapon of War, Impediment to Peace*, *Forced Migration Review*, 27, 2007.
[8] Lina Abirafeh, 'Freedom Is Only Won from the Inside: Domestic Violence in Post Conflict Afghanistan', in Maha B. Alkhateeb and Salma Elkadi Abugideiri, eds., *Change from Within: Diverse Perspectives on Domestic Violence in Muslim Communities* (Great Falls, VA: Peaceful Families Project, 2007).
[9] UNIFEM. *No safe place: An assessment on violence against women in Kosovo* (Pristina: UNIFEM, 2000).
[10] Cynthia Cockburn, *Antimilitarism: Politics and Gender Dynamics of Movements to End War and Redefine Peace* (Basingstoke: Palgrave, 2012).
[11] See section 2.
[12] See e.g. OECD Social Institutions and Gender Index (SIGI), 2014. US State Department Human Rights Reports.
[13] With Tripp I include here as 'post-conflict' those countries on the African continent where sustained and high-intensity conflict (with over 1,000 recorded deaths per year) ended after 1985, according to the Uppsala Conflict Data Program. See Aili Marie Tripp, *Women and Power in Postconflict Africa* (Cambridge: Cambridge University Press, 2015).
[14] Angola, Burundi, Mozambique, Rwanda, Sierra Leone, South Africa, Namibia, according to the most recent data (2014) on the physical integrity dimension of OECD Social Institutions and Gender Index (SIGI).
[15] Congo Brazzaville, Ethiopia, Uganda, see OECD SIGI.

protections from sexual violence.[16] In this last group of countries some of the most common forms of sexual abuse are not criminalized and perpetrators are often able to escape prosecution by marrying their victims.

Post-conflict states in Africa have also made diverging efforts to implement existing legal protections. Some consider domestic and sexual violence a "low priority" [17] and treat it "more as a societal norm than a criminal problem."[18] They consequently fail to enforce the law, with police rarely investigating cases of domestic or sexual violence.[19] In certain countries, survivors claiming legal protections risk not only a lack of response but also further harassment by state officials and being charged with crimes themselves.[20]

By contrast, some post-conflict states in Africa have implemented legal protections from domestic and sexual violence as a key "priority"[21] for their security and judicial systems. They secure regular convictions and maximum sentences for these crimes.[22] To ensure such follow-up they provide specialized courts and police units, dedicated training for all state officials charged with responding to victims, country-wide awareness programmes, and targeted measures to protect particularly vulnerable groups, such as refugees.[23]

Similarly, services available for survivors differ tremendously between these states. While some states offer shelters and one-stop centres across the country, others have failed to

[16] Algeria, Chad, Liberia, Morocco, Sudan, Eritrea, see OECD SIGI.
[17] US Department of State, *Country Reports on Human Rights Practices for 2013*, Ethiopia Country Profile. Same phrase used to describe Uganda in interviews with Niels Harbitz and Executive Director of the Centre for Domestic Violence Prevention (CEDOVIP).
[18] US Department of State, *Country Reports*, Sierra Leone Country Profile, Morocco Country Profile.
[19] The US State Department reports a particular lack of enforcement in Angola, Chad, Morocco, Sierra Leone, Sudan and Uganda. See US Department of State, *Country Reports.*
[20] See US Department of State, *Country Reports*.
[21] US State Department of State, *Country Reports,* Rwanda Country profile. Bruce Baker, 'Reconstructing a Policing System Out of the Ashes. Rwanda's Solution', *Policing and Society: An international Journal of Research and Policy,* 17:4, 2007, 349.
[22] The US State Department and/or OECD report the law to be generally enforced in Algeria, Namibia, Rwanda, Mozambique and South Africa. See US Department of State, *Country Reports.* OECD SIGI.
[23] Extensive responses are reported e.g. from Mozambique, Rwanda and South Africa, see US Department of State, *Country Reports,* OECD SIGI.

provide any such facilities – or even criminalized their establishment.[24] The extent to which post-conflict statebuilding succeeds in providing security for women has thus varied significantly.

2. Gap in the literature: Statebuilding 'success' for whom?

The extensive literature on post-conflict statebuilding should help explain this variation. Statebuilding, the creation and strengthening of state institutions[25], has become the dominant approach to building peace after civil war.[26] As noted above, scholars have most often understood the extent to which the post-conflict state performs its defining security function as the ultimate indicator of statebuilding 'success'.

On this basis, a considerable body of research has identified variables that explain variation in the extent to which post-conflict states provide security - and hence what leads to statebuilding 'success'. Scholars have then often used these findings to recommend strategies and priorities of 'effective' statebuilding assumed to apply to post-conflict societies in general.

However, at closer examination, the conclusions of this work may be problematic for women living in post-conflict countries. Most scholars in this context implicitly or explicitly equate 'security' – and thus statebuilding 'success' - with the avoidance of 'violence' understood as civil war, that is, sustained fighting between armed combatants. Collier for example equates

[24] US Department of State, *Country Reports.* US Department of State, *Country Reports for Human Rights Practices for 2011.*
[25] See e.g. Francis Fukuyama, *State-Building: Governance and World Order In the Twenty-First Century* (London: Profile Books, 2004), 9.
[26] See e.g. Meera Sabaratnam, ''The Liberal Peace': An Intellectual History', in Susanna Campbell, David Chandler, Meera Sabaratnam, eds., *A liberal peace?: the problems and practices of peacebuilding* (London: Zed Books, 2011). Nazneen H. Barma, Naoimi Levy and Jessica Piombo. 'Disentangling aid dynamics in statebuilding and peacebuilding: a causal framework.' *International peacekeeping,* 24:2, 2017.

'post-conflict risk' with 'war risk', peace with a reduction of war risk, and 'violence' with civil war, while Paris uses violence and civil war interchangeably.[27]

In quantitative studies, scholars accordingly tend to operationalize 'security' and hence statebuilding success in terms of whether or not any conflict between the formerly warring parties surpassed a threshold of more than 1, 000 battle deaths per year within a specified time span following conflict or the departure of peace operations.[28] Paul Collier for example uses this yardstick in his quantitative assessment of the determinants of "post-conflict risk" and derives key ingredients of successful post-conflict policy on this basis.[29] Similarly, in a comprehensive review of peacebuilding in the late 1990s conducted by Stedman, Rothschild and Cousens, "success is measured in relation to the ending of violence and the conclusion of the war on a self-enforcing basis: when the outsiders leave, the former warring parties refrain from returning to war."[30]

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[27] Paul Collier, Anke Hoeffler and Mans Söderbom, 'Post-Conflict Risks', Centre for the Study of African Economies, Department of Economics, University of Oxford, 2006, 10. Roland Paris, *At War's End: Building Peace after Civil Conflict* (Cambridge: Cambridge University Press, 2004).

[28] E.g. Collier et al., 'Post-Conflict Risks'. Virginia Page Fortna, 'Does Peacekeeping Keep the Peace?', International Intervention and the Duration of Peace After Civil War', *International Studies Quarterly,* 48:2, 2004. Virginia Page Fortna, *Does peacekeeping work?: shaping belligerents' choices after civil war* (Princeton, NJ; Woodstock: Princeton University Press, 2008). Michael J. Gillighan, 'Do UN Interventions Cause Peace'? Using Matching to Improve Causal Inference', *Quarterly Journal of Political Science,* 3:2, 2008. For a general critique of the narrow notion of security underlying assessments of peacekeeping success see also Malte Brosig and Norman Sempijja, 'What peacekeeping leaves behind: evaluating the effects of multi-dimensional peace operations in Africa, *Conflict, Security & Development,* 17:1, 2017. For the use of this standard in qualitative studies in general see e.g. Philip G. Roeder and Donald S. Rothschild (who additionally investigate transitions to democracy i.e. go beyond peace as such), 'Dilemmas of Statebuilding in Divided Societies', in Philip G. Roeder and Donald S. Rothschild, eds., *Sustainable peace: power and democracy after civil wars* (Ithaca, N.Y.: Cornell University Press, 2005). Elizabeth Cousens, Chetan Kumar and Karin Wermester, *Peacebuilding as Politics: cultivating peace in fragile societies* (Boulder, Colo; London: Lynne Rienner Publishers, 2001). Arnim Langer and Graham
K. Brown, 'Introduction', in Arnim Langer and Graham K. Brown, *Building sustainable peace: timing and sequencing of post-conflict reconstruction and peacebuilding* (Oxford: Oxford University Press, 2016). Studies of civil war recurrence in turn offer policy recommendations for the wide range of tasks involved in post-conflict statebuilding solely based on the extent to which different factors contribute to this single dependent variable. See e.g. Michael J Quinn, T David Mason and Mehmet Gurses, 'Sustaining the peace: Determinants of civil war recurrence', *International Interactions,* 33:2, 2007. Nicholas Sambanis, 'Partition as a Solution to Ethnic War: An Empirical Critique of the Theoretical Literature', *World Politics,* 52:4, 2000. Charles Call, *Why Peace Fails: The causes and prevention of civil war recurrence* (Washington DC: Georgetown University Press, 2012). David Mason et al., 'When Civil War Recurs: Conditions for Durable Peace after Civil Wars', *International Studies Perspectives,* 12:2, 2011.

[29] Collier et al., 'Post-Conflict Risks'.

[30] Stephen John Stedman, Donald S. Rothschild and Elizabeth Cousens, eds., *Ending civil wars: the implementation of peace agreements* (Boulder, Colorado: Lynne Rienner, 2002). Note however, that they focus more narrowly on the relatively short-term implementation of peace agreements or "peace implementation", which may include but not be limited to statebuilding activities.

Some scholars have added further 'success criteria' to this standard of 'security' as war recurrence. These include the relative alleviation of 'root causes' of the preceding civil war.[31] Paris for example incorporates a version of this approach into his influential case study analysis of eleven peacebuilding missions deployed between 1989 and 1998.[32] In assessing their relative 'success', he considers both whether large-scale hostilities resumed in the aftermath of a peacebuilding mission and whether peacebuilding alleviated conditions that historically led to such violence or could reasonably be feared to do so in the future.

Others extend the standard of 'security' as war recurrence by adding a measure of whether or not a regime can be considered minimally participatory, on the assumption that participatory channels could serve to prevent future conflict. [33] In what they regard as "the most serious quantitative effort yet to measure peacebuilding success beyond war recurrence", Doyle and Sambanis, for example, consider both if war or significant violence re-occurred within two years and whether the independent 'Polity' dataset scored a regime as extremely authoritarian or repressive.[34] Call and Wyeth employ a similar standard of success, which they argue "strikes a middle ground" that includes the lack of recurrence of warfare as well as some sustained, national mechanisms for the resolution of conflict – signified by participatory politics."[35]

Yet even these more complex standards continue to feature a measure of 'security' defined as the risk of 'war recurrence' as the basis for distinguishing success from failure and include any additional indicators based on their assumed relationship to this narrow notion of security.

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[31] See e.g. Paris, *At War's End.* Charles Call, 'Knowing Peace When You See It: Setting Standards for Peacebuilding Success', *Civil Wars,* 10:2, 2008.
[32] Paris, *At War's End.*
[33] Call, 'Knowing Peace'. Michael W. Doyle and Nicholas Sambanis, *Making War and Building Peace: United Nations Peace Operations* (Oxford: Princeton University Press, 2006). Cousens et al., *Peacebuilding as Politics*.
[34] Doyle and Sambanis. *Making War and Building Peace.*
[35] Charles Call, 'Introduction: Ending Wars, Building States' in Charles Call and Vanessa Wyeth, eds., *Building States to Build Peace* (Lynne Rienner, 2008), 6.

Consequently, the extent to which variables and strategies are considered priorities for statebuilding 'success' continues to be determined based on their contribution to the reduction of the risk of public armed violence.

From the perspective of women living in post-conflict environments, these standards of success are problematic. The narrow concept of security beneath them excludes what are, as we have seen, the most common threats against women's physical security during and after conflict[36]: domestic and sexual violence. This means that key factors for statebuilding 'success' commonly proposed by studies of post-conflict statebuilding may not lead to statebuilding success for women.

3. Research question and approach of the thesis

In order to address this gap, we must ask whether key ingredients for statebuilding success frequently proposed in this literature also explain the significant empirical variation in the extent to which post-conflict statebuilding provides security *for women.* If widely agreed 'success factors' fail to account for this outcome, we must assess whether and how other variables should be taken into account. Answering these questions is a precondition for ensuring that statebuilding theory and practice can work for men and women equally – and it is the goal of this thesis. In short, this thesis addresses the following research question:

Why is there variation in the extent to which post-conflict statebuilding provides security for women?

[36] And in general, see Chapter III.

The extent to which post-conflict statebuilding provides security for women is defined as the level of state action against domestic and sexual violence in the context of post-conflict statebuilding. Chapter III elaborates on the rationale for, and limitations of, selecting this dependent variable. Importantly, generalizing about 'women's' concerns as a group and associating these with domestic and sexual violence is certainly a simplication, if a necessary and reasonable one in the context of this research. The focus of this study and shorthand references to 'women' as a group are not designed to deny the complexity and diversity of their experiences, some of which will become apparent in the case study chapters.

The thesis addresses the research question by contrasting the expectations provided by literature on post-conflict statebuilding with those offered by feminist scholarship in International Relations, political economy, institutionalism and public policy. It then tests the diverging answers these bodies of work would provide for the research question by examining the development of state responses to violence against women in the cases of Rwanda, Uganda and Kenya.

4. Key arguments and contribution of the thesis: Building states that 'work' for women.

The thesis finds that differences in legacies of conflict, post-conflict capacity and 'the informal' help explain varied statebuilding 'success' for women across these cases: Rwanda became more successful in providing security for women than Uganda and especially Kenya because legacies of 'intense' conflict, low post-conflict capacity and a combination of informal institutions provided greater opportunities to define violence against women as a public priority.

Throughout the case studies, the effects of these variables were different - and often inverse - from what dominant trends in scholarship of post-conflict statebuilding would lead us to anticipate. This is due to one fundamental oversight in research in this field: The failure to

recognize women's distinct relationships with the state. As a result of this omission, studies of post-conflict statebuilding cannot 'work' for men and women equally.

The findings contribute to scholarship of post-conflict statebuilding by highlighting the neglect of gender in debates in this field and the ways in which this oversight constrains the explanatory power of existing research. The results also point to a series of common findings and wider characteristics of studies in this area which may require reconsideration if statebuilding is to serve both men and women.

As discussed further in Chapters III and VIII, the focus of this thesis does not *refute* common findings in scholarship of post-conflict statebuilding. Instead it sets out to balance and complete them by helping to assess how they 'work' for different parts of the population. Further research is needed to examine possible trade-offs between outcomes for different elements of 'society' and, on this basis, to reconstruct a literature (and practice) that delivers equitable outcomes.

As the main objective of this thesis is to contribute to scholarship of post-conflict statebuilding, it mainly draws on diverse strands of feminist scholarship to derive tools and insights that can help inform debates on post-conflict statebuilding. Nevertheless, it also adds to studies of feminist policy formation and institutionalism by helping to assess the applicability of several common findings in contemporary post-conflict contexts.

The thesis shows that many of their insights provide useful tools for the analysis of post- conflict statebuilding. At the same time, it highlights that several characteristics of post-conflict environments can alter causal processes identified by feminist scholars in other contexts. As a number of these features are analysed in scholarship of post-conflict

statebuilding, further engagement between scholars of post-conflict statebuilding, on the one hand, and those focusing on feminist policy formation and institutionalism, on the other, may be fruitful for all of these fields of research. Finally, the case study analysis of implementation adds important insights to scholarship focusing the formation of gender equality policies.

The results of this thesis should also be of interest to practitioners working to promote effective statebuilding and responses to violence against women after conflict. Eight relevant UN Security Council Resolutions demonstrate growing international commitment to ensuring peacebuilding serves both men and women.[37] However, these resolutions and their (limited) implementation have largely aimed to 'add women and stir': Their recommendations for gender-sensitive peacebuilding revolve mostly around adding narrow measures to address violence against women in conflict and ensuring some representation of women to otherwise unchanged peacebuilding efforts.[38]

This thesis suggests that 'adding' women to pre-existing peacebuilding and specifically statebuilding strategies is not enough to ensure post-conflict states 'work' for women. It shows that the most fundamental assumptions on which statebuilding efforts are built marginalize women's experiences. This means that a more fundamental re-think may be required if statebuilding is to serve men and women equally.

[37] UN Security Council Resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), 2242 (2015).
[38] For a critique of UNSCR 1325 and subsequent resolutions based on their failure to address structural factors that may constrain women's agency, see e.g. the special issue summarized in Nicola Pratt and Sophie Richter-Devroe, 'Introduction: Critically Examining UNSCR 1325 on Women, Peace and security', *International Feminist Journal of Politics*, 13:4, 2011.

5. Structure of the thesis

The remainder of the thesis proceeds as follows. Chapter II reviews relevant literatures. In particular it assesses which answers dominant trends in scholarship on post-conflict statebuilding, on the one hand, and several bodies of feminist scholarship (in the areas of public policy, institutionalism, International Relations and political economy), on the other, would suggest for the research question. It shows that common findings in these broad bodies of scholarship point to diverging expectations about what leads to post-conflict states that provide security and hence 'succeed' for women. The rest of the thesis is dedicated to testing the validity of expectations emerging from dominant trends in these literatures and in particular whether common conclusions in scholarship of statebuilding are able to answer a question about women's experiences or need modification if they are to 'work' for men and women equally.

Chapter III details the methodology used for testing these hypotheses and answering the research question. It first defines key concepts and, on this basis, operationalizes the research question and dependent variable ('the extent to which post-conflict statebuilding provides security for women'). It then spells out the rationale for using a case study methodology in answering the research question as well as the relevant case selection criteria. This is followed by a justification and explanation of methods used for data collection and analysis and a discussion of external validity.

Chapter IV explains the selection of Rwanda, Uganda and Kenya as case studies based on the criteria established in the previous chapter and provides the necessary context for the following chapters. It first describes post-conflict statebuilding processes in Rwanda and Uganda, contrasting these with the history of relative stability in Kenya. The chapter then introduces state responses to violence against women in these three countries, comparing strong responses in Rwanda with limited responses in Uganda and weak responses in Kenya.

Finally the chapter provides context for these policies by detailing several background conditions and highlighting initial (lack of) congruence between key ingredients for 'success' emerging from statebuilding literature and statebuilding 'success' for women across the cases.

Chapters V - VII turn to the individual case studies. Chapter V demonstrates which factors account for high state responsiveness to violence against women in post-conflict Rwanda. To this end it traces the development of relevant measures, highlighting critical causal factors and processes at each step of this chain of events. Chapter VI assesses why the Ugandan state has provided limited responses to violence against women after conflict and Chapter VII examines which factors explain weak state responsiveness to such violence in Kenya.

The concluding Chapter VIII summarizes key factors in explaining statebuilding 'success' for women across the cases and spells out implications for academic literatures. In particular it comments on the extent to which, on the basis of the results of the thesis, common findings in statebuilding literature can be said to 'work' for men and women equally. It comments further on limitations of the thesis and highlights future research as well as wider methodological modifications necessary to address gendered blind spots in debates of statebuilding.

2. Key ingredients for 'success': Points of divergence between trends in statebuilding and feminist literatures.

This chapter reviews possible answers for the research question ('*Why is there variation in the extent to which post-conflict statebuilding provides security for women?'*) suggested by dominant trends in scholarship of post-conflict statebuilding, one the one hand, and studies that focus on women's specific experiences in a number of fields, on the other. It finds that, in several areas, common findings in these broad bodies of work point to diverging expectations about what leads to post-conflict states that provide security and hence 'succeed' for women. In particular, they suggest different conclusions regarding the effects of four sets of factors: legacies of conflict, political liberalization and state capacity as well as the role of 'the informal' in mediating these.

Regarding studies of post-conflict statebuilding, this review considers several trends in two overlapping areas of research, which identify key ingredients for statebuilding 'success'. These include, first, scholarship on post-conflict peacebuilding. In particular, the chapter draws on studies in this field that discuss general lessons for the strengthening of state institutions in this context, and thus, relate to post-conflict statebuilding.[1] Not included are studies on peacebuilding that address societal-level dialogue and reconciliation or 'peacemaking' as these do not primarily focus on statebuilding. Second, this chapter considers common findings of a largely quantitative sub-set of the literature on civil wars: Studies which identify factors associated with civil war recurrence and derive general recommendations for post-

[1] Studies included vary in the nature of cases included in their research, for example regarding levels of international engagement: Some focus only on cases where the UN and other international actors were highly involved (e.g. Paris, Doyle and Sambanis, Stedman Rothschild and Cousens, Berdal, Zisk), others include instances where this was not the case (e.g. Collier et al., Chesterman et al.), while some focus on cases of international administration (e.g. Caplan, Chesterman). Some focus specifically on the implementation of peace agreements (e.g. Stedman et al.) and therefore conflicts that ended in such agreements.

conflict statebuilding based on the extent to which they contribute to this measure of security.

This chapter also draws on a number of relevant observations in four broad areas of feminist scholarship, which have pointed to factors that may shape states' success in responding to women's security needs. These include studies of feminist policy formation, which examine the emergence of policies advancing gender equality. In this area, the chapter particularly focuses on studies assessing the development of state responses to violence against women. This review also draws on several insights provided by scholars of feminist institutionalism, which assesses how gender relations shape the nature and effects of institutions.[2] While research in these broad areas provides important insights, scholars have recognized that studies have tended to focus on stable, higher-income, Western and/or democratic contexts and called for further analysis in other environments.[3] Recent research on peace processes, political settlements and informal institutions drawing on feminist institutionalism as well as new statistical analysis of feminist policy formation has examined a wider set of countries. [4] The chapter also draws on several observations offered by feminist political economists and existing International Relations research on women's experiences of security and insecurity. While the latter field has provided important analyses of women's roles in conflict and post-conflict

[2] These areas of scholarship may overlap.

[3] See e.g. Georgina Waylen, *Engendering transitions: women's mobilization, institutions, and gender outcomes.* (Oxford: Oxford University Press, 2007). Mala Htun and S. Laurel Weldon, 'When Do Governments Promote Women's Rights?', *Perspectives on Politics,* 8:1, 2010.

[4] For recent research on peace processes led by Georgina Waylen, see e.g. Georgina Waylen, 'A Seat at the Table – Is it Enough? Gender, Multiparty Negotiations, and Institutional design in South African and Northern Ireland', *Politics & Gender,* 10, 2014. Work on gender and political settlements is part of research programmes at the University of Edinburgh and the Effective States and Inclusive Development Research Centre and partly draws on FI, see e.g. Fionnuala Ni Aoilain, 'The relationship of political settlement analysis to peacebuilding from a feminist perspective', *Peacebuilding,* 4, 2016. Feminist institutionalist work on informal institutions has certainly focused on cases beyond the most established democracies. See e.g. Georgina Waylen, ed., *Gender and Informal Institutions* (London, New York: Rowman & Littlefield, 2017).While Htun and Weldon's recent statistical analysis of feminist policy formation has expanded the set of countries covered, their dataset continues to underrepresent African, low-income and post-conflict contexts: Mala Htun and S. Laurel Weldon, *The logics of gender justice: state action on women's rights around the world* (Cambridge: Cambridge University Press, 2018).

situations, it has not focused on the effects of overall statebuilding processes (and debates) on women's lives.[5]

Scholarship in all of these broad fields of research on post-conflict statebuilding and women's experiences is extremely extensive, rich and diverse, defying easy summarization. The limited scope of this thesis and its ambition to bring together a considerable number of distinct areas of research further increase the challenges involved in providing an account of relevant trends in these literatures. The discussion in this chapter therefore by no means offers an exhaustive review of the complex debates in these broad fields. It focuses on common conclusions that have generated agreement in a number of studies and are especially relevant to the research question, while prioritizing comparative research that identifies general findings and recommendations expected to be relatively widely applicable. As the main objective of this thesis is to contribute to scholarship on post-conflict statebuilding, and in view of the limited scope of this study, the thesis and this review mainly draw on the wide range of work focusing on women's experiences in diverse fields to derive tools and expectations that may help inform debates on post-conflict statebuilding, rather than engaging in depth with the diverse scholarly discussions in these fields. As noted in the introduction to this thesis, and discussed further in the next chapter, references to 'women' as a group and emphasis on commonalities in their concerns are certainly a simplification, if a necessary one for the purpose of this thesis. The focus of this research and shorthand use of the category 'women' in this chapter are not designed to deny the diversity of women's experiences, which has been highlighted by feminist scholars[6] and will become apparent in parts of the case study chapters. In short, the discussion offered in this chapter most certainly represents a simplification of extremely rich areas of

[5] Focusing e.g. on UNSCR 1325 implementation, including through national action plans; related global discourse; and (community-driven) peacebuilding from anthropological perspectives, for recent overview see e.g. Christelle Rigual, 'Rethinking the ontology of peacebuilding, *Peacebuilding,* 6:2, 2018.

[6] For a review of feminist debates of intersectionality, that is "the relationships among multiple dimensions and modalities of social relations and subject formations" (1771), and complexities involved in researching women's diverse identities see e.g. Leslie McCall, 'The Complexity of Intersectionality', *Signs,* 30:3, 2005.

research. However, it will help us identify key trends and overall expectations that can provide a useful starting point to answer the question posed by this thesis.

1. Legacies of conflict: The experience, deadliness and outcome of civil war

Common findings in these broad bodies of literature on statebuilding, on the one hand, and women's specific experiences, on the other, point to diverging expectations on how legacies of conflict affect the likelihood of 'security' and successful statebuilding for women.

Studies on statebuilding widely regard the experience of conflict in general as a risk factor for statebuilding 'success': In what has been called a "conflict trap", civil war increases the risk of renewed conflict and therefore reduces prospects for security and 'successful' statebuilding.[7] In addition to causes of conflict persisting after war, scholars have often suggested that this may be due to violence aggravating hostility between societal groups, which increases the risk of violence. At the same time, conflict further reduces the capacity of the state and hence its ability to police its territory with the effectiveness required to suppress or deter violence.

'Intense' conflicts are often expected to exacerbate this negative relationship between legacies of conflict and the likelihood of security/statebuilding 'success' by generating even greater post-conflict hostility, while further reducing post-conflict state capacity. While several scholars testing for correlations between casualty numbers and war recurrence have found no

[7] Term coined by Paul Collier and Nicholas Sambanis, 'Understanding Civil War: A New Agenda', *Journal of Conflict Resolution,* 46:1, 2002. See also e.g. Quinn et al. 'Sustaining the peace'. Paul Collier, 'Policy for Post-Conflict Societies: Reducing the Risks of Renewed Conflict', Paper prepared for 'The Economics of Political Violence Conference', March 18, 19, 2000, Princeton University. Barbara F. Walter, 'Does Conflict Beget Conflict? Explaining Recurrence of Civil War', *Journal of Peace Research,* 41:3, 2004. Mason et al., 'When Civil Wars Recur'.

statistically significant effect[8], numerous studies have supported this expectation with empirical research confirming that higher death tolls increase the likelihood that war resumes – and hence prospects of statebuilding 'failure'. [9] Doyle and Sambanis for example conclude from their statistical and case study analyses that the number of battle deaths is a strong predictor of peacebuilding success.[10] In her quantitative assessment of the success of peace operations, Fortna similarly finds that "The more deadly the civil war, the harder it is to maintain the peace."[11]

However, studies often find that the outcome of civil war mediates the effects of conflict on the chances of statebuilding 'success'. In particular, the positive impact of military victory has been considered "perhaps the most consistent finding"[12] and a "conventional wisdom"[13] in research on post-conflict peacebuilding.[14] Indeed, some scholars have understood the idea of a "victor's peace" as a defining feature of dominant peacebuilding paradigms.[15] Military victory is often

[8] Joakim Kreutz, 'How and when armed conflict ends. Walter. 'Does Conflict Beget Conflict?. Richard Caplan and Anke Hoeffler, 'Why peace endures: an analysis of post-conflict stabilisation', *European Journal of International Security,* 2:2, 2017.

[9] See e.g. Doyle and Nicholas Sambanis, *Making War and Building Peace*. Fortna, 'Does Peacekeeping Keep the Peace?'. Fortna, *Does peacekeeping work?.* Quinn et al., 'Sustaining the peace'. Sambanis, 'Partition'. Michael W. Doyle and Nicholas Sambanis, 'International Peacebuilding: A Theoretical and Quantitative Analysis', *American Political Science Review,* 94:4, 2000. Nicholas Sambanis, 'Short- and Long-Term Effects of Peace Operations', *The World Bank Economic Review*, 22:1, 2008. Stephen F. Burgess, 'International support for state building in war-torn Africa: Are there alternative strategies?' *Comparative Strategy,* 36:2, 2017. Caroline Hartzell, Matthew Hoddie and Donald Rothchild, 'Stabilizing the Peace After Civil War: An Investigation of Some Key Variables', *International Organization*, 55:1, 2001. Mason et al., 'When Civil War Recurs'. Introducing the UCDP Conflict Termination dataset', *Journal of Peace Research,* 47:2, 2010. Note that different scholars operationalize this variable differently in quant research e.g. Doyle and Sambanis using log of death and displacement, while Hartzell uses battle deaths/month.

[10] Doyle and Sambanis, *Making War and Building Peace.*

[11] Fortna, 'Does Peacekeeping Keep the Peace?', 287.

[12] Fortna, 'Does Peacekeeping Keep the Peace?', 273.

[13] Quinn et al. 'Sustaining the peace', 184, 189.

[14] For this finding see e.g. Fortna, 'Does Peacekeeping Keep the Peace?'. Fortna, *Does peacekeeping work?.* Doyle and Sambanis, *Making War and Building Peace.* Roy Licklider, 'The Consequences of Negotiated Settlements in Civil Wars, 1945-1993,' *The American Political Science Review,* 89:3, 1995. R. Harrison Wagner, 'The Causes of Peace', in Roy Licklider (ed.), *Stop the Killing: How Civil War Ends* (New York: New York University Press, 1993). Caplan and Hoeffler, 'Why peace endures'. See also reviews e.g. in Quinn et al. 'Sustaining the peace', Oliver P. Richmond and Jason Franks, *Liberal Peace Transitions: Between statebuilding and peacebuilding.* (Oxford: Oxford University Press, 2009). However Quinn et al. themselves and Kreutz find more mixed results, especially that victory is more stable as a result of certain types of victories than others, with Quinn highlighting that rebel victories are more likely to be stable but Kreutz noting that government victories are more stable. See Kreutz 'How and when armed conflict ends'. Caplan and Hoeffler similarly find some evidence that government victory is more stable than rebel victory.

[15] Richmond and Franks. *Liberal Peace Transitions*, 5.

considered to be more stable because thorough defeat of opposing forces reduces their incentives and capacity to re-initiate violence.[16]

However, observations in a number of fields of feminist research would suggest that these relationships between legacies of conflict and post-conflict security/statebuilding 'success' may be even more complex when women's distinct security needs are taken into account. While civil wars, and more 'intense' conflicts in particular, will reduce women's security, several insights of studies focusing on women's specific experiences suggest that conflict may also provide opportunities for enhancing women's security in the longer term.

Feminist political economists in particular have thus often pointed to the public-private division of labour between men and women as a critical constraint on women's access to decision-making.[17] Conflicts are likely to shift this division: When a significant part of the male population departs to fight or falls victim to conflict, women are often forced to take up new roles previously performed by men, including as breadwinners and leaders of communities. Women may therefore be in a stronger position to secure state responses to their specific insecurities. The more 'intense' the conflict, the more pronounced these changes should be.

What is more, while studies of feminist institutionalism have identitfied varied drivers and processes of gendered change in institutions, scholars have highlighted that particular advances in women's rights can be achieved during 'critical junctures' of institutional change, that is, when institutional arrangements are in flux.[18] Violent conflicts tend to lead to particularly

[16] E.g. Fortna. 'Does Peacekeeping Keep the Peace', Call, 'Knowing Peace'. Quinn et al. 'Sustaining the Peace'.
[17] See e.g. True, *Political Economy*.
[18] Paper on Gender and Institutional Change, delivered by Georgina Waylen during Roundtable on Women, Peace and Security at the Overseas Development Institute, 21 May 2014. For a discussion of varied gendered dynamics of change (and continuity) in institutions, including more incremental processes see e.g. Fiona Mackay 'Conclusions: Towards a Feminist Institutionalism?' in Mona Lena Krook and Fiona Macka (eds), *Gender, Politics and Institutions* (London: Palgrave Macmillan UK, 2011).

profound shifts in institutions. These changes can provide opportunities to re- negotiate the social contract, including what is and what is not considered a priority for public concern. Conflicts may therefore also open particular windows of opportunity for enhancing the 'public' status of women and their specific experiences, including with regard to their physical security.

Emerging quantitative work offers initial support for the hypothesis that violent conflicts may provide such opportunities to build states that 'work' for women in the longer-term.[19] In a recent analysis, Tripp and Hughes thus find positive correlations between the ending of 'intense' civil wars after 2000 and the number of female representatives in parliament.[20] Tripp hypothesizes that, in combination, conflict-related shifts in the roles assumed by women, increases in women's mobilization, international norms and changed opportunity structures for institutional reform help explain this finding. However, Tripp's analysis does not yet trace such causal connections, analyse how women's increased representation may or may not translate into state responses to their common concerns, or highlight implications for general debates on post-conflict statebuilding.[21]

Conclusions reached by a number of feminist scholars also suggest that common findings on the effects of conflict outcomes in studies of post-conflict statebuilding may not 'work' for women's security needs in the same way. Tripp has thus suggested that peace agreements are more likely to deliver positive outcomes for women than military victories because peace negotiations offer greater space for non-elite actors to participate and shape the nature of post-

[19] E.g. Aili Marie Tripp, *Women and Power in Postconflict Africa* (Cambridge: Cambridge University Press, 2015). Miriam Anderson, *Windows of opportunity: how women seize peace negotiations for political change* (Oxford: Oxford University Press, 2016). Melanie M. Hughes and Aili Marie Tripp, 'Civil War and Trajectories of Change in Women's Political Representation in Africa, 1985-2010', *Social Forces*, 93:4, 2015.
[20] Hughes and Tripp, 'Civil War'.
[21] Tripp, *Women and Power*.

conflict institutions.[22] Recent work on peace processes has shown that the extent of these opportunities however depends on additional factors, including the design of the process.[23]

Feminist perspectives would also indicate that the effects of military victory on statebuilding 'success' for women depend on the nature of the victor. As opposed to public armed violence, military violence does not necessarily reduce incentives or capacity to perpetrate violence against women. While victors are likely to consider suppressing 'public' violence as a key priority to help sustain their power, the extent to which governments consider women's specific concerns a priority appears to depend more on their political ideology. Studies of feminist policy formation and institutionalism have thus often highlighted that left-leaning governments tend to be more likely to develop responses to women's distinct concerns in a range of areas.[24] However, recent statistical analysis has suggested that party ideologies may be less significant for policies against violence against women specifically than for other areas of gender equality.[25]

In sum then, while numerous studies of statebuilding stress the risks of intense conflict and the benefits of military victory for statebuilding 'success', feminist work in a several areas draw our attention to the opportunities provided by intense conflict, the benefits of negotiated settlements and the importance of the *nature* of the victor to enable statebuilding 'success' for women.

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[22] Tripp, *Women and Power.*

[23] See Waylen, 'A Seat at the Table'.

[24] On effects of party ideology on gender equality outcomes of democratic transitions, in terms of women's descriptive and substantive representation see e.g. Waylen, *Engendering transition.* Georgina Waylen, 'Gendered Institutionalist Analysis: Understanding Democratic Transitions', in Mona Lena Krook and Fiona Mackay, eds., *Gender, Politics and Institutions: Towards a Feminist Institutionalism* (Palgrave Macmillan, 2011). In statistical analysis, Beer, for example, finds strong and consistent relationships between government expenditures as a percentage of GDP and gender equality outcomes (measured with indicators of female population, female life expectancy, and labor force participation) and argues that this points to the role of government and party ideology in achieving gender equality, with leftist parties tending to support both a greater role for government in the economy and greater gender equality. Caroline Beer, 'Democracy and Gender Equality', *Studies in Comparative International Development,* 44:3, 2009. Htun and Weldon find left parties to play a critical role in areas of gender equality policies that are designed to promote more equal access to resources among women of different social classes, such as those relating to parental leave and child care. Htun and Weldon, *Gender justice.*

[25] See Htun and Weldon, *Gender justice.* Htun and Weldon, 'Progressive Policy Change'.

2. Democratic institutions and processes: Civil society, elections and referenda, and constraints on the Executive

Common findings in research of post-conflict statebuilding and relevant feminist literatures also point in different directions regarding the effects of democracy and democratization on statebuilding 'success' for women after conflict.

Studies of post-conflict statebuilding which assess general links between the emergence of democratic institutions and processes and the likelihood that statebuilding 'succeeds' across different cases have found little evidence of a positive connection.[26] Several quantitative assessments have not identified a significant link between democracy and chances of 'success'.[27] Studies that do find a connection have tended to conclude that the introduction of democratic processes *increase* the likelihood of violence (and hence statebuilding 'failure') in post-war environments. Collier and colleagues, for example, suggest that while democracy and elections are "intrinsically desirable", "the systematic effect of such political arrangements is not peace-enhancing, and indeed leaves the typical post-conflict society severely exposed to the risk of further conflict."[28] Others agree that "democracy poses risks during transitions"[29] and that democratization can be "counterproductive"[30], increasing "the likelihood of renewed violence"[31] in post-war environments.[32] In this way, recent studies

[26] Unless of course levels of democracy are themselves subsumed in the standard of success, see Chapter I.
[27] E.g. Walter, 'Does Conflict Beget Conflict'. Quinn et al. 'Sustaining the Peace'. Kreutz, 'How and When Armed Conflict Ends'. Caplan and Hoeffler, 'Why peace endures'. Barbara Walter, 'Why Bad Governance Leads to Repeat Civil Wars', *Journal of Conflict Resolution* 59:7, 2015. While Walter in this last paper confirms a lack of association between various measures of democracy and repeat civil war, she identifies a positive link between more specific legal and political institutional features and war recurrence, in particular the existence of a written constitution and the percentage of the population voting in the most recent elections (which she finds are both only minimally associated with overall democracy). On this basis she calls for increased attention to political institutions in the literature on repeat civil war. While Walter also finds associations between Freedom House measures and repeat civil war, she highlights endogeneity problems in these results.
[28] Collier et al. 'Post-Conflict Risks', 15.
[29] Doyle and Sambanis, *Making War and Building Peace*, 'Conclusions' [no page numbers in electronic version].
[30] Arnim Langer and Graham K. Brown, 'People-Centered Prioritization for Post-Conflict Peacebuilding', in Arnim Langer and Graham K.Brown, *Post-Conflict Reconstruction and Peacebuilding* (Oxford: Oxford University Press, 2016), 444.
[31] Paris, *At War's End,* 173.
[32] See also Michael Barnett, 'Building a Republican Peace: Stabilizing States after War' *International Security,* 30:4, 2006. Call, *Why Peace Fails*. Edward Newman, Roland Paris, Oliver P. Richmond, 'Introduction' in Edward Newman, Roland

have often cast doubt on the liberal, 'Wilsonian' or 'Lockean' vision that 'all good things go together': Peace and democracy may not be mutually reinforcing. [33]

Scholars have often argued that this is because, as opposed to a state of consolidated democracy in stable environments, *democratization* in *post-conflict societies* tends to fuel the politicization of societal dividing lines and involve dramatic shifts in power. These trends have frequently been associated with several democratic institutions and processes. First, procedures through which citizens can express their preferences, such as referenda and elections, may incentivize leaders to emphasize societal differences rather than similarities in order to mobilize votes. In post-conflict societies, often marked by high levels of hostility between different societal groups, such conflict may easily spiral into renewed violence. Second, where state institutions are not consolidated and society is polarized due to a recent conflict, the development of a strong, autonomous civil society may provide opportunities to further bond, express and intensify societal cleavages and lead to the emergence of parallel structures, which oppose and undermine the post-war central authority. Third, elections and the introduction of new institutional checks on the Executive in a process of democratization may involve tremendous shifts in power. Those who fear losing power or feel that they should gain more may resort to violence.[34]

Paris and Oliver P. Richmond, *New Perspectives on Liberal Peacebuilding,* (Tokyo; New York: United Nations University Press, 2009). Christian Lotz, 'International Norms in Statebuilding: Finding a Pragmatic Approach', *Global Governance,* 2010.

[33] See e.g. Call, *Why Peace Fails.* Edward Newman, ''Liberal' Peacebuilding Debates', in Newman et al., *New Perspectives.* Paris, *At War's End.*

[34] Anna Jarstadt, 'Dilemmas of War-to-Democracy Transitions', in Anna K. Jarstad and Timothy D. Sisk, eds., *From War to Democracy: Dilemmas of Peacebuilding* (Cambridge, Cambridge University Press, 2008). Julia Leininger, 'Democracy and UN Peace-Keeping', Max Planck Yearbook of United Nations Law Online, 10:1, 2006. Edward D. Mansfield and Jack L.Snyder, 'Democratic Transitions, Institutional Strength, and War', *International Organization,* 56: 2, 2002. Jens Meierhenrich, 'Forming States after Failure', in Robert I. Rotberg, ed., *When States Fail: Causes And Consequences* (Oxford: Princeton University Press, 2004). Zakaria Fareed, *The future of freedom: illiberal democracy at home and abroad* (New York: W.W. Norton & Co, 2003). Barnett, 'A Republican Peace'. Paris, *At War's End*. Benjamin Reilly, 'Timing and Sequencing in Post-Conflict Elections', in Langer and Brown, *Building sustainable peace*. Graham K. Brown, 'Civil Society Building in Post-conflict Countries' in Langer and Brown, *Building sustainable peace.*

However, studies focusing on the emergence of state responses to women's specific concerns have often emphasized the importance of precisely these democratic institutions in providing opportunities to ensure women's security. The most consistent finding on the determinants of policy responses to violence against women is thus the significance of a strong, autonomous women's movement.[35] Scholars of feminist policy formation have consequently expected that a higher degree of democracy should favour government action on violence against women as more democratic countries offer more space for autonomous organizing.[36]

Elections, referenda and other opportunities for citizens to voice their preferences have in turn been expected to help enable women (and other marginalized groups) to promote their interests and hold rulers accountable.[37] Scholars also tend to expect the number of women in legislatures to shape the likelihood of state responses to violence against women, although there is debate about the level of female representation and additional factors required to enable female legislators to promote gender equality policies.[38] One condition for female representatives to exercise this effect would seem to be the existence of a rather strong, independent legislature.[39] Taken together these findings and expectations would suggest that democratic institutions and processes will increase the likelihood that post-conflict statebuilding provides security and hence 'succeeds' for women.

However, such conclusions and expectations have often been derived based on work in higher income, more democratic contexts. The relatively smaller body of empirical, cross-national

[35] Htun and Weldon, *Gender justice.* Laurel S. Weldon, 'Women's Movements, Identity Politics, and Policy Impacts: A Study of Policies on Violence against Women in the 50 United States', *Political Research Quarterly,* 59:1, 2006. Laurel S. Weldon, *Protest, policy, and the problem of violence against women: a cross-national comparison* (Pittsburgh, Pa.: University of Pittsburgh Press, 2002). Mala Htun and S. Laurel Weldon, 'The Civic Origins of Progressive Policy Change: Combating Violence against Women in Global Perspective, 1975-2005', *American Political Science Review,* 106:3, 2012. Janet Elise Johnson, 'Domestic Violence Politics in Post-Soviet States', *Social Politics,* 4:3, 2007.
[36] Htun and Weldon, 'When Do Governments Promote Women's Rights?'. See also Beer, 'Democracy'. Htun and Weldon, *Gender justice.*
[37] Beer, 'Democracy'.
[38] E.g. Htun and Weldon, 'Progressive Policy Change'. Johnson, 'Domestic Violence Politics'. Weldon, 'Women's Movements'.
[39] See e.g. Beer. 'Democracy'.

research focusing on democracies and non-democracies and identifying links between *overall* regime types and wider gender-related outcomes has provided mixed result. Studies focusing on impacts on women's well-being or gender equality policies (women's *substantive representation*) provide more positive results than those considering only effects on numbers of women in parliaments (*descriptive representation*).[40] Yet even studies assessing the formation of gender equality policies across different regime types have found weaker, less consistent links than may be expected based on earlier research in democracies. In her case studies of the formation of different gender equality policies (on women's equal status within marriage, divorce and abortion) under military dictatorships and democracies in Argentina, Brazil and Chile, Htun thus highlights that certain reforms enhancing women's status in the family were possible under authoritarian regimes and their drive for modernization, although later completed under democracy.[41] New statistical research on the drivers of feminist policy formation conducted by Htun and Weldon across seventy countries in turn identifies relatively weak and inconsistent positive effects of democracy on different areas of gender equality policy.[42]

However, a central and important contribution of these and other studies by Htun and Weldon is the conclusion that the emergence of gender equality policies in different areas follows different logics and is therefore propelled by different factors: "Gender policy involves not one issue but many and each involves different actors and conflicts."[43] In line with earlier

[40] David L. Richards and Ronald Gelleny, 'Women's Status and Economic Globalization', *International Studies Quarterly,* 51, 2007. Beer, 'Democracy'. Paulina Pospieszna, 'Democracy assistance and women's political empowerment in post- conflict countries', *Democratization,* 22:7, 2015. Htun and Weldon, 'Progressive policy change'. Htun and Weldon, *Gender justice.*
[41] Mala Htun, *Sex and the State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies,* (Cambridge: Cambridge University Press, 2003).
[42] Htun and Weldon, *Logics of Gender Justice,* 2018.
[43] Htun and Weldon, 'When Do Governments Promote Women's Rights?', 208. See also Htun, *Sex and the State.* Htun and Weldon, *Logics of Gender Justice*.

findings in democracies[44], they hypothesize that in the specific area of violence against women, the strength and autonomy of women's organizing serve as the most significant predictor of the comprehensiveness of state responses.[45] Their recent statistical assessments across seventy countries and four decades confirm variation in policies on violence against women to be most strongly associated with differences in the strength of autonomous women's mobilization in this wider set of contexts.[46] The existence of a strong women's movement that can organize protests, voice their concerns in the media and operate independently from state and ruling party[47] as well as opportunities for their engagement in the policy process would appear to require a certain level of democratic space. While Htun and Weldon find inconsistent positive effects of democracy on different areas of gender equality policy, they identify a small but positive and temporarily increasing effect of democracy in their issue-specific analysis of the emergence of policies on violence against women.[48]

Regarding wider gender-related outcomes, a number of closer statistical investigations have suggested that democracy may be most strongly associated with positive gender-related outcomes in consolidated democracies marked by higher levels of democratic quality and/or more years of democratic experience.[49] Similarly, more limited research on gender-related outcomes of democratic transitions finds that these are more likely to offer positive outcomes

[44] E.g. Laurel S. Weldon, 'Women's Movements, Identity Politics, and Policy Impacts: A Study of Policies on Violence against Women in the 50 United States', *Political Research Quarterly,* 59:1, 2006. Laurel S. Weldon, *Protest, policy, and the problem of violence against women: a cross-national comparison* (Pittsburgh, Pa.: University of Pittsburgh Press, 2002).
[45] Htun and Weldon, 'Progressive Policy Change'. Htun and Weldon, *Gender justice.*
[46] Htun and Weldon, 'Progressive Policy Change'. Htun and Weldon, *Gender justice.*
[47] See operationalization of strength and autonomy of women's movement in Htun and Weldon, 'Progressive Policy Change'. Htun and Weldon, *Gender justice.*
[48] Htun and Weldon, 'Progressive Policy Change'. Htun and Weldon, *Gender justice.* Note that they find this effect to be statistically significant in seven out of ten models and moreso in later years.
[49] Kathleen Fallon, Liam Swiss and Jocelyn Viterna, 'Resolving the Democracy Paradox: Democratization and Women's Legislative Representation in Developing Nations, 1975 to 2009', *American Sociological Review,* 77.3, 2012. Beer, 'Democracy'. Denise M. Walsh, 'Does the Quality of Democracy Matter for Women's Rights? Just Debate and Democratic Transition in Chile And South Africa', *Comparative political Studies,* 45:11, 2012. See also Htun and Weldon, 'Progressive Policy Change.'

for women if they are themselves relatively "open, transparent and accountable".[50] This raises questions about the extent to which (increased) democratic processes will promote gender equality outcomes in hybrid regimes.

Studies have also suggested that gender equality outcomes of democratic processes or transitions may vary because further factors mediate the effects of these processes. These have been considered to include the extent to which the nature of pre-transition regimes, ideologies of governing elites as well as gender norms in society and internationally favour gender equality.[51] Waylen's analysis of democratic transitions has also found that the strength of women's mobilizing and their ability to build alliances amongst each other and with feminists inside public institutions influence outcomes for women's descriptive and substantive representation.[52] The nature of public discourse in turn shapes the extent to which these actors can 'frame' women's specific concerns as public priorities during transitions.[53]

However, this research has largely focused on stable and high-income contexts and transitions in Central and Eastern Europe and Latin America. Feminist scholars have recognized that further work is needed to understand the effects of democratic processes and institutions in contemporary post-conflict settings in particular.[54]

[50] Waylen, *Engendering transitions*, 203. Waylen, 'Gendered Institutionalist Analysis'.
[51] Waylen 'Gendered Institutionalist Analysis'. Fallon et al. 'Democracy Paradox'. Waylen, *Engendering transitions.* Beer, 'Democracy'.
[52] Waylen, *Engendering transitions.*
[53] Waylen, *Engendering transitions.*
[54] Waylen, *Engendering transitions.* While Htun and Weldon's recent statistical analysis of feminist policy formation has expanded the set of countries covered, their dataset continues to underrepresent African, low-income and post-conflict contexts: Htun and Weldon, *The logics of gender justice*.

2. State capacity: Institutionalization before Liberalization and 'Security First'

Trends in research of post-conflict statebuilding, on the one hand, and observations emphasized in many studies with a feminist focus, on the other, moreover suggest different perspectives on the role of state capacity in building states that 'work' for women.

Scholars focusing on post-conflict statebuilding have often emphasized that post-conflict state capacity is key to statebuilding 'success' - a corollary of the argument that conflict poses risks because it reduces such capacity. As Charles Call has highlighted, "Although this work conceives statebuilding as encompassing both legitimacy and capacity, scholarship and policy work have actually stressed capacity over legitimacy."[55] In their statistical and case study analysis, Doyle and Sambanis, for example, find that "the extent of local capacity remaining after the war", is one of three key factors accounting for peacebuilding failure of success: "The higher the level of local capacity […] the higher the probability of peacebuilding success."[56] Conversely, Burgess suggests that widespread statebuilding failure can largely be attributed to weak state capacity.[57] Empirical research has tended to measure state capacity as levels of aggregate resources. [58] To support the argument that capacity is critical for statebuilding 'success', some scholars have thus pointed to positive correlations between GDP per capita, often understood as a main indicator of state capacity, and post-conflict 'security'.[59]

[55] Call, *Why Peace Fails*, 7, see also p. 222.
[56] Doyle and Sambanis, *Making War and Building Peace.* See also Doyle and Sambanis, 'International Peacebuilding'.
[57] Burgess, 'International support for state building'. See also Charles Call 'Conclusion' in Call and Wyeth, eds., *Building States to Build Peace* (Lynne Rienner, 2008). Paris, *At War's End.* Timothy Sisk, *Statebuilding: consolidating peace after civil war* (Cambridge UK, Polity Press, 2013). For critiques see also e.g. Stein Sundstøl Eriksen 'State effects and the effects of state building: institutionbuilding and the formation of state-centred societies', *Third World Quarterly,* 38:4, 2017. And in practice e.g. Barma et al. 'Disentangling aid dynamics'.
[58] For a critique of this view of and focus on state capacity see also Eriksen, 'State effects'.
[59] E.g. Doyle and Sambanis, *Making War and Building Peace,* measure post-conflict 'capacity' with variables including per capita income, annual growth in per capita income, energy consumption, primary commodity exports as a percentage of GDP. See also Doyle and Sambanis. 'International Peacebuilding'. Sambanis, 'Short- and Long-Term Effects'. For an assessment of this trend see also Charles Call, *Why Peace Fails.*

Following this logic, numerous scholars have suggested that statebuilders must focus on building state capacity among their first priorities for success. Ghani and Lockhart, for example, argue that international actors should support the creation of capable states by prioritizing support to ten state functions, only one of which refers to state legitimacy.[60] Dagher endorses this focus on building state capacity, adding that capable states will ultimately generate legitimacy by meeting the general needs of the population ('performance legitimacy').[61]

In view of the destabilizing effects of political liberalization, many scholars have argued that security and statebuilding 'success' requires prioritizing state capacity in the early post- conflict period in particular, while postponing democratization. Roland Paris in particular recommended a strategy of 'Institutionalization before Liberalization' [IBL] in his influential assessment of the risks associated with post-conflict economic and political liberalization. His conclusions "call upon peacebuilders to delay the liberalization of political […] life during the first, fragile period of postwar reconstruction" and instead focus their efforts on "building of governmental institutions that can manage these political […] reforms." [62] While often endorsing this general approach to sequencing, a number of scholars have cautioned that IBL may also entail new risks, including the creation of spoilers who are excluded from political processes, reduced national ownership and legitimacy of governing elites or capture of state institutions by conflict parties or pre-conflict elites.[63] As discussed further below, 'critical'

[60] Ashraf Ghani and Clare Lockhart, *Fixing Failed States: A Framework for Rebuilding a Fractured World* (Oxford University Press, 2008).
[61] Ruby Dagher, 'Legitimacy and post-conflict state-building: the undervalued role of performance legitimacy', *Conflict, Security & Development,* 18:2, 2018.
[62] Paris, *At War's End,* 8. Note that, reflecting statebuilding scholarship and practice, this thesis understands political liberalization as outlined in Paris as democratization.
[63] See e.g. Chandra Lekha Sriram, *Peace as Governance: Power-Sharing, Armed Groups and Contemporary Peace Negotiations* (London: Palgrave Macmillan, 2008). Charles Call, 'Building States to Build Peace', in Charles Call and Vanessa Wyeth, *Building States to Build Peace* (Boulder: Lynne Rienner Publishers, 2008). Edward Newman, ' "Liberal" peacebuilding debates', in Oliver P. Richmond and Roland Paris (eds), *New Perspectives on Liberal Peacebuilding* (United Nations University Press, 2009). Thorsten Gromes, 'A Case Study in 'Institutionalisation before Liberalisation': Lessons from Bosnia and Herzegovina', J*ournal of Intervention and Statebuilding,* 3:1, 2009. Idrissa Tamba Bindi and Ozgur Tufekci, 'Liberal Peacebuilding in Sierra Leone: A Critical Exploration', *Journal of Asian and African Studies,* 53:8, 2018. Arnim Langer and Graham K. Brown, *Building sustainable peace: timing and sequencing of post-conflict reconstruction and*

scholars in particular have in turn criticized IBL for not going far enough in dismantling 'liberal' peacebuilding by maintaining political and economic liberalization as a long-term objective.[64] However, many scholars have agreed with Paris' broad approach to sequencing, if at times with qualifications.[65] Barnett, for example, has concurred that "liberalization prior to institutionalization can unleash societal demands before the state has developed the institutional capacity to channel, organize and respond to those demands, thus triggering instability and conflict."[66] Dagher therefore calls for prioritizing state capacity and institutions (and thus 'performance legitimacy') over democratic processes (and hence 'process legitimacy'), suggesting that the former will provide a basis for the gradual introduction of the latter.[67] As Fukuyama has argued, what is needed is a strategy of "Stateness First": "Before you can have democracy, you must have a state".[68]

'Stateness First' in turn spells 'Security First'. As Fukuyama noted, "At the core of state-building is the creation of a government that has a monopoly of legitimate power and that is

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peacebuilding (Oxford: Oxford University Press, 2016). Mandy Turner, 'At War's End: Building Peace after Civil Conflict', *Democratiya,* Autumn 2006.

[64] For these general critiques see section 4. See also Neil Cooper, Mandy Turner and Michael Pugh, 'The end of history and the last liberal peacebuilder: a reply to Roland Paris', *Review of International Studies,* 37, 2011. Mandy Turner, 'At War's End: Building Peace after Civil Conflict', *Democratiya,* Autumn 2006.

[65] E.g. Charles Call, 'Building States to Build Peace', in Charles Call and Vanessa Wyeth, *Building States to Build Peace* (Boulder: Lynne Rienner Publishers, 2008). Edward Newman, ' "Liberal" peacebuilding debates', in Oliver P. Richmond and Roland Paris (eds), *New Perspectives on Liberal Peacebuilding* (United Nations University Press, 2009). Thorsten Gromes, 'A Case Study in 'Institutionalisation before Liberalisation': Lessons from Bosnia and Herzegovina', J*ournal of Intervention and Statebuilding,* 3:1, 2009. Idrissa Tamba Bindi and Ozgur Tufekci, 'Liberal Peacebuilding in sierra Leone: A Critical Exploration', *Journal of Asian and African Studies,* 53:8, 2018. Arnim Langer and Graham K. Brown, *Building sustainable peace: timing and sequencing of post-conflict reconstruction and peacebuilding* (Oxford: Oxford University Press, 2016). See also e.g. Doyle and Sambanis, *Making War and Building Peace*. Charles Call and Susan Cook, 'On Democratization and Peacebuilding', Global Governance, 9:2, 2003. Edward Newman, Roland Paris and Oliver P. Richmond, 'Introduction', in Newman et al. *New Perspectives.*

[66] Barnett, 'A Republican Peace', 89.

[67] Dagher, 'Legitimacy'.

[68] Francis Fukuyama, 'Stateness First', *Journal of Democracy,* 16:1, 2005, 88. See also e.g. Doyle and Sambanis, *Making War and Building Peace*. Charles Call and Susan Cook, 'On Democratization and Peacebuilding', Global Governance, 9:2, 2003. Edward Newman, Roland Paris and Oliver P. Richmond, 'Introduction', in Newman et al. *New Perspectives.* Charles Call, 'Building States to Build Peace', in Charles Call and Vanessa Wyeth, *Building States to Build Peace* (Boulder: Lynne Rienner Publishers, 2008). Edward Newman, ' "Liberal" peacebuilding debates', in Oliver P. Richmond and Roland Paris (eds), *New Perspectives on Liberal Peacebuilding* (United Nations University Press, 2009). Thorsten Gromes, 'A Case Study in 'Institutionalisation before Liberalisation': Lessons from Bosnia and Herzegovina', J*ournal of Intervention and Statebuilding,* 3:1, 2009. Idrissa Tamba Bindi and Ozgur Tufekci, 'Liberal Peacebuilding in Sierra Leone: A Critical Exploration', *Journal of Asian and African Studies,* 53:8, 2018. Arnim Langer and Graham K. Brown, *Building sustainable peace: timing and sequencing of post-conflict reconstruction and peacebuilding* (Oxford: Oxford University Press, 2016). Edward Newman, ' "Liberal" peacebuilding debates', in Oliver P. Richmond and Roland Paris (eds), *New Perspectives on Liberal Peacebuilding* (United Nations University Press, 2009).

capable of enforcing rules throughout the state's territory. That is why state-building always begins with the creation of military and police forces or the conversion of the former regime's coercive agencies into new ones."[69] Prioritizing 'Stateness' therefore involves first and foremost prioritizing reinforcement of the state's security sector, that is, local military and police forces. Indeed, for many, "'security first' is by now an accepted paradigm of state building."[70]

In light of these conclusions, it has been observed that current accounts of statebuilding (and trends in statebuilding practice) are often more realist or 'Hobbesian' than liberal or 'Wilsonian'. They frequently emphasize that "a strong state is necessary to arbitrate between claims and enforce order. It is therefore a Hobbesian vision of the state applied to peacebuilding, emphasizing the state and order."[71]

Indeed many scholars have drawn explicitly on Thomas Hobbes' work on the social contract to support their arguments that statebuilding 'success' requires 'Security First', 'Stateness First' or 'Institutionalization before Liberalization.' They have found that "the Hobbesian 'state of nature' is often typical of countries just emerging from civil wars."[72] As in Hobbes' natural condition, post-war environments require the restoration of order in the person of the Leviathan "to protect their population from 'a war of every man against every man'."[73] In this way,

[69] Fukuyama, 'Stateness First', 87.
[70] Stefan Wolff, 'Post-Conflict State Building: The debate on institutional choice', *Third World Quarterly,* 32:10, 2011, 1779. See also e.g. Ghani and Lockhart. *Fixing Failed States*. Doyle and Sambanis, *Making War and Building Peace*. Sisk, *Statebuilding.* Kimberly Zisk Marten, *Enforcing the peace: learning from the imperial past* (Chichester: Columbia University Press, 2004). Collier et al., 'Post-Conflict Risks'. Paris, *At War's End.* Newman, '"Liberal" peacebuilding debates'. Call, *Why Peace Fails.* Elizabeth M Cousens and Chetan Kumar, *Peacebuilding as Politics: Cultivating Peace in Fragile Societies* (Boulder, Colo; London: Lynne Rienner Publishers, 2001). Call and Cook, 'Democratization and Peacebuilding'. Stedman, *Ending civil wars*.
[71] Neman, ''Liberal' peacebuilding debates'. See also e.g. Oliver Richmond, *Failed Statebuilding: Intervention, the state, and the dynamics of peace formation* (New Haven, Yale University Press, 2015).
[72] Paris, *At War's End,* 50.
[73] Simon Chesterman, *You, the people: the United Nations, transitional administration, and state-building* (Oxford; New York: Oxford University Press, 2004), 125, citing Thomas Hobbes, *Leviathan*, Chapter XIII.

"these Hobbesian situations teach the message of the Leviathan itself: that consolidated state power is the very condition for any regime of rights whatsoever."[74]

Concurring that "There must be a new sovereign Leviathan, to borrow Thomas Hobbes' famous label for the state's monopoly on the use of violence – in order to deter future acts of war and looting", Doyle and Sambanis add that "If it is unavailable domestically, enforcement must be provided internationally. Security is the first step to building a state."[75] While some assessments have found no effects[76], numerous studies have supported their finding that levels of international reinforcements of the state's security sector through peacekeeping deployments have generally made a positive contribution to post-conflict security and hence statebuilding 'success'.[77] Recent studies have highlighted how the nature missions and their interaction with conflict outcomes further influences their effects.[78] Taken together these studies may lead us to expect that variation in post-conflict capacity plays a critical role in accounting for variation in statebuilding outcomes: Post-conflict countries with higher levels of remaining resources, including those where security sector capacity is reinforced through peacekeeping operations, should generally be more likely to see 'success'.

[74] Michael Ignatieff, 'Intervention and State Failure', *Dissent,* 49:1, 2002, 6.
[75] Doyle and Sambanis, *Making War and Building Peace.*
[76] See e.g. Peter Rudoloff and Michael G. Findley, 'The downstream effects of combatant fragmentation on civil war recurrence', *Journal of Peace Research,* 53:1 (2016). Walter, 'Why bad governance leads to repeat civil war'. Caplan and Hoeffler, 'Why peace endures'. As Caplan and Hoeffler highlight, this may be due, inter alia, to diverging definitions of conflict and numbers of observations. With a view to her research Walter notes that, "There are at least three reasons why peacekeeping may have no statistically significant effect on repeat civil war in this analysis. First, the analysis here only notes whether UN peacekeepers existed on the ground not whether they had been deployed to prevent a particular conflict from restarting. Thus they could be in the country for an entirely different conflict or mission. Second, the absence of a relationship could be the result of endogeneity. Third-party intervention is often offered to a select set of particularly poor and vulnerable countries [which Fortna for example considers in her analyses]. Finally, peacekeepers rarely remain in a country permanently. Peackeepers, therefore, may be critical to convince combatants to sign and implement a peace settlement but may play no role in the maintenance of peace once they leave (Walter 2002). Given these possibilities, firm conclusions about the value of peacekeeping are impossible to draw from these data." (1255).
[77] See e.g. Fortna, 'Does peacekeeping keep the peace'. Virginia Page Fortna, *Does peacekeeping work?*. Doyle and Sambanis, *Making War and Building Peace.* Gillighan, 'Do UN Interventions Cause Peace'?. Mason et al., 'When Civil War Recurs'. Collier et al., 'Post-conflict risks'. Call, *Why Peace Fails*.
[78] E.g. Sarah-Myriam Martin-Brûlé, *Evaluating peacekeeping missions: A typology of success and failure in international interventions* (London: Routledge, 2016). Caplan and Hoeffler, 'Why peace endures', find some evidence that settlements are made more stable by UN peace operations.

However, a number of observations in areas of scholarship focusing on women's specific experiences would suggest that the prioritization of state capacity in these studies is unlikely to 'work' for women's security needs in the same way. Feminist critiques of Hobbes' work on the social contract note that women's specific concerns have often been defined as beyond the remit of legitimate public concern and intervention. Carole Pateman thus highlights that only masculine 'individuals' contract into civil society. The original contract therefore creates not only a public, but also a private sphere, to which women and their particular concerns are relegated.[79] An increase in state capacity - or reinforcement of the 'Leviathan' - may therefore not affect key areas of women's lives. Whether it serves to respond to women's specific concerns, including to protect their physical security, depends on the extent to which these are established as public issues.

Several studies of feminist policy formation have provided empirical research to show that although state capacity is certainly required to respond to women's security concerns, whether or not it is used to this end depends on political priorities.[80] Recent statistical analysis has shown that wealthier countries are not significantly more likely to develop comprehensive policies against gender-based violence.[81] Franceschet has highlighted that strong states do not necessarily have powerful women's policy agencies, which her own research on Chile and Argentina and other studies have in turn found to play an important role in driving state responses to violence against violence, often in alliance with strong women's movements.[82] As compared to other state institutions considered 'core' to the affairs of the state, the leverage (or existence) of these agencies is shaped more by political factors, including

[79] Carole Pateman, *The sexual contract* (Stanford: Stanford University Press, 1988).
[80] Htun and Weldon, 'When Do Governments Promote Women's Rights?'.
[81] Htun and Weldon, *Gender justice.*
[82] Susan Franceschet, 'Explaining Domestic Violence Policy Outcomes in Chile and Argentina', *Latin American Politics and Society,* 52:3, 2010. On the significance of 'Women's Machineries' see also e.g. Laurel S. Weldon, *Protest, Policy and the Problem of Violence against Women: A Cross-National Comparison.* (Pittsburgh: University of Pittsburgh Press, 2002). Janet Elise Johnson, 'Domestic Violence Politics in Post-Soviet States', *Social Politica: International Studies in Gender, State and Society,* 14:3, 2007. Olga Avdeyeva, 'When Do States Comply with International Treaties? Policies on Violence against Women in Post-Communist Countries, *International Studies Quarterly,* 51:4, 2009.

ideologies of governments in power.[83] The central questions posed by this work are then not only 'how much capacity?' but also 'capacity to do what?'.

From this perspective the lack of state capacity and consequent need to re-build institutions after conflict could emerge as an opportunity, rather than only as a risk. Feminist institutionalist insights on critical junctures would suggest that the early stages of post- conflict statebuilding, when state institutions and power relations are in flux, provide particular windows of opportunity to re-define the social contract: what the state does, and for whom, including how the state relates to women.

Therefore the existence of democratic processes and institutions that have been found to advance women's interests, including opportunities for engagement of a strong, autonomous civil society, would seem to be particularly critical precisely when state institutions are *not* yet institutionalized. In other words, in a reversal of 'Institutionalization before Liberalization', these insights would suggest that elements of political liberalization before institutionalization may be important in ensuring statebuilding 'works' for women.

Several observations provided by scholars of feminist security theory and political economy would shed particular doubt on the extent to which a strategy of 'Security First' provides security – and hence statebuilding 'success' - for women. A number of studies have thus highlighted that reinforcing the security sector can create new insecurities for women: As a result of male-dominated institutional cultures, police and military are themselves likely to perpetrate violence against women.[84] This can include international peacekeeping

[83] See e.g. Susan Franceschet, 'Explaining Domestic Violence Policy Outcomes in Chile and Argentina', *Latin American Politics and Society,* 52:3, 2010. Waylen, *Engendering Transition.* Mona Lena Krook and Fiona Mackay, eds., *Gender, Politics and Institutions.*

[84] Spike V. Peterson and Anne Sisson Runyan, *Global Gender Issues In The New Millennium* (Boulder, CO : Westview Press, 3rd ed, 2010). Anne Tickner, 'Feminist Reponses to International Security Studies', *Peace Review*, 16:1, 2004. Sandra Whitworth, 'Feminist Perspectives' in Williams, Paul, ed., *Security Studies: An Introduction,* (New York : Routledge, 2008).

deployments, which have been associated with spikes in sexual abuse of local women in a range of contexts.[85]

At the same time, institutional cultures that discriminate against women and persistent societal constructions of violence against women as a 'private issue' may mean that the security sector fails to deliver an effective response to women's security concerns, even where formal legislation is in place. Feminist institutionalists in particular have frequently pointed to the significance of such gender norms as key mechanisms of resistance to pro-gender equality reforms through formal institutions.[86] In sum, while many studies of statebuilding scholarship draw attention to the key role of state capacity in ensuring statebuilding 'success', several areas of feminist research would emphasize that state capacity may be insufficient or, in certain circumstances, even detrimental in building states that 'work' for women.

3. 'The informal': Norms, practices and traditional sources of authority beyond the modern state.

Finally, scholars of post-conflict statebuilding and studies focusing on women's specific experiences in a range of areas often provide different perspectives on the role of 'the informal', understood here as norms, practices and traditional sources of authority that are less formalized than the official rules of the modern state and are often created, communicated and/or enforced outside of the state's official channels.[87]

[85] See e.g. Smith et al. 'Human Trafficking'.
[86] E.g. Fiona Mackay, 'Conclusion: Towards A Feminist Institutionalism?' & Mona Lena Krook and Fiona Mackay, 'Introduction: Gender, Politics and Institutions' in Krook and Mackay, eds., *Gender, Politics and Institutions.* Georgina Waylen, 'Informal Institutions, Institutional Change, and Gender Equality', *Political Research Quarterly,* 67:1, 2014. Waylen, ed., *Gender and Informal Institutions.*
[87] This is in part a modification of Helmke and Levitsky's influential definition of informal institutions. See Helmke, Gretchen and Steven Levitsky, 'Informal Institutions and Comparative Politics: A Research Agenda', *Perspectives on Politics,* 2:4, 2004, 725-40.

With a view to 'the informal', cross-national research focused on enhancing the effectiveness of post-conflict statebuilding has often assessed the role of the diversity of ethnic and religious groups and found mixed results.[88] Collier and colleagues, for example, conclude that a range of variables describing the ethnic composition of society, including "the most familiar measure, ethnic diversity" are not significant for post-conflict security and hence statebuilding 'success'.[89] Doyle and Sambanis concur that ethnic heterogeneity is not significantly correlated with peacebuilding success.[90] By contrast, in his statistical analysis, Call finds that both religious and ethnic fractionalization are significant, while the effect of ethnic divisions decreases at a high level of fractionalization.[91]

Beyond these mixed results, comparative studies suggesting general lessons for statebuilding 'success' have tended to draw less attention to informal practices and norms as central explanatory factors than other variables[92], although there are important exceptions.[93] Many studies in this area have been characterized as 'problem-solving' in that they attempt to improve the performance of certain actors while often considering the "prevailing social relationships, and the institutions into which they are organized, as the given and inevitable framework for action."[94] Several scholars of statebuilding have criticized a lack of attention to 'the informal' in many studies, including what they see as a neglect of the interactions between different institutional arrangements and societal norms or other features of the local context:

[88] For an overview see e.g. Call, *Why Peace Fails.*
[89] Collier et al. 'Post-conflict Risks', 12.
[90] Doyle and Sambanis.
[91] Call, *Why Peace Fails,* 218. See also Mason et al., 'When Civil War Recurs'.
[92] E.g. Collier et al., 'Post-conflict Risks'. Mason et al. 'When Civil Wars Recur: Conditions for Durable Peace after Civil Wars'. Quinn et al., 'Sustaining the Peace'. Stedman et al., *Ending Civil Wars.* Doyle and Sambanis, 'International Peacebuilding'. Doyle and Sambanis, *Making War and Building Peace.* In addition to international resources available and the level of local capacity, Doyle and Sambanis feature local 'hostility levels' as part of their central explanation, however this is operationalized as various characteristics of the preceding war. One indicator under this heading does relate to whether the war was ethnic. Others relate to numbers of factions, death and displacement caused, and conflict outcome.
[93] For contributions calling attention to such factors see e.g. Richard Caplan, *International governance of war-torn territories: rule and reconstruction* (New York; Oxford: Oxford University Press, 2005). Chesterman et al *Making States Work.* Chesterman et al, inter alia, argue that successful statebuilding requires a transformation in minds more than institutions and, first and foremost, understanding of local dynamics of power. See also Berdal, *Building Peace After War*, whose conclusions draw particular attention to the significance of historical and cultural context.
[94] Newman, Paris and Richmond, 'Introduction', in Newman, Paris and Richmond, *New Perspectives on Liberal Peacebuilding* (United Nations University Press, 2009), 23.

"a surprising dearth of interest in the literature in the best "fit" between type of political system and local circumstances."[95] Gender norms in particular have received scant attention in this context.

Much 'problem-solving' comparative research has also focused less on the causal effects of changing global norms, and how they constrain the choices available to actors within specific countries or conflict contexts, as central explanatory factors than on other variables.[96] This is reflected in quantitative studies comparing wars and post-conflict processes across many decades without emphasizing the effects of changing global norms and social contexts.[97] Conversely, many qualitative comparative studies have primarily focused on the post-Cold War period, marked by the expansion of UN peace operations, and therefore often highlighted (liberal) global norms as an important, but relatively constant background condition, rather than an independent explanatory factor whose effects on – and interactions with - national processes must be traced empirically.[98] While Roland Paris includes extensive discussion of these norms in his influential assessment of the effects of political and economic liberalization, his analysis has been criticized for largely assuming, rather than showing empirically, that and how these global norms, rather than power political interests, for example, drive international policy

[95] Simon Chesterman, Michael Ignatieff and Ramesh Thakur, 'Conclusion: The future of statebuilding', in Simon Chesterman, Michael Ignatieff and Ramesh Thakur, *Making States Work: State failure and the crisis of governance* (New York; Tokyo: UN University, 2005), 364.

[96] E.g. Collier et al. 'Post-conflict risks'. Stedman et al., *Ending Civil Wars* draw attention to international resources in explaining relative success, and argue that the availability of resources is primarily the result of a great power having security interests in the region, rather than global norms. Doyle and Sambanis, *Making War and Building Peace.* Mason et al. 'When Civil Wars Recur'. Quinn et al. 'Sustaining the peace'.

[97] For a critique of this trend see Call, *Why Peace Fails,* 218. Examples include e.g. Mason et al. 'When Civil Wars Recur'. Quinn et al. 'Sustaining the peace'. Collier et al., 'Post-conflict risks'. Doyle and Sambanis, 'International Peacebuilding'. Doyle and Sambanis, *Making War and Building Peace.* Doyle and Sambanis include 'systemic constraints', including the Cold War and the decade during which the war started - however these are featured as controls rather than explanatory variables, and findings on effects of these (or the relationship of their effects to global norms) are not emphasized in conclusions or main arguments drawn from the analysis.

[98] E.g. Doyle and Sambanis, *Making War and Building Peace.* Stedman et al., *Ending Civil Wars.* Paris, *At War's End.* In their ten case studies, Doyle and Sambanis include two earlier missions (Congo and Cyprus), chosen in part because of their similarities with missions of the 90s, and note the role of reactions to Somalia in shaping responses to Rwanda. However, these earlier cases or the lessons drawn from the case studies do not focus on the effects of a changing global normative environment.

in post-conflict contexts.[99]

In addition to time periods under examination, these tendencies may partly be attributed to the fact that 'the informal' does not lend itself to quantification as easily as other factors.[100] In addition, some scholars have argued that these trends may be seen as a symptom of a wider "marked tendency to abstract the tasks of peacebuilding from their political, cultural and historical context", both in peacebuilding practice and in parts of the academic literature, based on a view of post-conflict environments as a "'clean slate' on which the future can be written".[101] This has been found to contribute to "a tendency of analysts and practitioners to approach statebuilding as a technical exercise devoid of political significance and risks"[102] – a "tendency to dehistoricise and depoliticise the subject of peacebuilding."[103]

'Critical' peacebuilding scholars [104] in particular have recently often called for greater attention to "the local, its everyday contexts, and of hybridity."[105] They have also focused on the role of international norms and power relations in shaping peacebuilding outcomes. In this context, critical scholars have often urged scholars and practitioners to expose the interests of powerful elites that form the basis of peacebuilding programmes and promote "an internationally or donor-driven" understanding of peace at the expense of a "customary and hybridized" notion of peace.[106]

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[99] Mandy Turner, 'At War's End: Building Peace after Civil Conflict'. Robert Belloni, 'At War's End: Building Peace after Civil Conflict by Roland Paris', *Political Science Quarterly,* 120: 1, 2005. Stedman et al., *Ending Civil Wars.*

[100] For this critique see e.g. Mats R. Berdal, *Building Peace after War* (Abingdon: Routledge, for the International Institute for Strategic Studies, 2009) See also Call, *Why Peace Fails.*

[101] Berdal, *Building Peace After War*, / 'Introduction' and 'Conclusion' in *Adelphi Papers* 49: 407, 19, 177. See also Charles Call 'Conclusion' in Call and Wyeth. Edward Newman, Roland Paris and Oliver P. Richmond, 'Introduction' in Newman et al. *New Perspectives*, 23. Roger Mac Ginty, 'Indigenous Peace-Making Versus the Liberal Peace,' *Cooperation and Conflict,* 43:2, 2008.

[102] Call 'Conclusion' in Call and Wyeth, 380 – an approach criticized by the contributors to this volume.

[103] Berdal, *Building Peace After War/* 'Introduction, 20.

[104] Broadly defined as literature criticizing the underlying assumptions of 'liberal statebuilding'. For definitions and sub-categories see e.g. Newman, Paris and Richmond 'Introduction' in Newman et al, *New Perspectives on Liberal Peacebuilding.* Susanna Campbell, David Chandler and Meera Sabaratnam, 'Introduction' in Campbell et al. *A Liberal Peace?.*

[105] Richmond and Franks, *Liberal Peace Transitions,* 33.

[106] Richmond and Franks, *Liberal Peace transitions,* 181.

On this basis a number of 'critical' peacebuilding scholars have proposed 'post-liberal' frameworks for intervention, which are based on the recognition of cultural difference and "respect for the 'Other'", rather than the 'imposition' of liberal frameworks: "a non-universalising political idea which preserves the traditional liberal value of human solidarity without undermining cultural diversity."[107] Until this approach is more widely applied, "it is the hope of critical thinkers that bringing in context, the local and everyday, will eventually take the 'liberal' out of the liberal peace".[108] In this way, the turn towards the local in critical peacebuilding scholarship "contradicts the universalism that lies at the heart of liberal optimism and notions of universal rights."[109]

Many feminist studies however shed a distinct light on 'the informal'. Compared to 'problem-solving' research on post-conflict statebuilding, feminist studies in different areas have placed 'the informal' at the centre of analysis significantly more consistently. In most societies women's security has traditionally been considered a 'private' matter, falling outside of the proper concerns of state action. Therefore religious, ethnic and cultural communities, norms and practices have played a central role in shaping women's lives and are often central in understanding their security. The traditional view of women's security as a private matter also means that ensuring the state provides security for women is a deeply political process, involving contestations of the boundaries of citizenship and the power of one group of individuals over another.

[107] Shahrbanou Tadjbakhsh and Oliver P. Richmond, 'Conclusion: typologies and modifications proposed by critical approaches' in Shahrbanou Tadjbakhsh, ed., *Rethinking the liberal peace: external models and local alternatives* (Abingdon, Oxon; New York: Routledge, 2011), 237.
[108] Tadjbakhsh and Richmond 'Conclusion', 237.
[109] Roger MacGinty and Oliver P. Richmond, 'The Local Turn in Peace Building: a critical agenda for peace', *Third World Quarterly,* 34:5, 2013, 778.

It is therefore not surprising that 'the informal', and gender norms in particular, feature more prominently, centrally and consistently in most feminist analyses of policy and institutional change.[110] As we have seen, studies of feminist policy formation and institutionalism as well as feminist scholars of International Relations regularly point to the significance of public narratives, norms, informal networks - and the extent to which these enable the construction of women's concerns as public issues - in mediating the effects of state capacity and regime characteristics on state responses to women's specific concerns, including violence against women.[111] The interactions between these contextual factors and different institutional arrangements have thus been a key focus of analysis in this research. Given that post-conflict situations are often marked by weak formal institutions and high external pressure for reform, 'the informal' may take on even greater significance in such environments.

The frequent emphasis on societal norms in feminist research also draws our attention to the importance of historical legacies in shaping state responses to women's concerns, with scholars of feminist policy formation and institutionalism often highlighting the significance of path dependency.[112] Based on a review of existing evidence, working papers of the Effective States and Inclsuive Development (ESID) Research Centre have developed a framework for the gender analysis of political settlements, which similarly emphasizes the importance of historical legacies as well as informality and the role of ideas in this context.[113]

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[110] For a recent volume dedicated to informal institutions see Waylen, *Gender and Informal Institutions.*

[111] E.g. Johnson, 'Domestic Violence Policies'. Weldon, *Protest.* Franceschet, 'Explaining Domestic Violence Policy'. Waylen, *Engendering Transition.* Peterson and Runyan, *Global Gender Issues In The New Millennium*. Tickner, 'Feminist Reponses to International Security Studies'. Whitworth, 'Feminist Perspectives'. Mackay, 'Conclusion: Towards A Feminist Institutionalism?' & Krook and Mackay, 'Introduction: Gender, Politics and Institutions' in Krook and Mackay, eds., *Gender, Politics and Institutions.* Georgina Waylen, 'Informal Institutions, Institutional Change, and Gender Equality', *Political Research Quarterly,* 67:1, 2014. Waylen, ed., *Gender and Informal Institutions.*

[112] E.g. Htun and Weldon, 'When Do Governments Promote Women's Rights? 212. Htun and Weldon, *Gender Justice.* Waylen 'Gendered Institutional Analysis'. Meryl Kenny, 'Gender, Institutions and Power: A Critical Review', *Politics,* 27:2, 2007.

[113] ESID Briefing Paper No. 7, Researching Framing Papaer No. 1Researching the politics of gender: A new conceptual and methodological approach', November 2014. S. Nazneen and S. Mahmud, 'Gendered politics of securing inclusive development', ESID Working Paper, 13, 2012. Recent individual working papers on the gender-based violence law and gender parity in primary and secondary education in Rwanda as well as the Domestic Violence Law and the policy on Universal Primary Education in Uganda test the explanatory power of this framework and, as highlighted in the case studies of this thesis, confirmed a number of details on the legislative process identified in this research. However, as compared to this thesis, they focus more narrowly on these policies and on contributing to the political settlements framework, rather than

While the significance of religious norms and practices is subject of debate in many studies of post-conflict statebuilding, scholars of feminist policy formation have often placed these at the centre of analysis in accounting for variation in state responses to women's specific concerns in different areas. However, there has been less consensus on how and why religion matters in this context. Recent studies particularly highlight the significance of the relationship of religious institutions with the state, one the one hand, and the private sphere, on the other – both of which the relatively static measures of ethnic and religious fractionalization often used in quantitative research on post-conflict statebuilding would not capture.[114] In countries and areas of gender equality policy where women's specific concerns fall under the authority of powerful religious and other traditional institutions, re-defining them as public issues governed by the state can be more challenging.[115] However, in this context, as noted above, scholars have argued that "Gender policy involves not one issue but many and each involves different actors and conflicts."[116] Htun and Weldon have argued that responses to violence against women specifically do not challenge traditions of religious or major cultural groups, with their empirical research finding that the strength of religious parties and other indicators of state-religion relations are not significant for the comprehensiveness of relevant measures. [117]

Feminist studies have also regularly highlighted international norms as central explanatory factors for state responses to women's specific concerns in different areas, including through

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on tracing in detail the origins of these laws and gender equality policies through the statebuilding process; on identifying connections with legacies of conflict and overall regime characteristics/the nature of political competition; deriving comparative findings; or implications for debates on post-conflict statebuilding. See Jennie Burnet and Jeanne d'Arc Kanakuze, 'Political settlements, women's representation and gender equality: The 2008 gender-based violence law and gender parity in primary and secondary education in Rwanda', ESID Working Paper No. 94, 2018. Ahikire, J. and Mwiine,
A. A., 'The politics of promoting gender equity in contemporary Uganda: Cases of the Domestic Violence Law and the policy on Universal Primary Education', *ESID Working Paper* No.55.

[114] On limitations of these measures see also Call. *Why Peace Fails*.

[115] Htun and Weldon, 'When Do Governments Promote Women's Rights?'. Htun and Weldon, *Gender justice.* Htun, *Sex and the State.*

[116] Htun and Weldon, 'When Do Governments Promote Women's Rights?', 208.

[117] Htun and Weldon, 'Progressive policy change'. Htun and Weldon, *Gender justice.*

quantitative research covering several decades. [118] Statistical analysis of feminist policy formation has thus found that next to the strength of women's autonomous mobilization, variation in policies on violence against women is most strongly associated with emerging global gender equality norms, established and shared through global and regional treaties and diffusion through elites or civil society. These effects of global norms are found to interact with the strength of women's autonomous mobilization, suggesting that these organizations play a key role in "applying them to their own contexts, giving them flesh and blood."[119] In view of these finding, Htun and Weldon hypothesize in theoretical analysis that higher vulnerability to international pressure should increase the chances that states respond to women's distinct concerns. [120] As contemporary post-conflict countries are often highly dependent on international assistance and undergo profound institutional and governance reforms, they may be especially 'vulnerable' to global norms. These may therefore play an important role in shaping opportunities for post-conflict statebuilding 'success' for women.

Although these studies share their particular emphasis of 'the informal' with many 'critical' peacebuilding scholars, they tend to shed a differen light on the *nature* of these factors. Focused on contrast and conflict between 'the liberal international' and the "fundamentally different" [121] 'local', accounts by critical peacebuilding scholars tend to portray 'the local, the everyday, the customary' as a singular 'Other' and emphasize its illiberal nature, at times as the defining feature of the 'authentic' local.[122] Feminist studies of institutionalism and policy formation have often emphasized that there are multiple experiences and interpretations of culture and customary practices, some of which will be more 'liberal' than others. While 'critical'

[118] E.g. Htun and Weldon, 'Progressive policy change'. Htun and Weldon, *Gender justice.* Tripp, *Women and Power.* For an overview of research on peace agreements showing that adoption of UNSCR 1325 appears to have further strengthened opportunities for women's rights after conflict see e.g. Laura McLeod, 'Gender and Peace Settlements from a Quantitative Perspective: A global survey', *Working Paper in Gender and Institutional Change, 2,* University of Manchester, 2014.
[119] Htun and Weldon, 'Progressive Policy Change', 564. See also Htun and Weldon, *Gender justice.*
[120] Htun and Weldon 'When Do Governments Promote Women's Rights?', 212.
[121] Richmond, *Failed Statebuilding*, 11.
[122] For a critique see e.g. Peter Finkenbusch, 'Post-liberal' peacebuilding and the crisis of international authority', *Peacebuilding,* 4:3.

studies often appear to portray these variables as static, these feminist accounts tend to highlight that they are subject to change and evolution, at times as a result of conscious manipulation by feminist advocates. In other words, feminist scholars emphasize that 'local' norms and practices are just as socially constructed and reflective of power relations as the global norms that 'critical' peacebuilding studies more often criticize as such.

In sum, most studies in the areas of feminist research discussed in this chapter would suggest a more central role for 'the informal' in shaping statebuilding 'success' than we may expect based on trends in cross-national research deriving general lessons for statebuilders. As compared to 'critical' peacebuilding scholars, feminist perspectives provide greater emphasis on the political nature informal norms and practices at all levels.

Overall then, common findings in scholarship of post-conflict statebuilding, on the one hand, and several literatures that focus on women's experiences, on the other, would suggest diverging expectations about what makes post-conflict statebuilding provide 'security' and hence 'work' for women (summarized in Table 1). While this thesis will at times refer to 'literature on post-conflict statebuilding' and 'feminist research', this is not to deny the complexity and diversity within these very broad fields, but used as a shorthand for the overall trends discussed in this chapter and the differences between them.

4. The public-private divide and women's distinct relationships with the state

These diverging expectations ultimately result from one key difference in these two broad areas of scholarship: Their relative understanding of women's distinct relationships with the state. As highlighted throughout the above analysis, women's roles and concerns are often considered to belong to a 'private' sphere, beyond the legitimate concerns of the state and ruled by families, ethnic, religious and other cultural groups. Women's relationships with the state therefore

tend to be mediated by these groups and defined by women's roles in the 'private' sphere, including as wives and mothers. As opposed to other statebuilding priorities, responding to women's specific concerns, including violence against women, then tends to require a transformation in the public-private divide: Re-defining women's specific issues from a 'private' issue into an area of public concern where citizens have rights that the state should uphold. While studies of post-conflict statebuilding largely omit women's specific positioning towards the state, feminist scholarship places it at the centre of analysis.

5. Summary of expectations emerging from the literature

Overall, I expect that the factors discussed in this chapter will shape the likelihood of statebuilding 'success' for women through their effects on this public-private division: Whether they increase the chances of 'success' depends on the extent to which they propel opportunities to re-define the public-private divide and thereby construct violence against women as a public issue. While feminist studies offer an understanding of this division and women's distinct relationships with the state, scholarship of post-conflict statebuilding draws attention to specificities of post-conflict environments – which may influence these relationships. Assessing the explanatory power of expectations provided by common findings in studies of statebuilding, on the one hand, and relevant feminist literatures, on the other (as summarized in Table 1), I therefore expect to find that a combination of their insights is required to explain why and when statebuilding 'succeeds' for women.

In particular, building on insights offered by feminist scholars, I expect that *legacies of 'intense' conflict* can contribute to statebuilding 'success' for women by propelling normative and institutional changes that provide opportunities to re-define the public-private divide.

I expect that, in the absence of such transformation of public priorities, high levels of *state capacity* (available resources) will not lead to statebuilding 'success' for women. In fact, low levels of post-conflict capacity may provide distinct opportunities to build states that 'work' for women by offering greater openings to transform state institutions.

However, these effects depend on the *outcome of conflict* and the nature of a victor: Victory by rebel groups ideologically open to women's participation is likely to increase post-conflict opportunities for statebuilding 'success' for women by leading to greater normative and institutional changes in the post-conflict period than government victories – thereby providing greater opportunities to re-define the public-private divide.

I expect that *democratic processes and institutions* – and especially space for the participation of (women's) civil society - are critical in seizing these openings given women's widespread exclusion from the public sphere and the elites governing state institutions. In particular, such opportunities for participation are likely to be significant during 'critical junctures' of institutional change, that is, precisely when institutions are in flux.

However, the *overall* effects of democratic processes and institutions on statebuilding 'success' for women are likely to depend on informal norms and practices and their precise combination: Especially in post-conflict contexts often marked by weak formal institutions, high levels of aid dependence, hybrid regimes and deep societal divisions, '*the informal'* (including the extent to which global, elite and societal norms and networks exclude women from the public sphere, in turn shaped by the nature of societal divisions) is likely to mediate the extent to which women can seize political processes to voice their preferences.

Depending on these norms and practices, steps towards democratization may simultaneously exercise negative effects on women's status. In line with many statebuilding scholars' predictions, democratization in post-conflict environments marked by weak institutions may fuel the politicization of societal dividing lines and confictual shifts in power. However, given women's distinct relationships with the state, these trends are likely to affect women in distinct ways: The politicization of societal dividing lines may reduce state responsiveness to their concerns by undermining women's joint mobilization and increasing societal groups' demands to retain autonomy over key areas of women's lives. Shifts in power may divert resources and attention from the relatively low 'public' priority of women's rights and incentivize elites to trade these against continued support from key societal groups in the face of increased political competition.

In sum, I expect that statebuilding 'success' for women may vary because diverging legacies of conflict, post-conflict capacity and informal institutions provide diverging opportunities to re-define the public-private divide and thereby construct violence against women as a public priority.

Table 1. Main independent variables (IV) and hypotheses emerging from common findings in studies on post-conflict statebuilding and research on women's specific experiences discussed in this chapter.

IV	Trends in research on post-conflict statebuilding	Trends in research on women's specific experiences
Legacies of conflict		
Experience of conflict (whether or not civil war occurred).	The experience of conflict **reduces** the likelihood that statebuilding processes will provide 'security' and hence succeed.	The experience of conflict **increases** the likelihood that statebuilding processes provide 'security' and hence 'succeed' for women in the longer term by shifting the public-private division of labour between men and women and opening windows of opportunity for gender-sensitive institutional reform.
Conflict 'intensity' (total death toll of civil war; death toll/year).	More 'intense' conflicts **reduce** the likelihood that post-conflict statebuilding will provide security and hence 'succeed'.	More 'intense' conflicts in particular **increase** the likelihood that post-conflict statebuilding will provide security for women in the longer- term.
Conflict outcome (whether war ends in military victory).	Military victory **increases** the likelihood that post-conflict statebuilding will provide security as compared to other conflict outcomes.	The impact of military victory **depends** on the nature (political ideology) of the victor (and may reduce the extent to which post-conflict statebuilding provides security as compared to negotiated settlements).

Democratic institutions and processes		
Democratic institutions and processes	The introduction of democratic institutions and processes after conflict will **reduce** the likelihood that post-conflict statebuilding will provide security and hence 'succeed'.	The introduction of democratic institutions and processes will **increase** the likelihood that post-conflict statebuilding provides security for women, by strengthening a key advocate for women's security (women's civil society) and ensuring its access to the state (through elections/referenda, female representatives in strong legislatures). The extent to which democratic institutions and processes increase statebuilding 'success' for women is **mediated by informal institutions**, including elite, societal and international norms on gender equality; informal networks between civil society and state actors; and public discourse.

State capacity		
Capacity of formal state institutions, especially in the security sector (GDP per capita, electricity consumption per capita, number, reach, budget of security sector institutions).	Weak post-conflict state 'capacity' **reduces** the likelihood that post-conflict statebuilding will provide security and hence 'succeed'.	Post-conflict state 'capacity' is **insufficient** for ensuring statebuilding 'success' for women because the extent to which existing capacity is used to respond to women's security concerns depends on the extent to which women's security is considered a public issue requiring state responses. Weak post-conflict state capacity provides opportunities to **increase** state responses to women's security because it can offer openings to re-define which issues are considered public priorities.
Sequencing of institutional strengthening vs. democratization (Timing of introduction of democratic institutions and processes, see above, in relation to key moments of institutional reform and strengthening).	**'Institutionalization before Liberalization'** increases the likelihood that post-conflict statebuilding will provide 'security' and hence succeed.	Elements of **political liberalization before institutionalization** increase the likelihood that post-conflict statebuilding can provide security and hence 'succeed' for women.

‘The informal’		
Informal norms and practices (Elite and societial norms on women’s status; global norms on women’s status; informal networks; the nature of public discourse).	Informal norms and practices are **not central** in shaping whether post-conflict statebuilding will provide security and hence ‘succeed’.	Informal norms and practices are **central** in shaping whether post-conflict statebuilding will provide security for women.
Ethnic and religious groups, norms and practices (The number and nature of ethnic and religious groups and divisions).	The significance of ethnic and religious diversity for statebuilding ‘success’ is **debated.**	The relationship of religious and other cultural groups with the state, on the one hand, and the private sphere, on the other, is **significant for gender equality policies in general**. However, it is **not significant for state responses to violence against women** and hence statebuilding ‘success’ for women.

3. Methodology

This chapter introduces the methodology adopted to assess the explanatory power of answers to the research question suggested by dominant trends in scholarship on post-conflict statebuilding and several relevant feminist literatures, as outlined in Chapter II. The first section further explains the focus on state responses to domestic and sexual violence in the context of statebuilding as the outcome of interest (dependent variable, DV) for this thesis. The following sections outline the case study design and strategies for data collection and analysis. Finally, this chapter discusses strategies for assessing the extent to which the findings can be generalized.

1. State responses to domestic and sexual violence: measures, advantages and limitations.

In answering the research question ('Why is there variation in the extent to which post- conflict statebuilding provides security for women') the outcome (DV) of interest is the extent to which post-conflict statebuilding provides security for women. As highlighted in the Introduction (Chapter I), the thesis defines this outcome as the level of state action against domestic and sexual violence in the context of post-conflict statebuilding.

In line with existing feminist research[1], the level of state action against domestic and sexual violence is in turn understood as the relative strength of a set of relevant policies, including legal reform; services to victims; training for professionals; prevention programmes; administrative reform; and protection of particularly vulnerable groups. The thesis also considers the level of implementation of such measures.[2] Box 1 details the individual components the thesis considers in each of these areas.

Box 1. Measuring state action against domestic and sexual violence

In order to assess the relative strength of state responses to domestic and sexual violence, this thesis will examine the following components:

1. **Legal reform,** including whether
    i. Government has adopted specialized legislation pertaining to domestic violence
    ii. Government has adopted specialized legislation pertaining to sexual assault/rape

2. **Services to victims,** including whether
    i. Government funds domestic violence shelters.
    ii. Government funds rape crisis centres.
    iii. Government provides crisis services for other forms of violence (stalking, female genital mutilation [FGM], etc.).

3. **Training professionals who respond to victims,** that is, whether government provides training for police, social workers, nurses etc.

4. **Prevention programmes,** that is, whether the government funds public education programs or takes other preventive measures.

5. **Administrative reform,** that is, whether government maintains a specialized agency to provide leadership, coordination, and support for VAW policies across different sectors and levels.

6. **Protection of particularly vulnerable groups,** such as refugees or immigrants.

This will include consideration of efforts to ensure accountability for and prevention of violence against women perpetrated by state actors, including mechanisms to ensure justice for survivors of conflict-related sexual violence, codes of conduct, and targeted training programmes.

[1] See e.g. Htun and Weldon, 'Progressive Policy Change'. Htun and Weldon, *Logics of Gender Justice.*

[2] Regarding implementation of legislation this will include the number of investigated cases in relation to the size of the population and best available prevalence estimates; the number of cases brought to court in relation to the number of documented cases; the number of convictions achieved in relation to the number of cases brought to court and the severity of sentences. Other indicators will include financial and human resources committed to each of these areas as well as NGO and other experts' assessments of the extent to which formal protocols are followed in practice.

There are several reasons why this focus on state action against domestic and sexual violence is appropriate in this context. Understanding women's security as the relative risk of *domestic and sexual abuse,* rather than other forms of violence, is appropriate because these are the most common and specific acts of physical violence against them. Worldwide, gender-based violence is the most common cause of death of women aged between 19-44.[3] The most dangerous place for women is the home: Every relevant study in every national context confirms that women are more likely to be killed or injured by male partners than by any other group of individuals.[4]

This focus on domestic and sexual violence might be challenged on two accounts. First, statebuilding scholars might argue that it obscures the fact that their narrow understanding of security (the risk of fighting between armed combatants) also affects women in both direct and indirect ways. Therefore a focus on specific forms of violence against women cannot fully refute the impact of conventional statebuilding success factors on women's security.

The forms of violence considered in the statebuilding literature certainly have severe consequences for women's lives, some of which will be explored in this thesis to the extent that they relate to domestic and sexual violence. However, as highlighted in Chapter I, this thesis is not designed to refute the conclusions of conventional statebuilding scholarship. Instead it aims to balance and complete them by drawing attention to women's specific experiences. This requires a narrow focus on specific forms of violence against women, which dominant perspectives neglect.

[3] Holly Johnson, Natalia Ollus, and Sami Nevala, *Violence Against Women: An International Perspective* (New York: Springer, 2008).

[4] True, *Political Economy*. Tjaden, Patricia and Nancy Thoennes, *Extent, Nature and Consequences of Intimate Partner Violence: Findings From the National Violence Against Women Survey*. Washington, DC: National Institute of Justice, Centers for Disease Control and Prevention, 2000. Bureau of Justice Statistics, *Intimate Partner Violence in the United States*. Washington, DC: US Department of Justice, 2007.

Second, feminist scholars of International Relations might argue that the focus on women's physical security is too narrow because it neglects 'structural' violence. Scholars in this tradition have indeed often included discriminatory economic, political and social structures in their definitions of women's (in)security.

However, this definition is arguably more useful for advocacy than for analytical purposes. While awareness of structural discrimination and causes of violence against women is certainly critically important, subsuming these structures under the definition of insecurity itself means that important connections between, for example, women's disadvantaged economic status and physical violence can no longer be analyzed.

Finally, scholars might argue that associating 'women' as a group with domestic and sexual violence is a simplification in several ways. Women's (and men's) experiences are shaped by a diversity of identities, such as age, ethnic and religious background, as well as different gender norms and identities. Emphasizing similarities in 'women's' experiences may obscure this diversity. A focus on domestic and sexual violence perpetrated against women may also risk 'essentializing' women as passive victims. Finally, men also experience gender-based violence, including during conflict.[5]

As noted in the previous two chapters, all of these assertions are important and associating women as a group with domestic and sexual violence certainly is a simplification. However, it is also a necessary simplification for the purpose of this thesis because a focus on selected outcomes is required to allow for valid results in its (limited) scope. It is also a reasonable one, as domestic and sexual violence are common forms of violence against women across

[5] See e.g. R. Charli Carpenter, 'Recognizing Gender-Based Violence Against Civilian Men and Boys in Conflict Situations', *Security Dialogue*, 37:1 2006.

different identity groups.[6] Available evidence, including from the case study countries, strongly suggests that men are at greater risk of other forms of violence.[7] However, as will also be highlighted in Chapter VIII, the focus of this study represents a preliminary step to begin addressing a significant gap in debates on post-conflict statebuilding and further research on the role of intersectionality (as well as conflict-related gender-based violence against men), is certainly required. As we will see in the case study chapters, even the (limited) focus of this thesis draws attention to the importance of divisions between women and of their agency. While this thesis at times uses the terms 'violence against women'/ 'domestic and sexual violence'/'gender-based violence' and 'women's specific security concerns' interchangeably, and at times refers to 'women' as s group, this is not done to negate this complexity but to reflect discourse in case study countries, to avoid repetition and as a shorthand reflecting the methodological approach and theoretical ambition of this thesis.

Focusing on *state action* against these forms of violence is appropriate for several reasons. First, the research question is concerned with variation in the extent to which the *statebuilding* process, rather than post-conflict environments in general, provide security for women. Therefore the dependent variable should also focus on *state* responses to violence against women. Second, in the world as we know it, state action against violence against women is perhaps the clearest and most consistent precondition for women's de facto security. Third, as security provision is the defining function of the state, the extent to which the state considers that providing security for *women* lies within its realm of responsibility also sends a powerful signal about whether and to what degree women are considered citizens of the emerging state.

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[6] See e.g. National Institute of Statistics of Rwanda (NISR), Ministry of Health (MOH), and ICF International, *Rwanda Demographic and Health Survey 2014-15* (Rockville, Maryland, USA: NISR, MOH, and ICF International, 2016). Uganda Bureau of Statistics (UBOS) and ICF, *Uganda Demographic and Health Survey 2016* (Kampala, Uganda and Rockville, Maryland, USA: UBOS and ICF, 2018). Regarding age groups and regions globally, see e.g. WHO, *Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence* (Italy; World Health Organisation 2003).

[7] E.g. World Bank, *World Development Report 2011*. Ormhaug et al., *Armed Conflict Deaths*. NISR, *Rwanda DHS.*. UBOS, *Uganda DHS.*

Finally, a focus on state action against violence against women increases the validity of findings as it can be measured significantly more reliably than the prevalence of violence against women.

Therefore this study addresses the research question by analyzing which factors most powerfully influence state action against domestic and sexual violence in the context of post-conflict statebuilding.

2. Case study design

In particular, the thesis tests the validity of the different expectations for this outcome provided by dominant trends in statebuilding scholarship on the one hand, and several relevant feminist literatures, on the other, (see chapter II) through case study research. Case study research is required as the project is concerned with identifying causal mechanisms and the total number of cases of contemporary post-conflict statebuilding is too small to permit effective statistical analysis.

Answering the research question ('Why is there variation in the extent to which post-conflict statebuilding delivers security for women?') requires selecting a set of cases that meet three key criteria. First, at least two cases should represent instances of post-conflict statebuilding. In order to isolate the impact of armed conflict/civil war itself, a third case that was not recently affected by such violence should be added. Second, the cases should vary significantly on the dependent variable (state action against violence against women) to facilitate identification of co-varying independent variables.

Third, and finally, cases should share several 'background conditions' so as to reduce the number of variables that must be taken into account. In addition, selecting cases that share conditions, which rather certainly impact the level of state action addressing violence against women, helps ensure that the research can reliably attribute any difference in outcome to variation in variables of interest. As highlighted in Chapter II, factors that are highly likely to affect this outcome and can therefore usefully be held constant include historical trajectories in women's relationship to the state, leadership attitudes and ideologies and institutional characteristics and conflict outcomes.

Given these criteria, post-conflict Rwanda, post-conflict Uganda and Kenya provide a particularly promising selection of cases. Table 2 provides an overview of the rational behind this case selection. Chapter IV further explains case relevance.

Table 2. Overview of the rationale behind the selection of Rwanda, Uganda and Kenya

Selection criteria	Relevance of selected cases		
	Rwanda	**Uganda**	**Kenya**
(1) Variation on conflict as an antecedent condition.	**Post-conflict statebuilding**	**Post-conflict statebuilding**	**Relative stability**
(2) Variation on the DV i.e. state action against violence against women.	**Strong formal responses and strong implementation.**	**Limited formal response and weak implementation.**	**Weak formal response and very weak implementation.**
(3) Similarity in background conditions.	• **Similar outcome of conflict in Rwanda and Uganda.** • **Similar leadership and institutional characteristics, particularly between Rwanda and Uganda.** • **Similar international influences on statebuilding process.** • **Similar historical evolution of women's relationship with the state prior to conflict.**		

3. Data

Data analysis

In order to analyze these cases, the research proceeds in three steps by combining congruence and process tracing methods.[8] First, it assesses the extent to which values of hypothesized independent variables and dependent variables are 'congruent' across cases (see Chapter IV). If the research hypotheses hold, cases with higher values on the dependent variable should also exhibit higher values on the independent variables.

In a second step, the research further reduces the number of hypotheses for investigation by assessing the extent to which hypothesized independent variables and the dependent variable co-vary within cases. If the research hypotheses hold, higher values on independent variables should be followed by higher values on the dependent variables across time as well as correspond across space.

Finally, the research employs process-tracing to establish causality and causal mechanisms beneath remaining hypotheses. This involves deriving a hypothesized causal chain leading from independent variable to outcome, spelling out observable implications in each case if this causal chain is to hold, and, subsequently, testing all or the most crucial elements of the causal chain. A key advantage of process-tracing is that results gained from this method promise to be highly valid: "Process predictions are often unique – no other theories predict the same patterns of events or the same actor testimony on their motives – hence process tracing offers strong tests of a theory."[9]

[8] For account of the methods see e.g. Alexander George and Andrew Bennett, *Case Studies and Theory Development* (Boston: MIT Press, 2005). Stephen Van Evera, *Guide to Methods for Students of Political Science,* (London: Cornell University Press, 1997).
[9] Van Evera, *Guide,* 65.

Two potential limitations of process-tracing must be kept in mind. First, it allows for strong causal inference only if an uninterrupted causal path connecting hypothesized independent variables to the outcome can be established. Hence, if evidence on a particular causal step is not available, the value of the causal path is significantly weakened. Second, more than one hypothesized causal mechanism might be consistent with the obtained evidence.[10]

This study addressed the first concern by consulting a wide array of evidence, discussed below. It meets the second challenge by making explicit alternative explanations of a piece of evidence and assessing the probability of each as well as generating and testing additional implications of competing interpretations.

Data sources

The research draws on four types of sources. First, it builds on the secondary literature on post-conflict Uganda, Rwanda as well as Kenya in general and existing academic analyses of statebuilding and gender relations in particular.

Second, the research draws on published reports and databases by international organizations and donor governments[11], international and local non-governmental organizations[12] as well as local governments. These are particularly critical for the assessment of state responses to

[10] George and Bennett, *Case Studies,* 173.
[11] Including, inter alia, the UN Secretary General's Global Database on Violence Against Women, which brings together information on measures taken by UN Member States to respond to violence against women; the OECD's Social Institutions and Gender Index and corresponding country profiles, which include a sub-category on women's physical integrity highlighting, inter alia, the comprehensiveness and implementation of state responses to domestic and sexual violence; and the US State Department Human Rights Reports, which, inter alia, assess states' measures to respond to violence against women.
[12] Including reports by Human Rights Watch and Amnesty International and monitoring reports by local civil society organisations focusing on violence against women.

violence against women in different cases.[13] In addition, the UN Secretary General's Global Database on Violence Against Women, US State Department Human Rights Reports and the OECD's Social Institutions and Gender Index – which, inter alia, provides information on the comprehensiveness and implementation of state responses to violence against women around the world – helped gain an initial overview of variation in state responses to domestic and sexual violence globally and across different conflict-affected regions. This helped suggest Rwanda, Uganda and Kenya as a particularly promising selection of cases.

Third, the research uses data gained from elite interviews conducted during eleven months of field research in the three countries. This involved purpose sampling, locating key actors "according to […] their known involvement in a political process"[14], in this case the development and implementation of state responses to violence against women. This was done based on information on the identity of key actors available from published reports, media and the secondary literature. The research then proceeded through "chain-referral sampling"[15], asking interviewees already identified to share information on other actors involved as well as relevant contact information. This helped identify actors whose involvement could not be inferred from published sources and approach interviewees whose contact information was not otherwise available, including some of those who had since moved to new roles. Such non-probability sampling is appropriate for this study as it aims to collect data about highly specific causal steps and the actors shaping them.[16] The objective of this research was then not to interview a representative sample of a larger population of political actors so as to generalize about the full population but to interview a sample that includes central actors involved

[13] See Chapter IV.
[14] Oisin Tansey, 'Process Tracing and Elite Interviewing: A Case for Non-probability Sampling', *Political Science & Politics,* 40, 2007, 770.
[15] Tansey 'Process Tracing',770.
[16] Tansey 'Process Tracing'.

in the process being studied, namely the development of responses to violence against women.

The field research succeeded in securing interviews with key actors engaged in this process, in the three countries, including women's civil society groups leading advocacy for women's rights and responses to domestic and sexual violence throughout the statebuilding process, as well as supporting implementation of these measures; representatives of government institutions leading the development and implementation of responses to domestic and sexual violence, including Ministries of Gender, Justice, Health and relevant police services; parliamentarians and parliamentary women's caucuses engaged in the development of legislation in this area; experts and consultants involved in drafting such legislation; international non-governmental organisations supporting these processes; as well as bilateral and multilateral donors involved, including relevant UN agencies.

As the case studies traced developments through several decades, interviews were also held with representatives who no longer work in these areas but previously held relevant positions. Their contact details were identified through online searchers or through chain-referral sampling. As the main focus of the analysis lies on in-depth case studies of Uganda and Rwanda, with Kenya serving as a less detailed case study primarily designed to support identification of the effects of a history of conflict, the majority of interviews focused on these two cases. In total interviews were conducted with 64 respondents. In addition, the researcher was able to conduct further informal conversations with six parliamentarians, the Coordinator for Maternal Health for parliamentarians, a consultant working on sexual offences lesgislation, a parliamentary staffer and a journalist based in parliament about the legislative initiatives discussed in the thesis in Uganda during a meeting of the parliamentary women's caucus, UWOPA, designed to build consensus on new legislation relating to sexual violence

(Kampala, December 2015), which the researcher was invited by UWOPA to attend. In this context, the researcher also observed discussion of sexual offenses issues analyzed in this research among a large group of Ugandan parliamentarians. Further informal conversations about the research with local, regional and international organisations working on violence against women in the three countries were conducted during the biannual joint meeting of the OECD-DAC network on gender equality (GENDERNET) and UN Inter-Agency Network on Women and Gender Equality (IANGWE) in Kampala (January 2016) as well as a launch event of a new initiative on violence against women led by Nike/Girl Effect in Kigali. As part of the OECD/IANGWE programme, the researcher participated in a further visit to a women's group working on violence against women in Kampala and observed their interventions designed to prevent violence against women in the field.

Given the focus of the interviews, most took place in the capitals of each country: Kigali (summer 2015), Kampala (November 2015 – January 2016), and Nairobi (May/June 2016). In addition, several interviews were conducted via telephone/skype. The (semi-structured) interviews involved a set of standard questions posed to most respondents to gain general assessments and triangulate information (including on the relative strength of and remaining gaps in state responses to violence against women in their respective countries, including with a view to implementation, as well as details regarding particular measures in place). Interviewees were then asked about relevant events and developments they each were directly involved in, often with open-ended questions.[17] In addition to triangulating information, questions focused on gaps (or inconsistencies) in data available from other sources, including published reports or secondary literature. Interviews generally lasted approximately 1 – 1,5

[17] On the use of open-ended questions in elite interviews see e.g. Joel D. Aberbach and Bert A. Rockman, 'Conducting and Coding Elite Interviews', *Political Science and Politics,* 35:4, 2002. Beth L. Leech, 'Asking Questions: Techniques for Semistructured Interviews', *Political Science and Politics,* 35: 4, 2002.

hours. Most interviews were conducted in English. In Rwanda, several interviews were conducted in French and citations translated by the author.

Interviews made several critical contributions to this study. First, they helped corroborate evidence found in published sources. Second, as noted above, they addressed data gaps in other sources and thereby ensured the thickness of data required for process-tracing. Third, interviews were critical because the hypotheses of the project are in part concerned with the assumptions underlying policy, such as ideas pertaining to the seriousness of violence against women, which interviews helped uncover.

A number of challenges are also associated with interviews. The research, inter alia, seeks to cover events starting more than 20 years ago, which means that simple memory lapses might limit the usefulness of interviews.[19] The project addressed these concerns by triangulating with published reports and other interview data and by assessing the quality of interviews against a set of reliability criteria, including the degree of directness of their access to events and the plausibility and consistency of the testimony. [21]

The field research obtained ethics clearance through the University of Oxford. The work in Rwanda required an official permit through the Government (Ministry of Education) and prior

[19] Mark Kramer, 'Remembering the Cuban Missile Crisis: Should We Swallow Oral History?', *International Security*, 15, 1990.
[20] George and Bennett, *Case Studies*.
[21] Lewis Anthony Dexter, *Elite and Specialized Interviewing* (Evanston: Northwestern University Press, 1970).

affiliation with a Rwandan national institution. The permit was obtained in cooperation with the Centre for Gender Studies at the University of Rwanda. As part of this affiliation, the field work in Rwanda also obtained ethics clearance through the University of Rwanda and initial results were shared in a seminar for a Masters Class at the Gender Centre.

A number of points are worth highlighting regarding the positionality of the researcher. I am a woman who is not from the region, but originally from Germany/Mexico, and I have worked on conflict, gender equality and women's rights at an international level, especially in advising donor governments on how to provide support to gender equality in conflict-affected contexts. This could have a number of implications for the research. First, one might infer that the research could consequently overstate the role of international actors. However, the thesis does not assign a central role to international donors in explaining variation across the cases. Second, the research may partly as a result hold countries to standards of women's rights and best practices in responding to violence against women, which may be perceived as 'Western'.

However, these standards were widely shared by civil society and government respondents in the case study countries, have been established as global norms and best practices through international declarations such as the Beijing Declaration and Platform for Action, and, as discussed in section 1 of this chapter, have been widely used in studies of feminist policy formation.

Finally, the positionality of the researcher could have had some implications for the ways in which interviewees' shared information. Interviews were conducted in English and French, rather than other local languages. Interviewees may have expressed themselves differently in other languages. However, given the elite nature of the interviews, all interviewees were perfectly fluent in at least one of these (national) languages. Interviewees may also have had less trust in a 'foreigner' than they would in a local interviewer. At the same time, throughout the research I also often had a sense that being a woman as well as my own work on women's rights increased interviewees' interest in sharing their experiences - as they frequently worked on similar issues.

4. External validity

With respect to external validity, a number of important background conditions specific to Rwanda, Uganda and Kenya must be kept in mind (highlighted in Table 2 and discussed further in Chapter IV). These include a set of leadership and institutional attributes; conflict

outcomes and levels of international involvement in statebuilding in Uganda and Kenya; and a historical development of women's relationship with the state marked by highly unequal access to the public sphere.

The research identifies further antecedent conditions through process tracing. This requires tracing backward the causal process by which, state action against violence against women was produced, at each stage attempting to infer form the context what antecedent conditions the process requires. The concluding Chapter (IIX) reflects on the extent to which findings can be generalized and further research needed in this light.

4. Introduction to the case studies

This chapter introduces the case studies. It shows that post-conflict Rwanda, Uganda and Kenya offer an appropriate selection of cases for this study by highlighting their relevance to each of the case selection criteria outlined in the previous chapter. It first outlines post-conflict statebuilding processes in Rwanda and Uganda as well as the relative stability experienced in Kenya. The chapter then assesses state action to stop violence against women in the three countries, contrasting strong responses in Rwanda, with limited efforts in Uganda and weak responses in Kenya. The third section shows that the cases share similarities in several background conditions. Finally, the chapter highlights differences across the case study countries with respect to several factors considered 'key ingredients' for successful statebuilding, as outlined in Chapter II, and points to a lack of congruence between these and relative statebuilding 'success' for women across the cases.

1. Experiences of post-conflict statebuilding

This section explains the relevance of the three countries to the first case selection criterion: the need to consider two cases of post-conflict statebuilding and one of relative stability. It first describes experiences of post-conflict reconstruction in Rwanda and Uganda and then contrasts these with the relative stability seen in Kenya.

Post-conflict statebuilding in Rwanda

Upon victory, the RPF launched a highly ambitious statebuilding process. They established a "Government of National Unity", roughly based on the power-sharing agreement enshrined in the 1993 Arusha Accords. In 1997 a Legal and Judicial Constitutions Committee was tasked with drawing up a new constitution. After extensive public consultations and debate in parliament, 93% of the population welcomed the final draft in a referendum. In June 2004, the Supreme Court voted the new constitution into law.

"Resolved to fight the ideology of genocide and all its manifestations and to eradicate ethnic, regional and any other form of divisions"[2], the constitution set out a new institutional structure for the country. It thus outlined Rwanda's legislative, executive and judicial institutions. It also devolved a significant degree of authority to a transformed system of local administrative units.

Among its 'fundamental principles', the constitution enshrined "equality between women and men, reflected by ensuring that women hold at least 30 % of the positions in decision- making bodies."[3] A system of women's councils and women-only elections was designed to ensure women's representation in elected bodies from the lowest administrative level to the national parliament.[4] A Gender Monitoring Office was set up "to monitor and supervise on a permanent basis compliance with gender indicators."[5]

The constitution also formally established the country's new security institutions. Strengthening these so as to (re-)establish a monopoly on the use of force was an early

[2] Article 2, The Constitution of the Republic of Rwanda.
[3] Article 9, The Constitution.
[4] See e.g. Elizabeth Powley, *Strengthening Governance: The role of Women in Rwanda's Transition,* Hunt Alternatives Fund, 2003. For further detail see Chapter V.
[5] Article 185, Constitution.

priority for the new regime. In 2000 the Rwanda National Police was created, merging the previous *Gendarmerie Nationale* of the Ministry of Defence, the *Communal Police* of the Ministry of Internal Affairs and the *Judicial Police* of the Ministry of Justice. From 1997 a Demobilization and Reintegration Commission (RDRC) oversaw the demobilization and reintegration of ex-combatants. Significant funds were subsequently directed to bolstering the newly established military, the Rwandan Defence Force. In sum, following major conflict in the early 1990s Rwanda embarked on a process of profound institutional transformation and reconstruction in the subsequent years of relative stability.

Post-conflict statebuilding in Uganda

The Ugandan Civil War

Scholars tend to locate the sources of the Ugandan civil war in a decade of ethnic politics under Milton Obote (1962-1971) and the following violent rule under Idi Amin (1971- 1979). In 1978 the Tanzanian army invaded Uganda on behalf of Obote, ending Amin's rule and bringing Obote back into power.

In 1980 elections formally legitimized Obote's presidency. Yet Yoweri Museveni's Ugandan Patriotic Movement (UMP), a minor contender in the elections, alleged electoral fraud and declared an armed rebellion against Obote's government. They withdrew to the southwest to form resistance groups which could make this threat a reality. This led to the creation of the National Resistance Movement (NRM) and its armed wing, the National Resistance Army (NRA).

On February 6 1981, the NRA attacked an army installation in the central Mubende district, launching a civil war, which would take the lives of 46000 combatants alone.[12] After four years of fighting, divisions with the Ugandan People's Congress (UPC) government headed

by Obote led to a successful coup by his former army commander, Lieutenant-General Tito Okello.

Upon seizing power, Okello entered peace talks with the NRMA/A. However, the resulting ceasefire broke down almost immediately as the NRA gained momentum on the ground. On 25 January the NRA captured the capital, toppled Okello's government and declared victory the next day. Museveni was sworn in as president.

Parts of Uganda continued to experience significant organized violence after the Ugandan Civil War, with several rebel movements emerging in the North. In particular, the Lord Resistance Army (LRA) mounted a sustained insurgency against the government. However, while this conflict had disastrous effects for the local population, it does not meet established academic criteria for 'civil war' as battle deaths remained beyond the 1,000 threshold.[13] Therefore Uganda has generally been understood as 'post-conflict' and, indeed, a model of post-conflict stability.

[12] COW database.

Statebuilding: The creation of Uganda's new institutional structure

After Museveni seized power, the new president oversaw the (re-)construction of the Ugandan state. Addressing the crowds on the day of his inauguration, he insisted that "no one should think that what is happening in our country today is a mere change of guard: it is a fundamental change in the politics of our country."[14]

Like the RPF in Rwanda, Museveni initially moved to build an interim government of national unity.[15] He mobilized local support and transformed local governance by establishing a system of Resistance Councils strongly resembling the local governance system the RPF would later put in place in Rwanda. Starting from a directly-elected village Resistance Council, such councils were replicated up to the district level Resistance Council. At the top of this pyramid stood the central-level National Resistance Council. These institutions also guaranteed women's representation: at each level one of nine seats was reserved for women and each district would elect a woman representative to sit in the National Assembly.[16]

As in Rwanda, institutional changes were formalized in a new constitution, which was ultimately promulgated in October 1995. "Recalling our history which has been characterised by political and constitutional instability", it established a new institutional framework to "build […] a better future." [17]

[13] The COW project thus does not consider the LRA insurgency a 'war' as, according to their assessment, battle- related combatant-deaths did not reach 1,000 fatalities in a 1-year period Email communication by Dr. Meredith Sarkees, host of the intrawar dataset (30 June 2015). See also COW website.
[14] President Museveni's Inaugural Speech, 1986.
[15] See Joseph Oloka-Onyango, 'New-Breed Leadership, Conflict and Reconstruction in the Great Lakes Region of Africa: A Socio-political Biography of Uganda's YoweriKatuga Museveni', *Africa Today,* 50: 3, 2004.
[16] See e.g. Anne-Marie Goetz, 'Women in Politics and Gender Equity in Policy: South Africa & Uganda' *Review of African Political Economy,* 25:76, 1998.

This included Uganda's new executive, legislative, and judiciary institutions, which shared a greater amount of powers between the President, the Parliament and other constitutional bodies. The constitution moreover incorporated and strengthened provisions for decentralization. As in Rwanda, it also declared that the "State shall take affirmative action in favour of groups marginalised on the basis of gender" and other divisions.[18]

Much like the RPF in Rwanda, the NRM's first task after take-over was to re-establish a degree of public security.[19] To address this challenge the constitution formally established the Ugandan People's Defence Force as well as the Ugandan Police Force and other organizations responsible for Defence and National Security.

Kenya: a case of statebuilding and relative stability

Kenya has certainly not been immune to public armed violence. Notably protests against the flawed presidential elections of December 2007 escalated into ethnic violence, killing between 800 to 1000 people and leading to widespread destruction of property and displacement.[20] Yet casualty estimates and the degree of military organization during this crisis remained below the defining thresholds of 'civil war'. In contrast to Uganda and Rwanda, Kenya is therefore not considered 'post-conflict'.

Kenya has seen significant institutional innovations in recent years, most notably a new constitution in 2010. As post-conflict constitutions in Rwanda and Uganda, it provides for

[17] Preamble, Constitution of the Republic of Uganda, 1995.
[18] Article 32 (1) Constitution of the Republic of Uganda, 1995.
[19] Joshua B. Rubongoya, *Regime hegemony in Museveni's Uganda: Pax Musevenisa* (Basingstoke: Palgrave Macmillan, 2007),
[20] See further Chapter VII

special representation of women in national and local decision- making institutions.[21] However, these institutional changes are not comparable to the degree of institutional overhaul seen in post-conflict Rwanda and Uganda.

2. Varied state responses to violence against women.

The extent to which states have successfully provided security for women following these processes of institutional change varies significantly between Rwanda, Uganda and Kenya.

Rwanda has developed strong formal responses to violence against women and made their implementation a priority. International donors consider Rwanda "quite unique in the region"[22] in this regard, with the UN noting that "Rwanda serves as a specific example in ending violence against women and girls" and that "Other African states and security organs should draw similar initiatives to end impunity."[23] Indeed, in 2012, the UN presented Rwanda with a Public Service Award for its efforts to fight gender-based violence[24] and as early as 2007 president Paul Kagame received the African Gender Award, inter alia, in recognition that Rwanda has been "distinguished" for its fight against gender-based violence.[25]

In Uganda, by contrast, responses to gender-based violence are a "low priority"[26] for the state, marked by limited formal measures and a "massive discrepancy between commitments

[21] Article 81 (b), Article 97 (1) the Constitution of Kenya. Revised Edition 2010. Published by the National Council for Law Reporting.
[22] Interview with Anti-GBV officer, UK Department for International Development. As all other interviews relating to Rwanda, this was conducted in Kigali, Rwanda, summer 2015.
[23] The One-UN Rwanda Resident Coordinator, in Dan Ngabonziza, 'UN wants African countries apply Rwanda-style to fight Gender Based Violence', KT Press, November 26, 2014.
[24] See United Nations, '2012 United Nations Public Service Award Winners', available at http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan049297.pdf. Sarah Kwihangana, 'Rwanda National Police, partners to launch countrywide awareness campaign against GBV, child abuse under scale up of the Isange One Stop Model', Rwanda National Police, 2014.
[25] See African Gender Forum and Award, 'Award 2007: Laureates' achievement in Gender Mainstreaming', available at http://www.africangenderaward.org/award1.html. James Munyaneza, 'Kagame receives 2007 Africa Gender Award', New Times Rwanda, December 12, 2007, available at http://www.newtimes.co.rw/section/article/2007-12-12/2022/.
[26] Interview with Niels Jacob Harbitz, Senior Advisor, International Law and Policy Institute. An expert in research and analysis of sexual and gender-based violence across the Great Lakes Region, Niels has i.a. led research on relevant legal frameworks and their implementation in Uganda, including interviews with hundreds of survivors of gender-based violence.

and implementation." [27] Formal measures in Kenya are even weaker and their implementation is "a challenge".[28]

The following section will highlight this variation by reviewing these countries' performance, at the time of the research, in each of the areas of state responses to violence against women outlined in Chapter III.

2.1. Legislation: Scope and implementation

Scope of legislation on domestic and sexual violence

Comprehensive legislation in Rwanda

The government of Rwanda has adopted comprehensive specialized legislation pertaining to domestic violence, sexual assault/rape, including marital rape, and other forms of violence against women.

In 2006 parliament passed the Law on the Prevention, Protection, and Punishment of Any Gender-Based Violence (No 59/2008 of 10/09/2008), the country's first comprehensive legislation on violence against women. Promulgated in 2009, the law provides an encompassing definition of gender-based violence. It covers spousal violence and marital rape and lists the occurrence of such violence as grounds for divorce. It recommends imprisonment of six months up to two years for these crimes.

Rape is a criminal offence in Rwanda, with sentences of five to ten years, and rising to twenty years for perpetrators in positions of authority or the death penalty, if the attack results in the death of the victim.[29]

[27] Interview Harbitz.
[28] Interview UN Women Kenya.
[29] Law on Gender-based Violence.

Limited legislation in Uganda

While Uganda has passed significant legislation on violence against women, it is more limited in scope than relevant laws in Rwanda. Enacted by parliament in November 2009, the country's first bill criminalizing domestic violence was signed into law by President Museveni in March 2010. The Domestic Violence Act (DVA) provides a relatively comprehensive definition of such violence. However, as opposed to Rwanda, where the law recommends a prison sentence in all cases, penalties in Uganda range from fines to two years imprisonment.

Rape is also a criminal offence in Uganda. However, as opposed to Rwanda, a minimum sentence is not specified.[30]

Importantly, as opposed to Rwandan legislation, Ugandan law does not specifically prohibit spousal rape. A Marriage and Divorce Bill, which would have addressed this gap was repeatedly introduced to parliament, last in 2013. However it stalled over the issue of marital rape and other provisions and has since been shelved.[31]

Weak legislation in Kenya

The scope of relevant legislation is more limited in Kenya than in either Uganda or Rwanda. It was only in March 2015 that the Kenyan parliament passed its first legislation addressing domestic violence, the Protection Against Domestic Violence Act[32] – almost a decade after its Rwandese counterpart and six years after the Ugandan parliament.

While proponents of this Kenyan legislation initially indicated that the bill should empower the police to make arrests on these charges, men in parliament "*completely* rejected" this

[30] Republic of Uganda, Penal Code Act.
[31] See further, Chapter VI
[32] Republic of Kenya, The Protection Against Domestic Violence Act, 2015.

idea so that it was never included in the bill.[33] As a result, in contrast to both Rwanda and Uganda, the law does not provide for jail sentences, or even fees, for perpetrators: Domestic violence can only be addressed through protection orders.

The Kenyan government promulgated a Sexual Offenses Act in 2006, which strengthened responses to rape and other forms of sexual violence. However, as in Uganda, but in contrast to Rwanda, the law does not criminalize spousal rape.[34]

Implementation of legislation on domestic and sexual violence

Rwanda: Implementation as a priority

Rwanda, Uganda and Kenya also differ in the extent to which these laws are implemented. In Rwanda, enforcing legislation pertaining to rape and domestic violence has been a priority for the security and judicial system. As early as 2006, police officers interviewed throughout the country widely agreed that the major challenges for the police were "First the problem of rape; next domestic violence."[35]

Regarding rape, the Rwandan National Police investigated 2,356 cases in 2009, 1,500 in 2008, 1,435 in 2007, and 2,476 in 2006.[36] In 2004 already, national and local police as well as NGOs reported that such cases were prioritized and swiftly transferred to prosecutors' offices.[37]

The US State Department confirms that the government of Rwanda has handled rape cases as a priority within its judicial system as well.[38] In 2012, for example, prosecutors reported

[33] Interview UN Women Kenya.
[34] 2006 Sexual Offenses Act
[35] Citing a Commander in Kibuye. Commaneders in other provinces made similar statements during field research conducted in early 2006. See Baker, 'Reconstructing a Policing System', 349. US State Department, Country Reports on Human Rights Practices, 2006 – 2013.
[36] State Department, Country Reports on Human Rights Practices.
[37] Human Rights Watch, 'Struggling to Survive: Barriers to Justice for Rape Victims in Rwanda', 16:10, 2004, 45.
[38] US State Department, Country Reports on Human Rights Practices, 2006-2013.

opening 351 cases of adult rape.[39] Between January and September, the courts adjudicated 65 cases (70 individuals) of adult rape, convicting 53 and acquitting 17. Among those convicted, the courts sentenced four to life in prison.[40]

Sentences were generally in line with legislation. In 2013, for example, penalties for rape ranged from five years' to life imprisonment, with similar penalties in previous years.[41] Penalties for spousal rape ranged from two months to life imprisonment.[42]

Rwanda has also routinely investigated and adjudicated cases of domestic violence. For example, from January to September 2012, prosecutors received 365 cases of spousal harassment. During the same period, the courts adjudicated 117 cases (119 individuals) of spousal harassment, convicting 115 and acquitting four.[43]

Uganda: Weak implementation

In contrast to the priority placed on implementation of anti-GBV legislation in Rwanda, interviewees in Uganda reported that responses to violence against women are unsystematic and a "low priority" for the state.[44]

The US State Department confirms that the government of Uganda has not consistently enforced the law on rape.[45] Available figures suggest that Rwanda investigated about double to three times as many rape cases as Uganda in absolute numbers.[46]

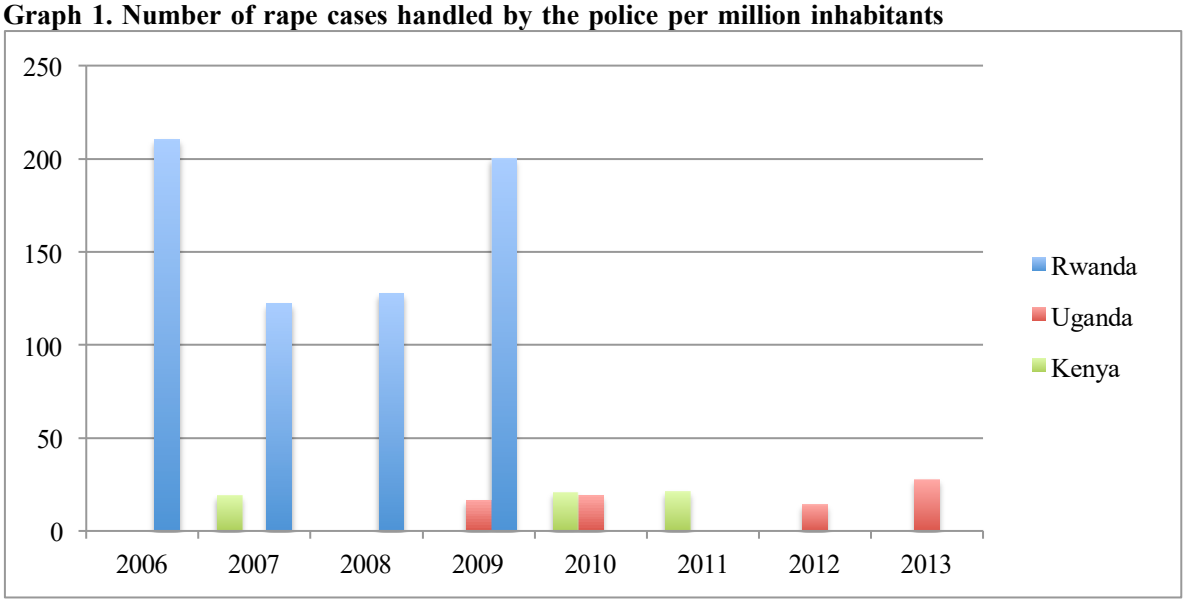
This is despite the Ugandan population at the time (37.58 million in 2013) being more than

[39] US State Department Human Rights Report for 2012.
[40] US State Department Human Rights Report for 2012.
[41] US State Department Human Rights Report 2012, 2010, 2013, 29-30.
[42] US State Department Human Rights Report 2013, 29-30.
[43] US State Department Human Rights Report 2012.
[44] Interview Harbitz. Interview with Executive leadership of the Centre for Domestic Violence Prevention (CEDOVIP), a leading NGO working on gender-based violence in Uganda, including through advocacy for legal measures and state services provision.
[45] US State Department Human Rights Report, 2013.
[46] Based on the figures from Rwanda for 2006 – 2009 cited above and the assumption that the police would at the very least not have investigate *less* cases after the 2009 domestic violence bill criminalized spousal rape. Regarding the number of cases dealt with by the police, a total of 1042 cases were investigated in 2013, compared to 530 cases in 2012. 709 cases of rape were investigated in 2010, compared to 619 cases in 2009.

three times larger than the population of Rwanda (11.78 million in 2013) and most reliable estimates suggesting that sexual violence is *more* prevalent in Uganda than in Rwanda: In the 2011 Demographic and Health Surveys performed in both countries 39 per cent of women reported experiences of sexual violence in Uganda and 22.3 per cent in Rwanda.[47]

Given these two factors, we would need to observe a significantly *higher* number of cases investigated in Uganda than in Rwanda to assume that Uganda was following-up on a similar proportion of rape cases. Available statistics therefore suggest that the Rwandan police has investigated a significantly larger share of cases than its Ugandan counterparts.[48] Graph 1 highlights this by illustrating the number of rape cases dealt with by the police per million inhabitants in Rwanda, Uganda and Kenya, respectively.

Graph 1. Number of rape cases handled by the police per million inhabitants



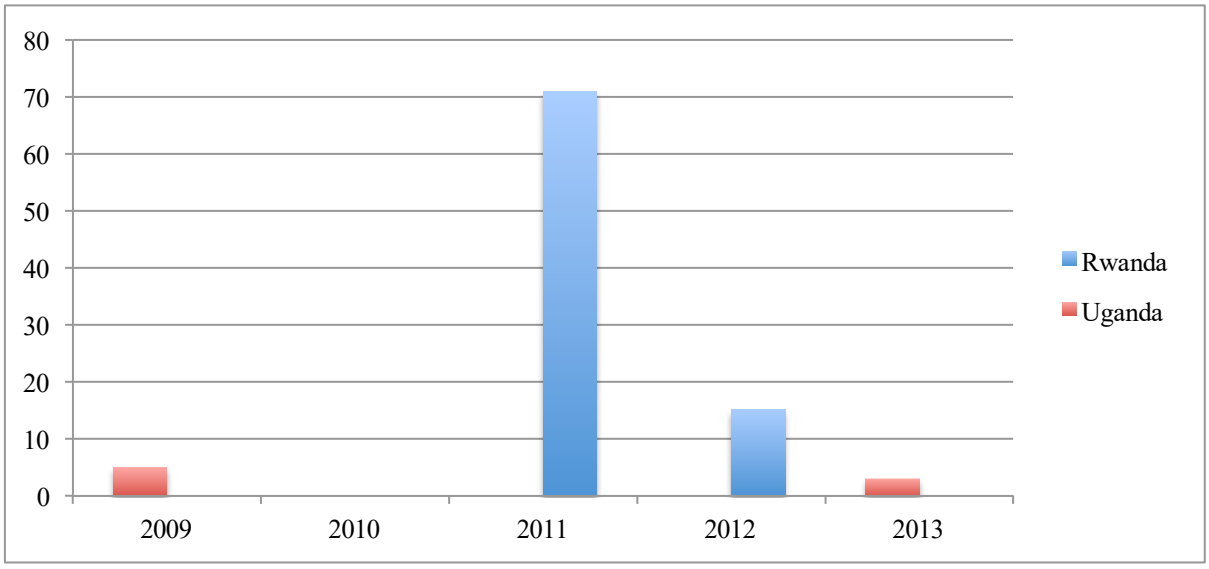
Sources: US State Department, Country Reports on Human Rights Practices. Ugandan Police Annual Crime and Traffic/Road Safety Report.

The Ugandan judicial system also secures fewer convictions for rape than its Rwandan counterpart. According to police statistics from 2013, for example, 364 cases were taken to

[47] Republic of Rwanda 2011 Demographic and Health Survey, Republic of Uganda 2011 Demographic and Health Survey.
[48] This is unlikely to represent greater difficulty within the Rwandan National Police in classifying cases as possible rape cases or other categories of crime, given that, as highlighted below, they have received significantly more training and specialists on gender-based violence than the Ugandan Police Force. E.g. gender desks had already been established in the Rwandan National Police in 2007.

court that year, 11 of which secured convictions, with similar conviction rates reported in earlier years.[49] This is in contrast to at least 53 convictions ensured in Rwanda in 2012.[50] Graph 2 illustrates these differences between Rwanda and Uganda by highlighting the percentage of convictions ensured out of the total number of cases brought to the courts in both countries for different years.

Graph 2. Percentage of rape convictions ensured out of total number of cases brought to the courts



Sources: US State Department, Country Reports on Human Rights Practices. Ugandan Police Annual Crime and Traffic/Road Safety Report.

Regarding domestic violence, while Rwandan NGOs and police officers highlighted the priority placed on such cases in the country[51], women's groups in Uganda were concerned that the law criminalizing domestic violence was not enforced.[52] While the domestic violence bill was passed five years prior, "there is no funding for its implementation and there is scanty awareness, especially among the enforcers."[53] Many law enforcement officials "trivialize" domestic violence and view wife beating as a husband's prerogative,

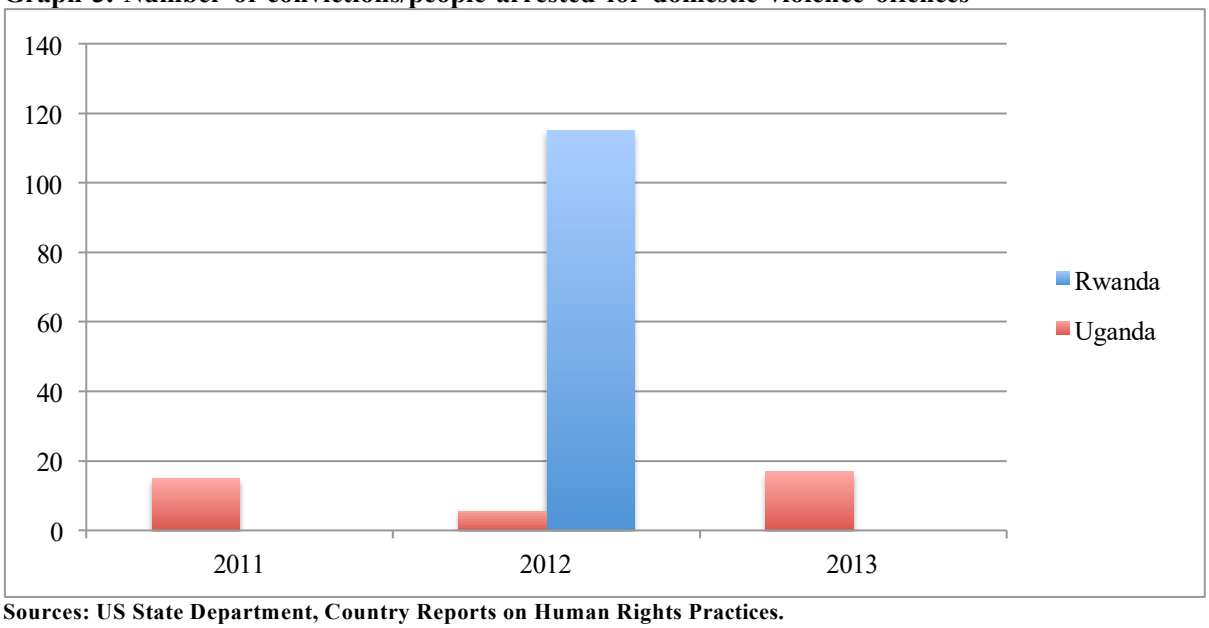
[49] Ugandan Police Annual Crime and Traffic/Road Safety Report 2013.
[50] US State Department Human Rights Report 2012.
[51] Human Rights Watch, 'Struggling to Survive', 2004.
[52] US State Department Human Rights Report, 2013.
[53] Telephone interview with Program Manager for the GBV Prevention Network at Raising Voices, a GBV Prevention NGO in Uganda, summer 2015. In this role she coordinates exchange between more than 500 network members, mainly anti-GBV NGOs working in 18 different countries in the Horn, East and Southern Africa.

with police rarely intervening in cases of domestic violence.[54]

Consequently conviction rates are "really very low."[55] Between January and September 2013, 2012 and 2011, for example, the government arrested 17 persons, 15 persons and six persons for domestic violence offences.[56] These figures are significantly lower than in Rwanda. For example, while the Ugandan government arrested six persons for domestic violence in 2012, Rwanda convicted at least 115 people on these charges in the same year.

In particular in view of the larger population of Uganda and most reliable estimated indicating that domestic violence is more prevalent here than in Rwanda[57], these statistics suggest that Uganda is significantly less active in enforcing domestic violence legislation than Rwanda. Graph 3 illustrates this by highlighting the number of convictions ensured in Rwanda and number of people arrested for domestic violence in Uganda per year based on available statistics.

Graph 3. Number of convictions/people arrested for domestic violence offences



Sources: US State Department, Country Reports on Human Rights Practices.

[54] Interview Raising Voices. Interview Executive leadership CEDOVIP.
[55] Interview Raising Voices.
[56] US State Department Human Rights Reports, 2013, 2012, 2011.
[57] Uganda DHS, 2011.

Kenya: Very weak implementation

According to the US State Department, enforcement of the law on rape remained limited in Kenya. Available figures suggest that Kenyan police investigated a similar number of cases as the Ugandan police[58] although the population of Kenya (44.35 million in 2013) is again larger than that of Uganda (37.58 million) and Rwanda (11.758 million). On the informed assumption[59] that sexual violence is similarly prevalent in Kenya, this suggests that Kenya is less active in investigating cases of rape than Uganda and Rwanda. Graph 1 above illustrates these differences by highlighting the number of rape cases dealt with by the police per 1.Mio inhabitants.

While court statistics were unavailable, the US State Department reports that in those cases convicted, while "the law provides a maximum penalty of life imprisonment for rape, (...) sentences usually were no longer than the minimum of 10 years."[60] This is in contrast to the repeated maximum sentences delivered in Rwanda.

While the Rwandan police has long prioritized domestic violence, Kenyan police generally refrained from investigating such cases.[61] When asked about the extent to which the police responded to domestic violence, one expert's response was laughter.[62] Police largely considered domestic violence a private family matter[63], with anyone reporting such violence normally being told "no no no that's a private matter go and resolve it at home."[64] Not surprisingly, domestic violence was then also rarely addressed in the courts.[65]

[58] Police statistics recorded 934 rape cases in 2011, 922 rapes, in 2010 and 841 in 2007.
[59] While the 2008/2009 Demographic and Health Survey does not provide figures for the prevalence of sexual violence, it reports that 24 per cent of women had experienced physical violence in the past twelve months, which is comparable to 26.9 per cent of women reporting this in Uganda in the 2011 DHS.
[60] US State Department Human Rights Report 2013.
[61] US State Department Human Rights Reports
[62] Interview Raising Voices.
[63] US State Department Human Rights Report
[64] Interview Raising Voices.
65 US Department Human Rights Report.

2.2. Services to victims

Rwanda: Wide-ranging services

Services available for survivors also differ significantly between the three countries. In Rwanda, twelve one-stop centres were established throughout the country, providing medical, psychological, legal, and police assistance as well as safe houses/emergency accommodation at no cost to victims of domestic violence.[66] At the time of the research, the government was working to take the number up to 30.[67] According to donors supporting anti-GBV efforts, these centres are extremely active.[68] The Government also provides free gender-based violence helplines operated by police headquarters in Kigali and several ministries.[69]

Uganda: Limited services

As opposed to Rwanda, the Ugandan government does not operate or fund shelters, one-stop centres or helplines.[70] Services that are available, including several hotlines, are generally organized by civil society rather than the state.[71]

Kenya: Limited services

In contrast to Rwanda, the Kenyan government does not fund domestic violence shelters.[72] The limited assistance that is available for women experiencing domestic violence, including a helpline for reporting gender-based violence, is provided by local women's

[66] US State Department Annual Human Rights Report 2013. Interview former Executive Director Haguruka, a Rwandan Women's Rights Organization.
[67] Interviews with representative of Maison de Droit, a Rwandan Human Rights Organization. Interview with former Executive Director of Haguruka.
[68] Interview with anti-GBV officer at DFID, Kigali.
[69] US State Department Annual Human Rights Reports.
[70] Interviews Raising Voices, Executive Director CEDOVIP. See also Amnesty International, 'I Can't Afford Justice', 2010.
[71] Interviews Raising Voices, Harbitz. US State Department Human Rights Reports.
[72] Interview Raising Voices. UN Secretary General's database on violence against women.

NGOs.[73] Post-rape services are available in five government-run provincial hospitals.[74]

2. 3. Training professionals who respond to victims.

Rwanda: Comprehensive training

The three states have, moreover, differed in their efforts to train professionals responding to victims. In Rwanda, training on gender-based violence for professionals is extensive and institutionalized. Notably since 2011, gender-based violence has been a required module of basic training for all police and military at all levels.[75] In addition, each of the 75 police stations nationwide currently has its own gender desk and an average of three especially trained officers.[76]

Uganda: Ad-hoc training through non-state actors

As opposed to Rwanda, Uganda has not integrated training on gender-based violence into its general training curriculum for the police force or military.[77] While some NGOs deliver trainings for groups of police and health workers on an ad hoc basis, these efforts only benefit a minority of staff and are not coordinated, while officers are frequently transferred. This seriously constrains their effectiveness.[78]

Kenya: Limited training

In Kenya incoming police officers do receive training on gender-based violence. However, the training manual does not yet address domestic violence.[79] As opposed to Rwanda, there

[73] Interview UN Women Kenya. US State Department Human Rights Report 2013.
[74] US State Department Human Rights Report 2013.
[75] US State Department Human Rights Report 2011.
[76] See Human Rights Watch, 'Struggling to Survive'. US State Department Annual Human Rights Reports.
[77] Interview Raising Voices, UN Women, who are currently trying to influence the police training curriculum in this direction.
[78] Interview Raising Voices.
[79] Interview Raising Voices.

is no evidence of relevant training for military personnel.[80]

2. 4. Prevention programmes

Rwanda: Extensive and institutionalized prevention programmes

In Rwanda, prevention programmes are as extensive and institutionalized as training for those responding to victims. Each police station in the country has a public outreach programme on gender-based violence. What is more, the government has conducted a whole-of-government, multi-stakeholder campaign against gender-based violence for several years.[81]

In addition, anti-gender-based violence clubs have been set up at schools and universities aimed at sensitizing the youth on issues related to gender-based violence (GBV), including its prevention, as well as informing them about the services available for GBV survivors. Both men and women are members of the anti-GBV clubs.[82]

Uganda: Less institutionalized prevention programmes

The Ugandan government has undertaken public education campaigns. For example, in 2013, the Minister of Gender, Labour and Social Development launched a media campaign across the country to prevent violence against children and women.[83] However, these efforts are not comparable to the sustained and institutionalized efforts in Rwanda, such as public outreach programmes operated by each police station.

Kenya: Less institutionalized prevention programmes

In Kenya, the government has similarly undertaken individual initiatives to raise awareness

[80] Interview Raising Voices.
[81] US State Department Annual Human Rights Report.
[82] UN Secretary General's database on violence against women.
[83] US State Department Human Rights Report.

of gender-based violence. For example, in 2014, during the 16 Days of Activism against gender-based violence a team visited 18 out of 47 counties to talk about these issues. However, in general the government has relied on civil society for awareness raising and initiatives that enhance reporting.[84]

2. 5. Administrative reforms

Rwanda: Comprehensive administrative reforms.

The three counties also differ in the extent to which they have built specialized agencies to coordinate responses to gender-based violence. Rwanda has undertaken considerable administrative reforms to improve state efforts to reduce violence against women. In October 2011, the gender desk at police headquarters was elevated to directorate level, establishing the Rwanda National Police Directorate against Gender-Based Violence. It handles all cases of such violence and monitors investigations and prosecutions nation- wide.[85]

Rwanda's Ministry of Gender and Family Promotion, an "incredibly engaged"[86] partner in anti-GBV efforts, monitors and evaluates implementation of the National Policy Against Gender-Based Violence. This strategic plan for fighting gender-based violence for the years 2011-2016 details individual responsibilities and necessary cooperation among a variety of multisectoral stakeholders including governmental ministries such as the Ministry of Justice, Ministry of Education, Ministry of Health, as well as the Rwanda National Police, local governments, NGOs, the media, and the private sector. It also sets up special committees to monitor and raise awareness of gender-based violence from the lowest administrative level upwards. The policy is accompanied by a five-year strategic plan that outlines the specific

[84] Interview UN Women Kenya.
[85] US State Department Annual Human Rights Reports 2012, 2013. On the assumption that the directorate continued this function from its predecessor, the gender desk in the Rwandan National Police: According to the 2011 Human Rights report, the national gender desk in Kigali also monitored nationwide investigations and prosecutions of GBV.
[86] Interview with anti-GBV officer DFID Kigali.

budget required for implementation.[87]

Uganda: Limited administrative reforms

As opposed to the Rwanda, Uganda does not have a police unit dedicated to responding to gender-based violence much less at directorate-level, and no specific policy against gender-based violence is in place. [88]

Kenya: Limited administrative reforms

The Kenyan Police also does not include a special Directorate on gender-based violence such as the one established in Rwanda. In contrast to Uganda, there are also no reports of plans to create such an institution. While gender desks are supposed to be set up in every police station, these do not tend to be functional.[89]

2. 6. Protection of particularly vulnerable groups

Rwanda: Special efforts to protect vulnerable groups

Efforts to protect particularly vulnerable groups from gender-based violence are another dimension on which these cases differ. Rwanda has taken several relevant measures. Importantly, Rwanda has put in place accountability mechanisms for violence against women perpetrated by state actors and in the context of the civil war and genocide. In particular, sexual violence committed during the genocide is classified as Category I genocide crime. As such, persons found guilty of rape or sexual torture were to either incur the death penalty, life imprisonment or imprisonment of 25 to 30 years.[90] In 2001 and 2004, new safeguards for rape victims were introduced to the transitional justice process, including several options for private testimony and measures to protect the identity of alleged

[87] Rwanda National Policy against Gender-Based Violence, 2011-2016.
[88] Interview Rasing Voices.
[89] Interview UN Women.
[90] See e.g. Human Rights Watch, 'Struggling to Survive'.

victims.[91]

Rwanda has moreover made efforts to prevent the perpetration of violence against women by state actors in the first place. As noted above, gender-based violence is a standard module for all military and police forces. What is more, since 2008, a gender desk has been operational in the Rwandan Defence Forces (RDF) in order to handle cases within the organization and to complement and support more effective military responses to violence against women. [92] The gender desk has trained gender focal points at sub-national levels and partnered with the leading cellular phone company to create a free hotline to report cases of military-related violence against women and girls. The RDF has also taken an active role in strengthening awareness and reporting of gender-based violence in general. [93]

In addition, the government has worked to establish one-stop centres for victims of gender-based violence in refugee camps[94] and the extraordinarily specific[95] National Action Plan on 1325 Implementation further commits to strengthening these efforts.[96] Rwandan legislation moreover includes specific, higher penalties for violence against women perpetrated against handicapped persons.

Uganda: No evidence of special efforts.

As opposed to Rwanda, there was no evidence of special efforts to protect particularly vulnerable groups in Uganda and interviewees doubted that any such efforts existed.[97]

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[91] Human Rights Watch, 'Struggling to Survive'.
[92] National policy against GBV. UNIFEM, 'Establishment of Rwanda National Police Gender Desk', available at http://www.endvawnow.org/uploads/browser/files/Case%20Study-Rwanda%20-%20UNIFEM%20-.pdf. US State Department Human Rights Report 2011.
[93] US State Department Human Rights Reports (e.g. 2010). Republic of Rwanda, *Country Report: Evaluation of the Implementation of the Beijing Declaration and Programme of Action,* Kigali, 2009.
[94] See above, US State Department Annual Human Rights Reports.
[95] See Barbara Miller, Milad Pournik and Aisling Swaine, *Women Through Peace and Security: Literature review and content analysis of national action Plans and Implementation,* Institute for global and International studies, the George Washington University, 2014.
[96] Republic of Rwanda, National Action Plan 2009-2012, The United Nations Security Council Resolution 1325 on Women, Peace and Security.
[97] Interviews Raising Voices, Executive leadership CEDOVIP.

In particular, in contrast to Rwanda, GBV experts in Uganda had not heard of state actors being held to account for violence against women.[98] The state has largely failed to provide accountability mechanisms for violence against women committed during the Bush War and the LRA insurgency.

Kenya: No evidence of special efforts.

The research also did not find evidence of any government efforts directed at the protection of particularly vulnerable groups in Kenya.[99] In particular, the research found no evidence of accountability or prevention mechanisms targeting state actors in Kenya, suggesting that these are at best uncommon. Despite widespread sexual and gender-based violence following the disputed election in 2007-08 and "a strong call for the state to take responsibility"[100] on the part of civil society, there was no government effort to prosecute anyone in connection with the reported abuses.[101]

In sum then, the strength of state responses to violence against women varies significantly between Rwanda, Uganda and Kenya. Table 3 provides an overview of key differences between the three cases.

[98] Interviews Harbitz, Raising Voices, Executive leadership CEDOVIP.
[99] UNDP. Interview UN Women Kenya.
[100] Interview UN Women Kenya.
[101] US State Department Human Rights Reports. Interview UN Women Kenya.

Table 3. Overview of key differences between state responses to violence against women in Rwanda, Uganda and Kenya.

Dimension of state responsiveness to violence against women.	Rwanda: A case of strong formal responses and strong implementation	Uganda: A case of limited formal responses and weak implementation	Kenya: A case of weak formal responses and very weak implementation
Legislation: Scope and implementation.	Comprehensive. Implementation a priority/routine in the security and justice system.	Marital rape not criminalized. Inconsistent to poor implementation.	Marital rape not criminalized. Limited to rare implementation.
Services to victims	One-step centres throughout the country and other services	No one stop centres.	Crisis centres for rape but not for domestic violence victims.
Training for professionals	Extensive and institutionalized	Not integrated in general curricula.	Integrated into general curricula but limited in scope.
Prevention programmes	Institutionalized, including public outreach programme operated by each police station.	Less institutionalized	Less institutionalized and extensive
Administrative reform	Comprehensive, including Gender-Based Violence Unit at Directorate level in the Rwandan National Police.	No specialized police units	No specialized police units
Protection of particularly vulnerable groups	Established.	No evidence of special efforts.	No evidence of special efforts.

3. Background conditions

This section outlines certain similarities between Rwanda, Uganda and Kenya that will be useful in answering the research question - the third case selection criterion outlined in the introduction. These include the outcome of conflict, level of international involvement in post-conflict processes, characteristics of leadership, institutions and regimes, and, finally, the historical evolution of women's relationship with the state.

3.1. Conflict outcomes

As highlighted above, conflicts in Rwanda and Uganda led to similar outcomes: Military victory by rebel groups.

3.2. International influences on post-conflict statebuilding

While all three countries have been dependent on international aid, neither Uganda nor Rwanda hosted peace operations during post-conflict statebuilding processes.[102] In addition, statebuilding processes in Uganda and Rwanda occurred during similar time periods and were therefore subject to similar international norms, including declarations on women's rights.

3.3. Leadership ideologies

The leaders of all three countries also share a set of characteristics suggesting a broadly comparable world-view. All are Christian, as is the majority of their population, and ascribe to nationalist ideologies. The convergence in backgrounds between Uganda's president Museveni and Rwanda's leader Kagame is particularly striking. Both Kagame and Museveni grew up in southwest Uganda, attended the same secondary school in Mbarara district, went

[102] During and immediately following the civil war Rwanda hosted two peacekeeping missions: UNOMUR, 1993-1994 and UNAMIR, 1993-1996.

to Tanzania in 1978 to fight Idi Amin's regime and fought together against Milton Obote's rule in the early 1980s. Kagame then joined Museveni's government as head of military intelligence before founding the Rwandan Patriotic Front.

3.4. Institutional characteristics

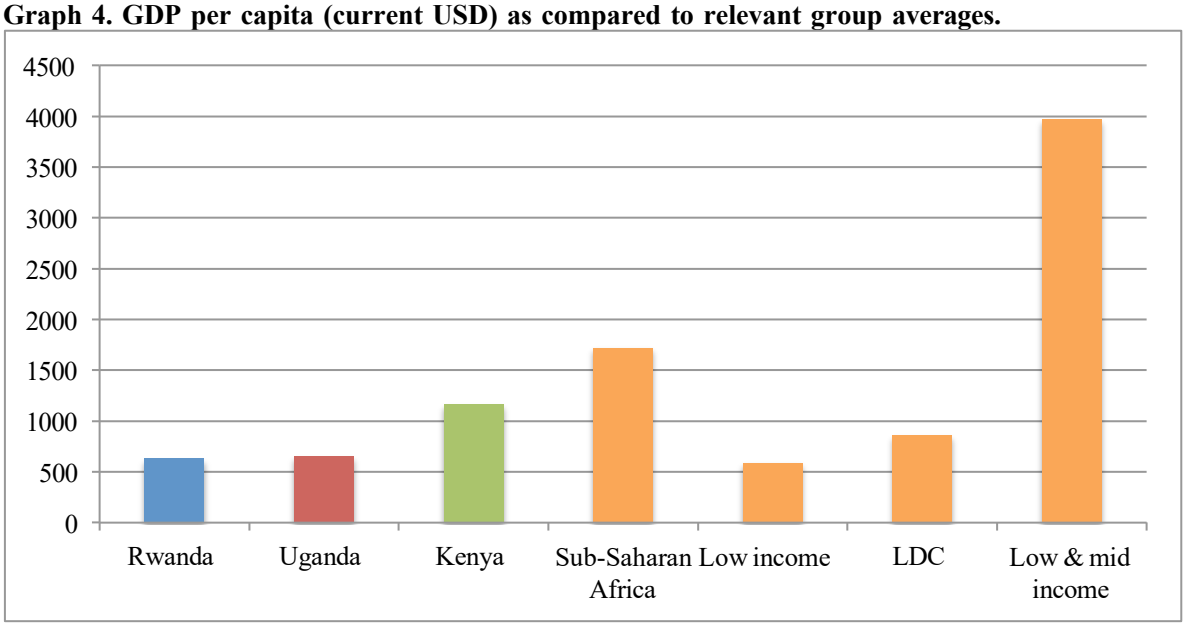
Broad ideological alignment between the two presidents is further suggested by the many similarities in their political strategies and post-conflict reconstruction efforts.[103] Both presidents took power as leaders of rebel armies that challenged regimes, which had targeted previously dominant ethnic groups; formed broad-based post-conflict governments; and launched processes of decentralization and democratization, starting with local elections and the establishment of constitutional commissions tasked with eliciting public opinion. In both cases the new constitutions provided for the first time for significant minority representation in parliament, including for women, youth and the disabled.

Consequently, Rwanda and Uganda, as well as Kenya, also share a number of similarities in institutional characteristics that might be expected to exercise an impact on state action against violence against women. These include high levels of decentralization. A baseline survey of decentralization in Africa published in 2002 thus ranked Uganda (2), Kenya (3) and Rwanda (5) among the top five out of 30 countries according to levels of decentralization. Local levels are granted significant responsibilities in areas such as health, which form part of government responses to violence against women.[104]

All three cases are low-income countries, with GDP per capita below the average for Sub-Saharan Africa in each case (see Graph 4), suggesting relatively low levels of state capacity.

[103] Ajay Tejasvi Narasimhan, 'Towards Understanding the Nature of Leadership in Alleviating state fragility', *CGU Theses and Dissertations,* 27, 2012.
[104] Stephen Ndegwa, 'Decentralization in Africa: A Stocktaking Survey', Africa Region Working Paper Series, 40, 2002.

Graph 4. GDP per capita (current USD) as compared to relevant group averages.



Source: World Bank.

In addition, all three cases are presidential systems. This means that initiatives to introduce legislation against violence against women needed to tackle broadly comparable institutional hurdles in these countries.

3.5. The historical evolution of women's relationship to the state

Finally, the three countries share a broadly similar history in terms of women's relationship to the state. In Rwanda, Uganda and Kenya women had unequal status in terms of property

ownership and inheritance, personal security and access to the public sphere throughout pre-colonial, colonial and post-independence periods.

In pre-colonial times, the public sphere was thus generally reserved for men, while women were expected to care for children and husbands, maintain the household, and contribute to family survival through subsistence farming.[106] During research in Rwanda, interviewees frequently highlighted the reflection of this traditional divide in Kinyarwanda proverbs such "the hen cannot speak in the presence of the rooster."[107]

Some societies accorded more public roles to a handful of elite women during this period. In Uganda, for example, Ganda society allowed the queen mother (*nnamasole)* and queen sister (*lubuga*) some influence on public affairs.[108] Similarly, in the Kingdom of Rwanda, some women held powerful positions within the religious sphere. They could act as spirit mediums and priestesses in the Kubanda cults or as traditional healers.[109] In addition, as in Uganda, the queen mother had a significant role as protector of the heir of the throne and manager of the royal household.[110]

Yet, in all three cases, the significant public role of a few elite women did little to reduce the exclusion of the vast majority of women from the public sphere.[111]

Given the relegation of women to the sphere of familial relations, violence against them was traditionally considered a private issue in all three countries – a normal or even positive aspect of daily life. One Rwandan proverb thus states that a woman who is not yet battered

[106] See e.g. Robert Wyrod, 'Between women's rights and men's authority: Masculinity and shifting discourses of gender difference in urban Uganda', *Gender and Society,* 22:6, 2008. Claris Gatwiri Kariuku, 'Women Participation in the Kenyan Society', *The African Executive*, 296, 2010.
[107] Interviews and informal conversations.
[108] Wyrod, 'Between women's rights and men's authority'.
[109] Gretchen Bauer and Hannah Evelyn Gretchen, eds., *Women in African Parliaments* (Boulder, Colo: Lynne Rienner Publishers, 2006).
[110] See e.g. Illaria Buscaglia and Shirley Randell, 'Legacy of Colonialism in the Empowerment of Women in Rwanda', *Cosmopolitan Civil Societies Journal,* 4:1, 2012. Jeanne Izabilizia, 'The Role of Women in Reconstruction: The Experience of Rwanda'.
[111] See also Avega, *Survey on Violence against Women in Rwanda,* Kigali, December 1999.

is not a real woman[112] while women in Uganda commonly expressed that "if he doesn't beat me, he doesn't love me."[113]

The colonial period did not improve women's situation. In fact, colonial administration further entrenched certain gender inequalities in all three countries. In Uganda, the British use of the Baganda as indirect rulers of the protectorate strengthened customary law, which tended to provide more discriminatory outcomes for women.[114] In Kenya, colonial land redistribution reduced women's access and control over land.[115] In Rwanda, the introduction of Christianity closed off women's access to religious office.[116] Belgians created social welfare programs, known as *foyers sociaux*, taught women how to cook, iron, mend and clean, that is, to fulfil the European standard of a good wife, thus contributing to women's domestication.[117]

Women's status hardly advanced upon independence.[118] This is manifest, inter alia, in women's post-colonial political participation. Although they were granted the right to vote and stand for elections in all three countries following independence in the early 1960s, persistent socio-economic barriers prevented women from turning this right into reality. As late as 1980, upon the onset of the Ugandan civil war, there was only one woman in parliament in Uganda (out of 126 representatives),[119] three in Kenya (out of 172 seats) and four in Rwanda (out of 64 seats).[120]

However, in Rwanda, women began to realize increasing autonomy and participation in the final years before the civil war and genocide. For example, they gained 12 out of 70 seats in

[112] Human Rights Watch, *Shattered Lives,* 1996.
[113] Interview Harbitz.
[114] Wyrod 'Between Women's Rights and Men's Authority'.
[115] Kariuku, 'Women Participation'.
[116] Longman, 'Rwanda: Achieving Equality'.
[117] Buscaglia and Randell, 'Legacy of Colonialism'.
[118] Donna Pankhurst, 'Women and Politics in Africa: The Case of Uganda', *Parliamentary Affairs,* 55, 2002.
[119] Pankhurst, 'Women and Politics in Africa', 123.
[120] Inter-Parliamentary Union, *Women in Parliaments 1945-1995,* A world Statistics Survey (Geneva: IPU, 1995). Longman, 'Rwanda: Achieving Equality'.

parliament (17.1 per cent) following the 1988 elections.[121] Yet, women's organizations note that "In spite of this breakthrough, the woman's role in decision- making was only very slow to come and the woman's traditional role as (an) unobtrusive and discreet person remained even among women themselves."[122] What is more, advances reportedly contributed to pre-genocide social tensions and led to a significant backlash, manifest in an increase in violence against them.[123]

In sum, women's relationship with the state historically evolved along broadly comparable lines in Rwanda, Uganda and Kenya. As a result of the similar starting points, research comparing these cases can more easily identify factors that contributed to women's improved status, and in particular improved responses to violence against them, in the context of post-conflict statebuilding.

4. Cross-case variation in statebuilding 'success' factors

While the three cases share several important background conditions, they also vary in several areas that scholars have considered relevant to the chances of statebuilding 'success'. These differences do not consistently converge with statebuilding 'success' for women as the literature would predict.

4.1. Conflict

The cases not only vary in their experience of conflict in general, but also in the 'intensity' of conflict they experienced: Violence was significantly more 'intense' in Rwanda than in Uganda – or in Kenya, during the 2007/2008 electoral violence.[124]

However, in a reversal of predictions emerging from statebuilding scholarship, those cases

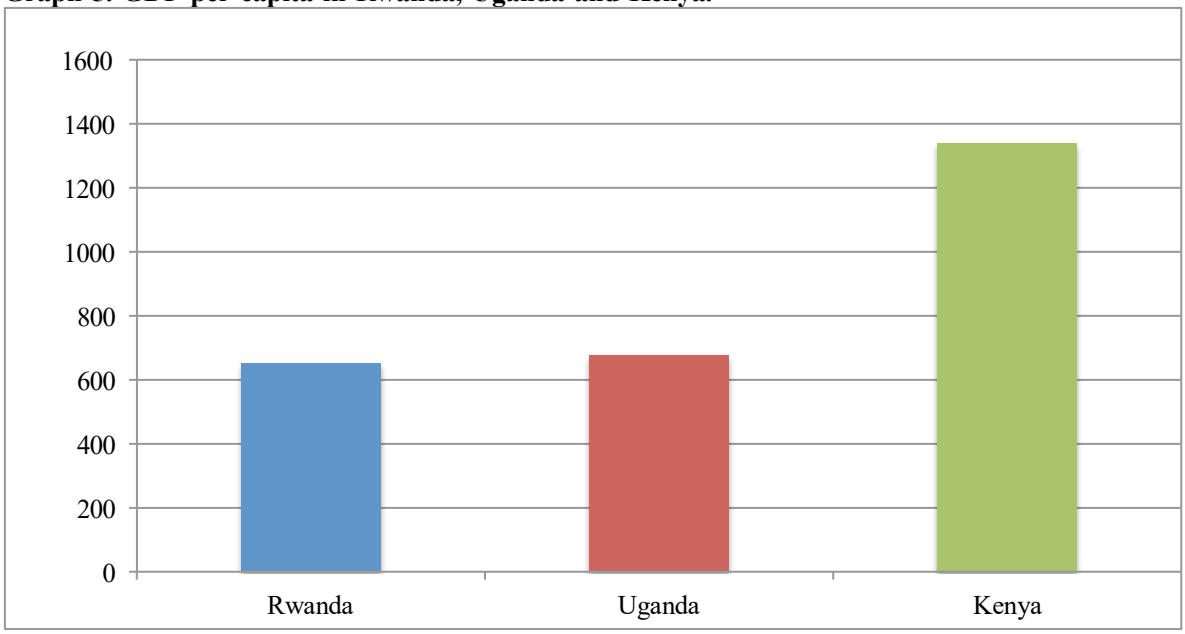
[121] Inter-Parliamentary Union, *Women in Parliaments.*
[122] Avega, *Survey on violence against women in Rwanda.*
[123] Christopher Taylor, *Sacrifice as terror: the Rwandan genocide of 1994,* (Oxford: Berg, 1999). Powley, *Strengthening Governance*.

that have experienced conflict (Rwanda and Uganda) are characterized by stronger state responses to women's security than the non-conflict case (Kenya), and the case that has experienced the most 'intense' insecurity (Rwanda) has become most successful in providing security for women.

4.2. State capacity

Differences in state 'capacity' also fail to converge with expectations emerging from the literature on post-conflict statebuilding. To the extent that the most common indicator of state capacity used in the statebuilding literature (GDP per capita) does vary between the cases, it suggests that most successful state (Rwanda) is the least capable (652.1) while the least successful (Kenya) is the most capable (1,337.9), as highlighted in Graph 5.[125]

Graph 5. GDP per capita in Rwanda, Uganda and Kenya.



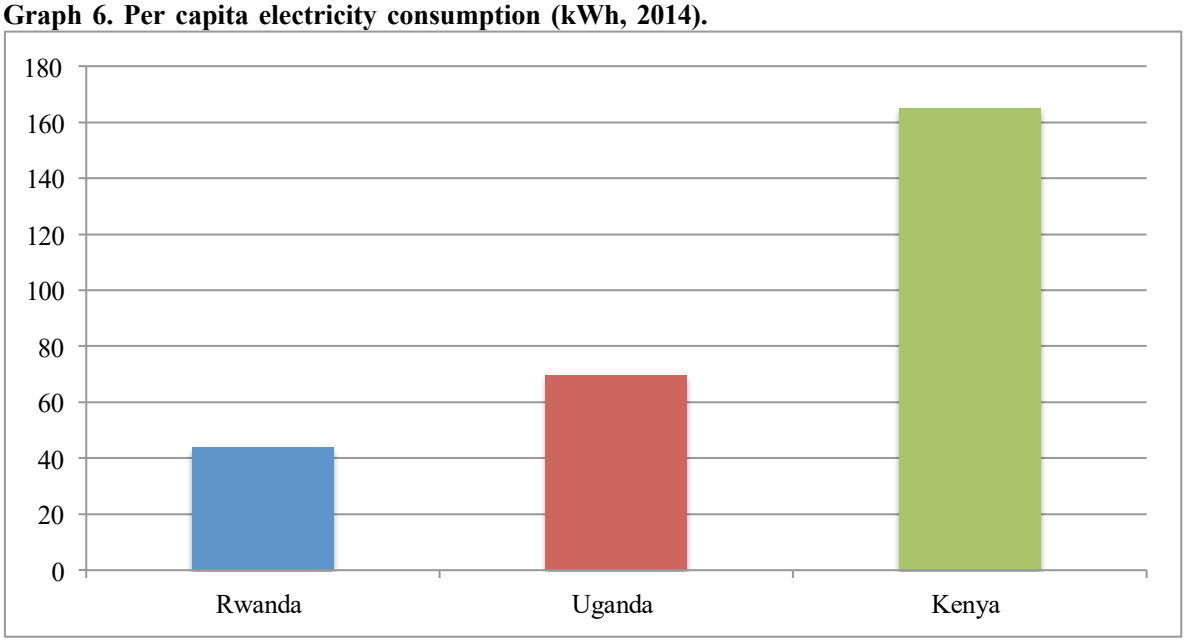
Source: World Bank.

A second measure commonly used as an indicator for state capacity – electricity per capita - similarly points to an inverse relationship between state capacity and the extent to which states provide security for women across the cases. The least 'successful' state in providing

[125] World Bank. GDP per capita in USD. 2014. http://data.worldbank.org/indicator/NY.GDP.PCAP.CD

security for women, Kenya, is characterized by more than twice the electricity consumption per capita (of 165,146 kWh) than the more successful Uganda (69,53), and almost fourfold the rate of the most successful state, Rwanda (44, 053 kWh). Graph 5 highlights this variation.

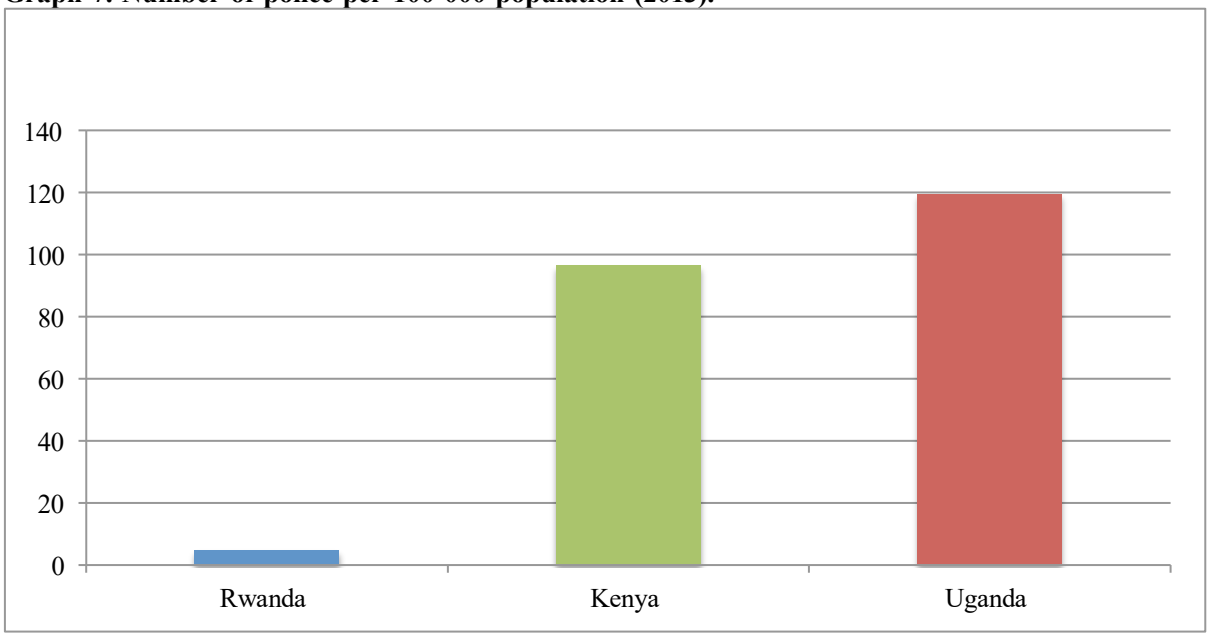
Graph 6. Per capita electricity consumption (kWh, 2014).



Sources: World Bank, CIA World Fact Book.

As highlighted in Graph 7, the most successful state, Rwanda, also has only a faction of the police officers available per 100 000 population (4,78) than the less successful Kenya (96, 46) and Uganda (119,26).

Graph 7. Number of police per 100 000 population (2013).

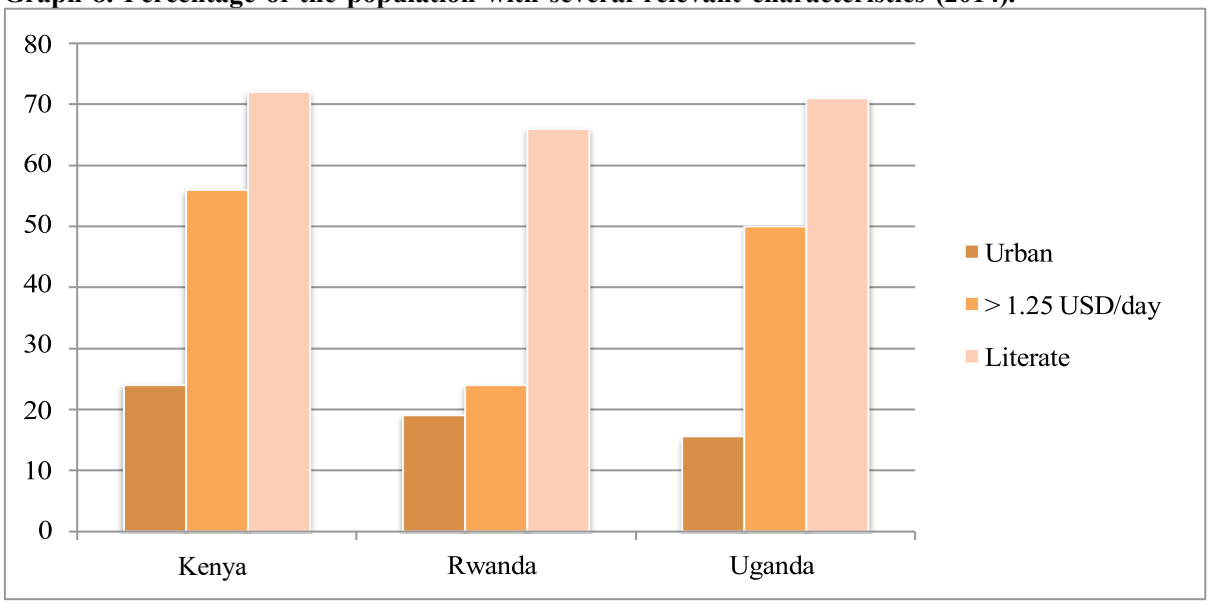


Source: UNODC.

Finally, to the extent that there is variation in measures that might indicate the population's general capacity to claim their rights, it would again favour state action in Kenya. For example, rural, uneducated and poor populations are more likely to lack the necessary resources to claim their rights. Yet Kenya has a somewhat larger urban population (24 %) than Rwanda (19.1%) and Uganda (15.6%).[126] Kenya also has a relatively smaller poor population with 56% of its people living with more than $1.25 or less a day as of 2005, compared to 50 % in Uganda and especially to 24 % in the most active state, Rwanda, in 2006.[127] Finally a greater percentage of people are literate in the less active Kenya (72 % as of 2007) and Uganda (71 % as of 2006), than in the most active state of Rwanda (66 % as of 2010).[128] Graph 8 summarizes these indicators for the three countries.

[126] World Urbanization Prospects, the 2011 Revision and updated with official national statistics.
[127] World Bank database and population estimates base on World Population Prospects.
[128] World Bank database.

Graph 8. Percentage of the population with several relevant characteristics (2014).



Source: World Bank.

In sum, variation in indicators of 'state capacity' across the cases casts doubt on the extent to which the statebuilding literature's dominant focus on state capacity 'works' for men and women equally.

4.3. Linguistic and religious heterogeneity

While statebuilding scholars debate the significance of societal diversity, differences in these factors do co-vary with differences in state responses to violence against women across the cases: The most successful state in providing security for women (Rwanda) is significantly more homogenous than the less successful cases (Uganda, Kenya).

5. Conclusion

In conclusion, post-conflict Rwanda, Uganda and Kenya include two cases of post-conflict statebuilding and one of relative stability; vary significantly in their responses to violence against women and share similarities in several background conditions, including conflict outcomes, institutional and leadership characteristics, international involvement in statebuilding processes and the historical evolution of women's relationship with the state. In view of the criteria outlined in Chapter III, the three countries therefore offer a useful selection of cases for answering the research question.

Yet the countries also vary in several conditions considered in the literature on post-conflict statebuilding. However, differences in legacies of conflict, measures of state capacity and cultural and religious diversity across the cases do not map onto responses to women's security in the ways that this area of scholarship would lead us to expect. The following chapters assess what lies behind these unexpected connections by tracing the development of state responses to domestic and sexual violence in each of the case study countries.

V. The development of state responses to violence against women in post-conflict Rwanda.

This chapter traces the development of the comprehensive state responses that have made Rwanda a positive example in ending violence against women. It argues that this post-conflict state has become successful in providing security for women because the combination of its legacies of extremely 'intense' conflict, low levels of post-conflict capacity and informal institutions provided particular opportunities to re-define the public-private divide and thereby construct violence against women as a public issue. The effects of these sets of factors are different – and often inverse – from what dominant trends in scholarship on post-conflict statebuilding would lead us to expect. Common findings in this literature thus fails to explain statebuilding 'success' for women in Rwanda. In contrast to predictions emerging from prevailing trends in scholarship on post-conflict statebuilding:

1. Paradoxically, Rwanda's experience of exceptionally severe conflict also contributed to the country's exceptional success in providing security for women in the longer term by providing new opportunities to enhance women's status in the post-conflict period.

2. While these effects of conflict were mediated by the outcome of the war, it was not military victory as such but the nature of the victor that facilitated subsequent statebuilding 'successes' for women.

3. Democratic institutions were critical in enabling statebuilding 'success' for women by ensuring new post-conflict opportunities were seized to strengthen responses to

women's security concerns.

4. In particular, it was precisely the existence of democratic institutions and processes *before* state institutions were consolidated, that is, elements of political 'Liberalization before Institutionalization', that enabled Rwanda's success in responding to women's security.

5. Rwanda became exceptionally responsive to women's security not only despite, but in some ways *because* of its 'weak' post-conflict capacity.

6. The 'Informal', and in particular views of the public and private sphere among elite actors, society and the international community, played a central role in mediating the effects of these factors on women's lives – and in explaining why their effects on statebuilding 'success' for women diverged from what common findings of scholarship on statebuilding would lead us to expect.

This chapter arrives at these findings by analyzing the most central links in the chain of events that led to Rwanda's comprehensive responses to violence against women. It turns first to the impact of conflict on the public-private division of roles between men and women. It then highlights the 'remarkable proliferation' of women's civil society organizations

facilitated by these shifts. The third section examines how these groups went on to achieve a first critical success for women's security in Rwanda: provisions on sexual violence in the genocide law.

The chapter then turns to the creation of 'one of the most gender-sensitive constitutions in the world' [1] and the first post-conflict national elections, which matched progressive constitutional provisions with the world's most gender-equal parliament. It goes on to examine how the large number of female parliamentarians developed the country's extensive legislation against gender-based violence. The final section focuses on implementation of these provisions.

1. The Rwandan Civil War: Shifting the public-private divide

In the early 1990s Rwanda experienced "One of history's most intensely violent acts."[2] While conflict shattered lives of both men and women, they experienced this insecurity in different ways.

The gender-specific nature of conflict-related violence

The majority of those killed in the conflict were men.[4] Women experienced sexual violence

[1] See e.g. Nina Berg, Haley Horn and Deena Patel, *Women's Inheritance and Property Rights: a Vehicle to Accelerate Progress Towards Achievement of the Millennium Development Goals*, Legal Empowerment Working Papers, No 13, Rome, Italy: International Development Law Organization, 2010.
[2] Bruce Jones, *Peacemaking in Rwanda: The Dynamics of Failure* (Boulder, Colo: Lynne Rienner, 2001), 1-2, 43-44 .
[3] See Chapter IV.
[4] E.g. Catherine Newbury and Hannah Baldwin, 'Aftermath: Women's Organizations in Postconflict Rwanda', *Working Paper No. 304, 2000.*

on a 'massive' scale[5]: With estimates of cases ranging from 250 000 to 500 000, the United Nations Special Rapporteur concluded that during the Rwandan genocide "rape was the rule and its absence the exception."[6] However, many women survived this ordeal.[7]

Women not only experienced conflict-related violence differently, but also participated in this violence in different ways than men. Some women certainly contributed to the killings. However, these were a minority, with men making up 97.7% of those suspected of genocide.[12] While some women took up arms on the side of the Rwandan Patriotic Front (RPF), they comprised a "low" proportion of fighters, estimated at less than 5 %.[13]

While literature on post-conflict statebuilding stresses the significance of legacies of conflict, studies neglect the public-private division of roles between men and women and therefore generally fail to highlight such gender-specific experiences of civil war. They would therefore also overlook the gender-specific demographic shifts which these distinct experiences caused in the post-conflict period.

[5] AVEGA, 'Survey on violence against women in Rwanda', Kigali, December 1999.
[6] Human Rights Watch (HRW), *Shattered Lives,* 1996.
[7] AVEGA, 'Survey'.
[8] AVEGA, 'Survey'.
[9] E.g. HRW, *Shattered Lives.*

Post-conflict demographic shifts and women's new 'public' responsibilities

With men the vast majority of those killed, having fled or being imprisoned, women made up 70 % of the Rwandan population in 1994.[14] Surveys found women to head up to a half of all households, compared to just over a fifth in 1992. [15]

These conflict-induced demographic changes caused significant shifts in the public-private division of labour between men and women. According to representatives of women's NGOs founded at the time, the absence of their male relatives *forced* women to perform multiple roles traditionally assumed by men: "It was automatic."[16] Women thus took up responsibility for household finances and for devising income-earning strategies for themselves and their dependents. Many became leaders in their communities. While building houses was previously men's responsibility, after the genocide women were seen on construction sites all over the country, breaking the myth that if a woman constructs a house, it leaks.[17]

[12] Powley, *Strengthening Governance*, 12.
[13] The Women in Armed Rebellion Dataset (WARD) (2017-01-24)
[14] See e.g. Newbury and Baldwin, 'Aftermath'.
[15] E.g. HRW, *Shattered Lives.* Newbury and Baldwin 'Aftermath', Human Rights Watch, *Struggling to Survive: Barriers to Justice for Rape Victims in Rwanda,* 16: 10 (A)., 2004.
[16] Informal conversation. All interviews related to Rwanda conducted in Kigali, summer 2015.

As a result women also played key roles in rebuilding their communities. They buried the dead and found homes for nearly half a million orphans.[18] They also participated in large numbers in *Imidugudu,* the programme the Rwandan government launched in 1994 to provide housing for hundreds of thousands of Rwandans who returned to the country after the war.[19]

These new roles significantly increased confidence in women's ability to contribute to public life – both in society and among women themselves. As a leader of one of the women's NGOs founded during the civil war summarized: "Because during the genocide the men were the ones who were killed [...] the women were responsible. If you are responsible, you have to be mature, if you want it or not. It's like if you are appointed CEO of a firm, you have to be mature [...]. Women have been appointed head of family by the genocide."[21]

[17] Jeanne Izabilizia, *The Role of Women in Reconstruction: Experience of Rwanda,* 6. According to a respondent in Butare. See also Newbury and Baldwin, 'Aftermath*'.*
[18] See Powley, *Strengthening Governance,* 13. Elizabeth Powley, *Rwanda: The Impact of Women Legislators on Policy Outcomes Affecting Children and Families,* The State of the World's Children, Background Paper, UNICEF, 2006. Jane Lampman, 'Women lead in effort to rebuild Rwanda,' *Christian Science Monitor,* 15 February 2001.
[19] Izabilizia, *The Role of Women*.
[20] See Powley, *Strengthening Governance.* See also Izabilizia. *The Role of Women.*
[21] Interview.

A new appreciation of women's 'private' roles

Yet conflict also caused further, more complex shifts in the public-private divide: It not only forced women to assume an increased number of 'public' tasks traditionally performed by men, but also contributed to a re-drawing and re-evaluation of the public-private divide itself.

The experience of extreme violence during the Rwandan Civil War thus enhanced the esteem of women's roles and characteristics associated with the 'private' sphere. This took several forms. First, women's less direct involvement with the genocide increased the perception that women's 'private' roles as wives and mothers made them *naturally* more peaceful.

Interviewed in the post-conflict period, Rwandans thus consistently argued that women's specific life experiences allowed them to recognize their interdependence and cross dividing lines with greater ease than men:[22] "the way men think about peace may not be quite the same as women because women provide life. Men think of their [own] interests and naturally women think of others, of the family, of children before fulfilling their own interests."[23]

Second, Rwandans widely considered women to have suffered disproportionately during the genocide as a result of their 'private' roles, both because their roles as mothers had made them victims of massive, ethnically motivated sexual violence and because this distribution of labour meant that women were often the ones left to pick up the pieces after the

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Women International, *Women Taking A Lead: Progress Toward Empowerment and Gender Equity in Rwanda,* Women for Women International Briefing Paper, 2004. Powley, *Strengthening Governance.*

[22] Powley, *Strengthening Governance*, 15.

[23] UNHCR representative, cited in Powley, *Strengthening Governance.*

conflict.[24]

Consequently men and women interviewed in the early post-conflict period repeatedly argued that women had to be included in post-conflict governance because "in their victimization and endurance, women bore the brunt of the genocide and therefore deserve a significant and official role in the nation's recovery."[25]

The perception that women had disproportionately suffered from the conflict also reinforced the sense that they were more pre-disposed to peacebuilding. After all, they had most to lose from a renewed outbreak of fighting.[26]

These changes led to the somewhat paradoxical perception that women ought to take on greater 'public' responsibilities precisely because of their association with the 'private' sphere: Men and women increasingly felt that women could not only equally contribute to the statebuilding process but also make unique contributions associated with their roles as wives and mothers.

An opportunity to redefine sexual violence from a private into a 'public' issue

In addition to a new appreciation of women's private roles, the Rwandan Civil War caused a second transformation in the public-private divide that went beyond a mere re-assignment of labour: The 'public' nature of sexual violence during the genocide provided new opportunities to redefine women's physical security from a private matter into an area of legitimate public concern.

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[24] See also Carey Leigh Hogg, 'Women's Political Representation in Post-Conflict Rwanda: A Politics of Inclusion or Exclusion?', *Journal of International Women's Studies*, 11(3), 2009.
[25] Powley, *Strengthening Governance*, 15.
[26] Helle Schwartz, *Women's Representation in the Rwandan Parliament: An analysis of variations in the representation of women's interest caused by gender and quota,* Masters Thesis in Political Science, Gothenburg University, 2004. Powley, *Strengthening Governance.*

In part, the sheer scale of conflict-related sexual violence meant that it would be publicly discussed to a greater extent than everyday violence against women.

Conflict-related sexual violence was also perceived as 'public' because of its more obviously criminal nature. Prior to the genocide most women did not know that rape was a crime. Interviewed in the early post-conflict period, women's civil society organizations explained that conflict-related sexual violence was more often understood as such because of *who* was raping, that is arm-carrying men on a genocidal mission. In addition, sexual violence was committed in the context of wider crimes, frequently being "part of a pattern in which women were raped after they had witnessed the torture and killings of their relatives and the destruction and looting of their homes."[29]

Increasing international attention to the use of 'rape as a weapon of war'[30] certainly helped frame sexual violence as part and parcel of the wider public violence and draw attention to the phenomenon. International actors thus helped publicize the scale of conflict-related sexual violence. International actors also provided considerable amounts of funding for local organizations to address conflict-related sexual violence. In these ways new global norms accelerated changes in perceptions of sexual violence.

[29] HRW, *Shattered lives.*
[30] For history see e.g. HRW, *Shattered lives.*

However, it is important to emphasize that these norms increased attention to rape as 'a weapon of war', rather than sexual violence in conflict-affected contexts in general. Relatively high levels of international attention to conflict-related sexual violence thus resulted from the specific ('public') nature of this violence: "beyond imagination"[32] in scale and integrally linked to wider political objectives. What is more, as discussed further below, the prevalence and character of conflict-related sexual violence in Rwanda, as well as Rwandese women's existing awareness of its 'public' nature, also helped establish global perceptions of rape as a 'weapon' of war and genocide in the first place. Global norms should therefore be seen as a catalyst, rather than the cause, of public discussions of conflict-related sexual violence in Rwanda.

As we will see, all of these conflict-induced transformations in the public-private divide – which trends in studies of post-conflict statebuilding would lead us to overlook – subsequently exercised significant effects in ensuring the post-conflict state would successfully provide security for women.

[32] The first article covering this violence, approximately one year after the genocide, Donatella Lorch, 'Wave of Rape Adds Horror to Rwanda's Trail of Brutality', *The New York Times,* May 15, 1995.

2. Post-conflict women's civil society: An emerging champion for women's security.

Women's increased public roles resulting from the 'intensity' of conflict thus significantly strengthened a non-state actor that would become a key advocate for women's security: women's civil society. In this way, conflict accelerated changes in Rwanda's associational life that economic crisis and political liberalization first set in motion in the decade before the civil war.

Pre-genocide civil society: The impact of economic crisis and political liberalization

Upon independence Rwanda's civil society was weak. This hardly changed when Juvenal Habyarimana took power in 1975. His single political party, the National Revolutionary Movement for Development or *Mouvement Révolutionaire National pour le Développement* (MRND) aimed to subsume all political and social activity, including women's groups.[33]

It was not until the 1980s that Rwandans responded to severe economic crisis by creating a set of civil society groups focusing on economic issues and service provision. Women were a primary force behind this development and set up several organizations focusing specifically on women's rights and interests during this period, including Duterembere, a women's credit association and Réseau des Femmes, a network of women's development groups.

These organizations laid a foundation for the emergence of more overtly 'political' civil society groups when foreign donors and rising internal opposition compelled the

Habyarimana regime to begin democratizing and recognize new political parties in 1990.

In his critique of the impact of political liberalization on security and hence statebuilding 'success' Roland Paris argues that accompanying "Efforts to promote a more active 'associational life' in Rwanda [...] did not appear to further the goals of either democracy or peace because many indigenous NGOs subscribed to the dominant bigotry of the larger society."[36] He concludes that in this way the emergence of Rwandan civil society and wider political liberalization efforts undermined the extent to which the state would provide security for its population, acting as a "catalyst for genocide."[37]

However, his analysis omits that women played a central role in propelling the expansion of civil society and that these women-run organizations, as we will see, played a critical role in *enhancing* the extent to which the state would provide security for women in the longer run. Given that women had not been involved in the formal political sphere due to the gendered public-private division of labour, as opposed to men, they often responded to pre-genocide political liberalization by forming civil society groups rather than political parties. Women thus founded several key organizations during this period, including, in 1992, the women's civil society umbrella organization Pro-femmes/Twese Hamwe, and, in 1991, the women's legal rights organization Haguruka.[38]

[36] Paris, *At War's End*, 76.
[37] Paris, *At War's End,* 75.
[38] See e.g. Women for Women International, *Women Taking A Lead.*

Post-conflict women's civil society: A 'remarkable proliferation' of organizations

In the short term, the Rwandan civil war had disastrous effects on the organizations women built in the 1980s and 1990s. It destroyed their physical infrastructure and many of their leaders and members were either killed or fled the country.[40]

However the conflict subsequently accelerated the development of women's civil society as women began to work together to help meet their increased responsibilities in the post-conflict period: "how to find housing when so many homes had been destroyed; how to feed and clothe themselves and their surviving children; as well as other relatives or orphans they had taken in; and how to deal with the debilitating traumas, both physical and psychological, of the horrors they had seen and experienced."[41]

For example, in 1995, fifty women who had lost their husbands during the genocide formed the *Association des Veuves du Genocide* (Association of the Widows of the Genocide, AVEGA) to support each other and defend the rights of widows and orphans. By 1999, the group had 10 000 members.[42] In 1994, Godelieve Mukasarasi set up the *Association de Solidarité des Femmes Rwandaises* (Solidarity Association of Rwandan Women, Asoferwa) to support widows, single mothers and orphans in Kamonyi district.[43] Five years later it had expanded to more than 1,500 members and 40 paid employees. [44] The *Association des Femmes Chefs de Familles* in turn provided income-generating programs for female heads of household.

The history of women's organizing was an asset in this context as many women addressed

[40] Newbury and Baldwin, 'Aftermath'.
[41] Newbury and Baldwin, 'Aftermath', 1.
[42] Newbury and Baldwin, 'Aftermath' 4. Interview.
[43] Interview.
[44] Newbury and Baldwin, 'Aftermath'.

new needs by building on organizational structures or skills developed during earlier civil society activity. From this perspective, statebuilding scholars' common portrayal of post-conflict situations as a 'clean slate' is misleading. For example, the founder of Asoferwa had been active in Réseau de Femmes for over a decade and set up her own organization with their support.[45] In Kigali, women who had participated in civil society organizations before 1994 similarly came together with women who had returned to Rwanda from exile to reconstruct several organizations that had formed part of the Pro-Femmes/Twese Hamwe women's umbrella organization before the genocide.

Support from the international community also contributed to the expansion of women's civil society.[46] As a result of new global commitments to gender equality in the early to mid 1990s, UN and bilateral aid agencies increasingly provided specific aid for women and children. Women's organizations therefore benefitted from the relatively high levels of aid provided to Rwanda.[47]

However, these international resources *catalysed* the growth of women's organizations, enabling key organizations to expand their activities. As research conducted in the second half of the 1990s confirmed, the women's movement during this period "should be viewed as principally indigenous" with local women's post-conflict needs serving as the primary driver of its development. [48] For example, AVEGA started without any international funding as essentially a self-help group for the 50 founders who "took the initiative to console each other, to come together and talk about what they had experienced during the

[45] Interview
[46] Newbury and Baldwin, 'Aftermath'.
[47] Burnet, 'Gender balance'.
[48] Burnet, 'Gender balance'.

genocide, while also looking into the future."[49] Similarly, the founder of Asoferwa resolved to create the organization during the genocide, making a promise to God that she would do so if her children survived. Her organization initially functioned on donations from the local community who brought "beans and pots and clothes" and gave it the widows.[50]

As a result of international support, new post-conflict responsibilities and the legacies of pre-conflict political liberalization, women's organizations proliferated in the second half of the 1990s at a speed that USAID deemed "nothing short of remarkable."[51] By 1997 an average of 100 grassroots women's organizations operated in each of Rwanda's 154 communes[52] and approximately 50 associations at the national level. Most of the latter were members of the Pro-Femmes/TweseHamwe collective, whose membership had tripled from 13 members in the early 1990s to 35 by the end of 1996.[53] By 2003 a USAID assessment concluded that women's groups constitute "probably the most vibrant sector of Rwandan civil society."[54]

[49] Interview.
[50] Interview.
[51] Newbury and Baldwin, 'Aftermath', 1.
[52] Newbury and Baldwin, 'Aftermath', 3.
[53] Newbury and Baldwin, 'Aftermath', 3.
[54] USAID, *Rwanda Democracy and Governance Assessment,* produced for USAID Office of Democracy and Governance by Management Systems International, 2002, 37.

3. The genocide law: Classifying sexual violence as among the most serious crimes of genocide.

As many studies of feminist policy formation and institutionalism would lead us to anticipate, but in contrast to common predictions in scholarship of post-conflict statebuilding, the strong and effective women's civil society emerging from conflict subsequently played a critical role in *increasing* women's security by successfully advocating for enhanced state responses to violence against women. Drawing on strong informal networks, women's civil society achieved a first success for women's security immediately after the genocide: the classification of the more obviously 'public' genocide- related sexual violence as among the most serious crimes of genocide in domestic legislation.

[70] E.g. Htun and Weldon, 'Progressive Policy Change', Htun and Weldon, *Logics of Gender Justice.*

Although Rwanda had signed the Genocide Convention, the crime of genocide had never been incorporated into Rwandan law. Therefore the post-war transitional government spent several years drafting legislation to provide the legal basis for trying genocide suspects.

In the early months of 1996 a draft genocide law was developed. It defined four categories of suspects of genocide-related crimes, based on the severity of their offenses. These ranged from category one for leaders of the genocide and notorious killers, subject to life imprisonment or the death penalty, to category four concerning those suspected of property damage.

In this context, nine female parliamentarians followed the call of Pro-femmes/ Réseau de femmes for a field visit. Accompanied by Médecins sans Frontières and Pro-femmes they travelled Kamonyi to hear the testimonies of the women who had been raped.[80] "And the women said: If this was your sister, and if this was your mother? To convince them that it was really very cruel. And if it was your daughter? And so the female parliamentarians went home to Kigali with ideas to convince the other parliamentarians, the men. And then we heard in the radio that the raped women were in the first category. We celebrated!"[81]

[77] Interview.
[78] Interview.
[79] Interview.
[80] Interviews.

Given this classification, war-time rape was not only featured among the most serious crimes of genocide but also among those violations that were subject to significantly higher penalties than domestic law had specified for the same crimes during peacetime: Before the 1996 Genocide Law, Article 360 of the Rwandan penal code of 1977 provided that rape is a crime punishable by 5 years imprisonment. By contrast, sexual violence during the genocide was now subject to the death penalty.

As we have seen, this leap was in large part the result advocacy by women's civil society. While many studies of feminist policy formation and feminist institutionalist accounts of democratic transition have emphasized the central role of this democratic institution, it contradicts expectations of those statebuilding scholars who emphasize the risks of "unleashing societal demands" in the early post-conflict period.[82] A precondition for successful civil society advocacy was a law-making process that was relatively open, transparent and accountable. After all, the women in Kamonyi would not have heard about the draft law had this not been announced and explained on the radio.

[81] Interview. On female parliamentarians pushing this through see also Women for Women International. *Women Taking a Lead*.
[82] Barnett, 'A Republican Peace', 89.

The women of Kamonyi subsequently also played a central role in establishing sexual violence as a genocide crime at the international level. From 1996, the International Criminal Tribunal for Rwanda (ICTR) tried the former mayor of Godelieve Mukasarasi's commune, Jean-Paul Akayesu, for genocide crimes. His indictment did not include charges for sexual violence. However, while testifying during his trial, one of the women from the community spontaneously mentioned that her daughter had been raped, prompting discussion of these crimes.

Mukasarari subsequently helped mobilize other sexual violence survivors from her commune to testify before the court. These women took considerable risks. Their decisions to provide testimony regardless enabled Akayesu's conviction in 1998, including on charges of sexual violence. The verdict provided the first international legal definition of rape and its establishment as a crime of genocide. The trial and its outcome also did much to bring international attention to sexual violence committed during the Rwandan genocide, which initially received scarce attention.[83] In this way, the nature of sexual violence in Rwanda and local women's mobilisation contributed to new global norms establishing rape as a weapon of war and genocide and focus on this phenomenon in Rwanda specifically.

4. From genocide-related to everyday violence: Moving women's security into the public sphere.

Following these first successes for women's security, women's civil society began to

[83] E.g. Lindsey Crider, 'Rape as a War Crime and Crime against Humanity: The Effect of Rape in Bosnia-Herzegovina and Rwanda on International Law', Paper prepared for Alabama Political Science Association Conference, Auburn University, 2012.

advocate for a public response to everyday violence against women.[84] Several transformations in the public-private divide increased their awareness, ability and resolve to do so.

First women's civil society played a key role in building on existing work, public discussion and international funding regarding conflict-related sexual violence to bring violence against women in general into the public sphere. For example, in 1998 the women's organizations AVEGA and Pro-Femmes received funding from the Canadian Cooperation to conduct a survey on violence against women perpetrated during the genocide.

However, they went on to significantly expand the scope of the study. As the final report explained: "The initial Project of this survey had to limit itself to violence suffered by women during the genocide but as the work progressed, it became necessary to speak about daily violence against thousands of women, in towns and villages country-wide."[85]

The final report thus included a separate chapter investigating violence against women perpetrated during peace time. The first recommendation to government derived from this research was "to institute a specific law on the repression of the crime of violence against women."[86] This is the earliest call for such legislation uncovered by this research.

AVEGA and Pro-femmes also made sure their recommendation would be known. Once the study was finalized they organized a meeting to discuss the findings and "invited politicians, the judges, doctors, all the decision-makers were there."[87]

[84] Interviews.
[85] Survey.
[86] AVEGA, 'Survey', 43.

Yet civil society also became increasingly aware of the need for such legislation as a result of rights women gained in other areas due to their new post-conflict responsibilities and mobilization. In particular, with men making up the majority of those killed and the population 70 % female after the genocide, women's rights to inherit property from husbands and fathers became a pressing challenge: It posed both a serious issue for the wellbeing of an extraordinary number of individual women who had lost their male relatives and for the future of the country, given that women had taken on new responsibilities to care for families and communities. These changes emboldened women to advocate for their rights to inheritance and contributed to an increasing societal acceptance of such provisions. [88]

At the same time, conflict added urgency to reforms to land and property ownership in general because large numbers of refugees returned to the country and sought to claim back land. Demands for women's rights could therefore feed into existing discussions and processes for reform. Advocacy by a joint force of female parliamentarians and women's strong post-conflict civil society ensured that these demands would be heard: By 1999, women were formally granted the right to inherit property from their spouses and fathers – and assigned co-ownership of all marital property.[90]

[87] Interview.
[88] See e.g. Berg, Horn and Patel, *Women's Inheritance and Property Rights*. Katrijn Vanhees, *Property Rights for Women in Rwanda: Access to land for women living in de facto unions,* Masterthesis Faculty of Law, University of Ghent, 2013, 2014.
[89] See UNDP, 'Rwanda's Parliament Now Leads World in Gender Parity', 2004, UNDP Newsroom.
[90] Succession Law, 1999.

Women's post-conflict 'public' roles and new formal rights also provided women with more opportunities to talk about violence against them. For example, women's groups found that when they discussed property rights with women in communities they often began to raise related issues of violence against them.[93] Combined with increased opportunities to publicly address genocide-related sexual violence, these reports helped motivate civil society to advocate for relevant legislation.[94]

In these ways, the strong women's civil society emerging from conflict built on conflict-induced shifts in the public-private division of labour to begin to reframe everyday violence against women as a 'public' issue and to advocate for its treatment as such.

[91] Interview. Jennie E. Burnet, 'Women Have Found Respect: Gender Quotas, Symbolic Representation and Female Empowerment in Rwanda', *Politics & Gender* 7 (3), 2011. Ministry of Gender and Family Promotion, *Violence Against Women,* Republic of Rwanda, 2004.
[92] Interview.
[93] Interview.
[94] Interview.

5. Drafting the post-conflict constitution: A 'watershed' for women's rights.

The post-conflict constitution-making process proved a critical juncture for ensuring women's civil society advocacy on violence against women would be heard in government institutions.

The drafting of a new constitution was a direct response to the preceding civil war. In fact, the Arusha Peace agreement had envisioned the development of a new constitution as a central measure for ending the conflict. [95] Following their victory in 1994, the RPF continued to understand a new constitution as a critical step to re-establish security[96], to "fight the ideology of genocide" and to "strengthen and promote national unity and reconciliation."[97]

In December 1999 a Legal and Constitutional Commission (LCC) was thus tasked with "the mission to prepare the draft-bill of the Constitution."[98] Its twelve commissioners were appointed by the Transitional National Assembly (TNA). They included eight members representing the officially registered political parties, one army and police representative, one member representing the private sector, and two civil society representatives. In the process of developing the document, the commissioners were tasked to "Search for, receive and collect thoughts given by the population."[99]

Officially declared in 2003, the final constitution has been described as "one of the most gender-sensitive in the world"[100] and a "major watershed"[101] for women's status in the

[95] Peace Agreement between the Government of the Republic of Rwanda and the Rwandese Patriotic Front. 24 B
[96] Priscilla Yachat Ankut, 'The Role of Constitution-building Processes in Democratization: Case Study Rwanda', International Institute for Democracy and Electoral Assistance, 2005.
[97] Preamble, Constitution of Rwanda.
[98] Legal and Constitutional Commission (LCC), Towards a Constitution for Rwanda, Action Plan 2002-2003.
[99] See LCC, Towards a Constitution.
[100] Berg et. al: *Women's Inheritance and Property Rights,* 8.
[101] Judith Kanakuze, 'Quotas in Practice: The Challenge of Implementation and Enforcement in Rwanda', A paper

post-conflict state. Among other gender-related provisions, its 'fundamental principles' include "equality between women and men, reflected by ensuring that women hold at least 30 % of the positions in decision-making bodies."[102] Article 76 specifically establishes that at least 24 of the 80 seats of the Chamber of Deputies, the lower house of parliament, are to be filled by women.[103]

As we will see, these provisions would provide a key stepping stone in translating civil society advocacy into state responses to violence against women. At least four factors were critical in securing them.

Democratic processes: Opportunities for citizens to voice their preferences.

First, opportunities for citizens to voice their preferences during the process were central in securing constitutional provisions for women's special representation in decision-making.

Citizens could participate in the constitution-making process by responding to a questionnaire circulated by the LCC; submitting a memorandum; or participating in district-level public meetings with Commissioners. [105] Observers concluded that this participatory approach allowed for significant input from women and women's organizations.[106]

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presented at the IDEA/EISA/SADC Parliamentary Forum Conference, Pretoria, 11-12 November 2003.
[102] Constitution, Article 9.
[103] Constitution, Article 76.

Importantly, while input through consultations provided ideas for women's special representation, their eventual inclusion would depend on the extent to which LCC members considered these pertinent. In addition, seizing participatory channels to successfully advocate for constitutional provisions on gender equality depended on advocates' ability to mobilize through women's civil society, to build informal alliances and to seize dominant political narratives.

Democratic institutions: The mobilization of women's civil society.

The strong women's civil society emerging from violent conflict was thus a second factor in securing gender-sensitive constitutional provisions.

Observers noted that "women groups in particular, saw the constitution making process as an opportunity to influence the national agenda."[110] For example, Réseau "de Femmes did research on the inclusion of women in decision-making. And after they did an evaluation of this inclusion [in Rwanda]."[111] Called the yellow and the green book, the final reports were used to advocate for measures for women's special representation in decision-making and shared through an informal working group of women's civil society leaders.

[110] Ankut, 'Constitution-building Processes', 14.
[111] Interview.

Pro-femmes consulted women at the grassroots throughout the country, disseminating information about the links between the constitution and gender equality; allowing participants to voice what they considered priorities for women; and encouraging women to participate in consultative fora on the constitution.[112] Similarly, "Réseau de Femme had members everywhere, in the entire country, in all the districts. And we have a lot of meetings at the level of each district and we talked about this. And each member was tasked with sharing this information further at the grassroots level."[113]

Through such grassroots consultations these women's organizations helped develop a broad base of support for constitutional commitments to women's political participation and representation. This constituency for gender equality provisions provided women's organizations with leverage when proposing measures to the LCC. With significant support backing their proposals they could argue that a constitution neglecting these provisions would be illegitimate and risked defeat in a referendum.[114]

'The informal': Networks with women in formal political institutions and with international organizations.

However, the influence of women's civil society depended on a third factor: networks with decision-makers in national and international organizations.

Close ties with the Ministry of Gender and, again, with women in the TNA[115] proved vital.

[112] Women for Women International, *Women Taking A Lead*. Powley, *Strengthening Governance.*
[113] Interview.
[114] Banks, 'Challenging Political Boundaries'.
[115] During the transitional period women had been appointed to 27.7 % of seats in the transitional national parliament.

Both institutions supported the process by sharing information about the draft with women's organizations throughout Rwanda. In addition, women in the TNA advised Pro-femmes on the most effective strategies for lobbying TNA representatives and the Ministry did so with a view to other members of the executive.[116] What is more, women in the TNA, the Ministry and Pro-Femmes submitted a joint memorandum to the LCC. Due to the LCC's 'grading system', this joint submission carried superior weight in the drafting process.[117]

Importantly, women's civil society could also draw on informal relations with an ally on the Constitutional Commission, gained in large part as a result of the history of women's organizing. Judith Kanakuze had worked in Duterembere and Réseau de Femme before being appointed to the LCC and therefore knew many of the women who were lobbying for gender equality provisions. She supported the joint Pro-Femmes-Ministry-FRRP memorandum and "her presence and support ensured that proposals airing on women's political participation would be raised during the LCC's deliberations."[118]

Women's civil society could also draw on international alliances. UNIFEM in particular facilitated local gender equality advocates' influence by sensitizing the LCC to Rwanda's obligation under the Convention on the Elimination of discrimination Against Women (CEDAW) through several workshops.[119] UNIFEM also provided funding for women's civil society grassroots consultations, advised Pro-femmes on effective advocacy strategies, and lobbied LCC members themselves, inter alia persuading the government to raise the percentage of women representatives during the 2002 National Convention to discuss the constitution from 6 to 22 %.

[116] Banks, 'Challenging Political Boundaries'.
[117] Ankut, 'Constitution-building Processes'.
[118] Ankut, 'Constitution-building Processes', Powley, *Strengthening Governance*.
[119] Ankut, 'Constitution-building Processes'.

While this international support itself reflected changed norms on women's public status, women's civil society also took direct inspiration from changes in the global normative framework on gender equality. Just one year after the end of the genocide the Fourth World Conference on Women took place in Beijing and a delegation of Rwandan women attended. According to several civil society representatives, this is where leaders of women's civil society, including Kanakuze herself, first learned about the idea of a 30 % quota for women in decision-making positions.[120]

'The informal': Dominant narratives

A final factor enabling women's civil society to effectively influence the constitution-making process was that they were able to frame women's access to decision-making as consistent with dominant political priorities and narratives. Conflict-induced transformation in the public-private divide proved particularly useful in this context.

The RPF had identified unity and reconciliation as the critical priority for reconstruction and public life. Divisionism and discrimination, seen as the root cause of the preceding war and genocide, were identified as the central obstacle to this goal.

Gender equality advocates accepted this narrative and highlighted that constitutional measures to counteract women's marginalization would contribute to these overall goals in several ways. First, they argued that as a result of women's new 'public' post-conflict responsibilities as heads of households and majority of the population the task of

[120] Interviews.

reconciliation and reconstruction could not be achieved without their participation.[122] Conversely, gender inequalities posed "a hindrance to economic growth, social well-being and social justice."[123]

Second, women used their association with the 'private' sphere to support this argument. Based on their new status of symbols of moderation given their lesser involvement in the preceding public violence, they argued that women had a special contribution to make to post-conflict governance. Given women's disproportionate suffering during the genocide due to their private roles as wives and mothers, reconciliation would involve giving them the enhanced public roles that would prevent the repetition of such suffering. As the Minister of Gender argued during a seminar on constitutional gender equality provisions, "Our country has seen cycles of varying discrimination levels whose climax was the 1994 genocide. Experience has shown that whenever any form of discrimination is practiced the main victims are women and girls regardless of which side they belong to. This is because of their position as second-class citizens in those institutions."[124]

Third, if discrimination was the cause of extreme public violence, discrimination against women should be considered a similarly pressing public issue. As the Minister for Gender argued during a seminar on the constitution, "our recent history has been characterized by institutionalised discrimination which was systematically constructed by the state through bad policies and laws. When you talk of discrimination based on ethnicity, region, religion almost everybody is in agreement, but when you point out gender-based discrimination, there is divided opinion and sometimes excuses. Allow me to make it loud and clear that all

[122] Ankut, 'The Role of Constitution-building', Banks, "Challenging Political Boundaries.
[123] Minister for Gender at IPU seminar, See conference report 'The process of Engendering a New Constitution for Rwanda', 20-22 June 2001, Kigali (Rwanda).
[124] See conference report 'Engendering a New Constitution'.

forms of discrimination are undesirable and must be eliminated at the earliest opportunity."[125]

In these ways, advocates were able to take advantage of the specific nature of existing public discourse to frame women's rights and participation as public issues – a key mechanism identified in several studies of feminist policy formation and feminist institutionalist accounts, including of democratic transition.While these areas of scholarship have not yet focused on conflict-affected contexts, Rwanda shows that the nature and intensity of conflict can in turn play critical roles in enabling these developments.

As we will begin to see in the next section, both constitutional provisions for women's special representation and the process of their creation were key in the subsequent development of state responses to violence against women, including the gender-based violence bill. As feminist institutionalists in particular might anticipate, the post-conflict constitution-making process thus provided a 'critical juncture' for increasing the extent to which the post-conflict state would respond to women's needs, including their physical security. In this way, in contrast to predictions emerging from dominant trends in literature on statebuilding, conflict helped increase women's security in the longer term by providing an opportunity for embedding women's enhanced status in the post-conflict institutional structure.

[125] Minister for Gender, see 'Engendering a New Constitution'.
[126] Banks, 'Challenging Political Boundaries'.

Further calling into question assumptions in this area of scholarship, democratic institutions and processes were vital in ensuring this opportunity was seized: As common findings and expectations in feminist studies of policy formation and institutions would lead us to expect, women's civil society and opportunities for citizens to voice their preferences were necessary to secure the constitutional provisions for women's representation, which would enable the development of legislation on domestic and sexual violence.

It is important to emphasize that it was precisely the fact that these democratic institutions and processes were in place *before* state bodies were 'institutionalized', that is when they could still be shaped, that made this gain for women's security possible. This reverses the common conclusion in research on post-conflict statebuilding that security/statebuilding 'success' requires 'Institutionalization before Liberalization'.

6. The 2003 elections: The most gender-equal parliament in the world.

Four months after the constitution was adopted one of the key effects of its gender-sensitive provisions became evident: In early October Rwanda's first post-conflict national elections propelled the country to the top of international rankings of women in parliament, with female candidates elected to 49 per cent of seats in the Chamber of Deputies.[127]

The prior achievement of constitutional provisions for reserved seats was critical in securing this outcome. After all, women were consequently *guaranteed* 30 per cent of seats in parliament.

However, additional factors must be taken into account to explain why female representatives significantly exceeded this quota. The strong women's civil society emerging from conflict again played a significant role in this context in two ways.

First, many women used their previous experience in civil society as a stepping-stone into parliament.[128] For example, as we have seen, Judith Kanakuze first headed the women's organizations Duterembere and Réseau de Femmes before joining the Constitutional Commission and then entering parliament as a women's candidate in 2003. Similarly, Bernadette Mukarutabana was elected to parliament as an RPF candidate in 2003 after working for several human rights organizations. In total, twelve members of Réseau de Femmes made it into parliament[130], accompanied by two women from Avega[131] and several lawyers who had previously worked with the legal rights organizations Haguruka.[132]

[127] IPU database, 2004.
[128] Powley, *Strengthening Governance*. Elizabeth Pearson, 'Demonstrating Legislative Leadership: The Introduction of Rwanda's Gender-Based Violence', the Initiative for Inclusive Security, April 2008.

Second, women's civil society conducted advocacy and awareness-raising activities to support women's role in governance. According to several observers "That's what made the difference." [133] Organizations like Pro-femmes were thus "lobbying the parties, educating the population, trying to get women to stand."[134] They also trained women candidates in how to campaign effectively. As the coordinator of one women's civil society explained, "It was all about contesting: How do you prepare a programme, in the five minutes that you are given before the audience, how do you tell your CV... how do you go and speak in front of an audience...maybe you go there and it's your first time speaking in public, how do you hold your microphone."[135]

Their advocacy could in turn build on conflict-related shifts in perceptions of women's appropriate public roles, a third key factor in explaining women's electoral success. In research conducted in Rwanda before and after the elections, both the general public and elected representatives consistently named these as a primary reason convincing both candidates and the electorate that women had a special contribution to make in parliament.

For example, during a series of interviews carried out at the time of the national elections local scholars, government officials, civil society activists and regular citizens repeatedly

[130] Interview.
[131] Women for Women international, *Women Taking A Lead.*
[132] Pearson, 'Legislative Leadership'.
[133] Telephone interview.
[134] Interviews.
[135] Interview.

argued that women's assumption of new 'public' responsibilities after the genocide and consequent contributions to reconstruction had convinced both women themselves and wider society that women 'deserved' a role in governance.[136]

Similarly, in interviews with 61 parliamentarians conducted in the year after the elections, "The respondents highlight that women's role in society and gender relations were fundamentally transformed after the genocide. Women assumed non-traditional social and economic roles, and took on new responsibilities, which forced them to think of themselves differently."[137] Civil society leaders interviewed for this study agreed that women's new roles after the genocide had facilitated women's entry into parliament because there was a new "confidence that women had in themselves (after) seeing what they can do as women to contribute to the rebuilding of the country."[138]

At the same time, women's 'private' roles during the genocide and consequently disproportionate suffering convinced many Rwandans that women had a special contribution to make to reconciliation and reconstruction – key public priorities of the new leadership. As the Executive Secretary of the National Election Commission argued, "women are peaceful. When you compare women and men, there is a big difference in this area. And when they are involved in decision-making structures, they have (more) tolerance."[139]

Similarly, interviewed after the elections, both female and male parliamentarians argued that women had suffered the most severe consequences of the genocide and therefore "women are more motivated to prevent conflicts, which makes them "better" than men at

[136] Powley, *Strengthening Governance.*
[137] Schwartz, *Women's Representation.*
[138] Interviews.
[139] Powley, 'Strengthening Governance', 16.

forgiveness, reconciliation and post-conflict peace building."[140]

Finally, a fourth factor, the ruling elite's openness for women's participation again helped translate these perceptions into real change. After all, women would not have exceeded the quota if the RPF and its political allies had not included a significant number of female candidates on their party lists.

In fact, interviewees suggested that most political parties that competed in the elections had informal party quotas for women in place. [141] In practice the RPF thus reportedly encouraged including 50 % women on most party lists, with women in the first position. Most other parties followed their lead.

As detailed in the next section, the elections and women's unprecedented numbers in parliament offered an opportunity for women to build on their new post-conflict roles by accessing otherwise male-dominated state institutions and to use this position to lead the development of formal measures against violence against women. In this way, in contrast to predictions emerging from dominant trends in the literature on statebuilding, democratic processes would help enhance the extent to which the post-conflict state would provide security for women. What is more, it was a democratic institution, women's civil society combined with transformations in the public-private divide caused by the preceding conflict and elite attitudes towards women's public status, which helped ensure that this opportunity could be seized.

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[140] Schwartz, *Women's Representation,* 35.
[141] Interview.
[142] Interview.
[143] Interview.

7. Establishing women's security as a state concern: The development of Rwanda's gender-based violence bill

Three years after the national elections, in 2006, Rwanda passed its first legislation on gender-based violence, which criminalized domestic violence.[144] Developed by the parliamentary women's caucus, the FFRP, the bill also addressed a major gap in the legislation on rape by offering a legal definition of this crime and outlawed the currently most common form of sexual violence against married women: spousal rape. In this way, the gender-based violence bill represents a critical step in the comprehensive responses to violence against women that are in place in Rwanda today.

Parliamentary resolve to develop legislation against gender-based violence

By 2005 the strategic plan of the FFRP included the development of legislation against gender-based violence as an urgent priority.[145] According to a representative who worked with the FFRP at the time, "they wouldn't even refer to it as legislation to combat gender-based violence or anti-gender-based violence, for [then FFRP president Judith Kanakuze] that was not enough: they used the word 'eradicate'. They were going to *eradicate* gender-based violence in the country."[146]

[144] 56 % of sexual violence against ever-married women, see NSIR, *Rwanda DHS 2014-2015.*
[145] Strategic Plan.

This resolve to outlaw gender-based violence had several sources. Interviewed during the development of the bill, Kanakuze herself linked it back to constitutional provisions on gender equality: She explained that the FFRP originally decided to create anti-GBV legislation in late 2004 as a result of province-level meetings to disseminate information about these constitutional articles. In this context women at the grassroots level used the space for discussion of women's rights opened up by these constitutional provisions to recommend that parliament outlaw gender-based violence, highlighting that even women in decision-making positions still suffered from domestic violence.[147]

While these experiences likely raised awareness and reinforced the determination of some parliamentarians, a second factor, the strong post-conflict women's civil society, likely played a more significant role in creating resolve to develop this law. As we have seen, in the context of public discussions of conflict-related sexual violence, AVEGA had recommended legislation on violence against women at least five years before the consultations around the new constitution. [148] Indeed, preparatory documents for the development of the anti-GBV bill reference the AVEGA report, suggesting that parliamentarians had taken note of early civil society work on this issue.[149]

Civil society raised such awareness and helped create resolve among female parliamentarians through two channels. First, as we have seen, many female MPs had a background in civil society. Judith Kanakuze, the driving force behind the development of the bill, for example, led a women's rights organization before entering parliament, while

[146] Interview.
[147] Pearson, 'Legislative Leadership'.
[148] AVEGA, 'Survey'.
[149] On file with author.

other MPs had a background working as lawyers with Haguruka. In this context, they had been exposed to issues of gender-based violence and the work by AVEGA. This explains why Kanakuze, for example, already raised the need to address gender-based violence before the constitution was even created. [150] Indeed, when parliamentarians were interviewed during the development of the anti-GBV bill, "Participation in civil society and exposure to the issue and problems of gender-based violence was frequently cited as a factor in prompting the development of the draft GVB bill."[151]

In addition, these links between women's civil society and female parliamentarians facilitated sustained advocacy by civil society on gender-based violence, a second channel of influence. In this context, the 2003 elections and consequent large number of female MPs played an important role as they significantly increased civil society's access to the policy-making process. In other institutions women's groups had relatively few points of contact as few women had attained leading positions. By contrast, as one civil society leader explained, "at the level of parliament, we always have connections because there are either women from Pro-femmes, from Haguruka or from other civil society organizations."[152] Explaining their advocacy on gender-based violence legislation, the coordinator of another civil society organization similarly recalled that "some of these women actually used to be members of Pro-femmes, others even worked for Pro-femmes or other civil society organizations so it's very easy to advocate for changes."[153]

As quantitative research during this period confirmed, among women MPs who considered the promotion of women's interests "very" important (97%), almost half (43 %) reported

[150] Kanakuze, 'Quotas in Practice'.
[151] Pearson 'Legislative Leadership'.
[152] Interview.
[153] Interview.

being in touch with women's organizations at least once a week. By contrast, only 5 % of male MPs who considered women's interests "very important" (60%) had this level of contact with women's civil society.[154]

These informal connections in parliament helped women's civil society raise gender-based violence. According to the Executive Secretary of Haguruka at the time, "mostly we used to lobby our women in parliament because some of them were coming from civil society."[155] They would go "one by one using our common relationship. We'd share a coffee [and tell them] there is this issue, there is that issue [...] and then they'd go into parliament and say 'there is this problem of GBV'."[156] Civil society would often invite government representatives to lead their activities and use the opportunity to have them witness their concerns and recommendations. As the coordinator of one women's civil society organization explained "if we [had] a training [on gender- based violence], we [would] invite a Minister to open and to close in order to get him to hear the recommendations [of the training]. Next time the Minister of Gender would be invited to open the Pro-Femmes annual conference and we would [debate] a topic in which we would also put recommendations. [...] The important thing is that we get finally what we need."[157] Civil society used similar strategies to involve parliamentarians.[158]

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[154] Schwartz, *Women's Representation.* See also Women for Women international, *Women Taking a Lead.*
[155] Interview.
[156] Interview.
[157] Interview.

Increased global commitments to gender equality reinforced advocacy by local civil society. The exceptionally large number of women propelled into parliament in the 2003 elections facilitated this effect: At a time when women's representation in parliament had just been elevated to an international development goal, "all donors wanted to be as at least giving *some* money to them.[159] Many of these funds supported study exchanges and attendance of international conferences.[161] For example, in March 2005, after the FFRP had resolved to create gender- based violence legislation, FFRP president Judith Kanakuze attended the Beijing Plus 10 conference in New York. In interviews conducted during the development of the gender- based violence bill, Kankuze emphasized that this conference had reinforced her resolve to tackle this issue.

[158] Interview.
[159] A target under the Millennium Development Goal (MDG) on gender equality. Interview.
[161] Interview.

The development of comprehensive legislation against gender-based violence

Several factors were critical in translating this resolve among some female parliamentarians into the development and introduction of a comprehensive draft bill on gender-based violence.

The ruling elite's openness towards women's rights was a first necessary condition for the development of the bill. A second necessary condition for the development of the bill was the capacity of female parliamentarians to seize the opportunity provided by Executive openness towards women's rights for the creation of comprehensive legislation against gender-based violence. Part of what enabled female parliamentarians to do so was a significant level of skill and experience many of them brought to parliament from previous civil society activity.

International donors were impressed, and surprised, by the capacity of female legislators. According to an international representative "everybody assumed that 'oh women MPs are elected to parliament, they don't know anything. They're uneducated. We have to help these poor feeble women with capacity-building programmes because otherwise they are going to fail and that will make [women] look bad.' That was the mind set in the development community at the time."[166]

Therefore, when the representative scheduled an appointment with the FFRP he "walked into the meeting with the mindset that of course this is going to be a completely useless meeting, where sure enough they sat down from all different backgrounds, collectively [...] and the meeting was *so* well-organized and they were very clear on what they wanted to do. [...] They had prepared everything in advance"[167], including a detailed proposal for the development of gender-based violence legislation. In fact this meeting left the representative so impressed

with the capacity of FFRP leaders that he "went back to the office and redesigned our work plan to pull all the money away from the various Commissions headed by men and diverted almost 80 % of the money to the FFRP."[168]

In addition to the skill of their leaders, an exceptionally high level of solidarity between female parliamentarians enabled them to take this initiative forward. In interviews with MPs conducted around the time of the creation of the gender-based violence bill, "Several interviewees spontaneously and openly declared that they put the promotion of women ahead of party politics. It was repeated in several of the interviews that the women acted as a unified lobby on gender issues."[169]

Quantitative research confirmed that only 54 per cent of female MPs considered the promotion of party interest "very important", compared with 83 % of male MPs. Observers of the development of the gender-based violence bill agreed that "there was really this identity that they were women parliamentarians and party was not talked about really at all."[170]

[164] Interview.

[166] Interview.

[167] Interview.

[168] Interview.

[169] Claire Delvin and Robert Elgie, 'The Effect of Increased Women's Representation in Parliament: The Case of Rwanda', *Parliamentary Affairs,* 61:2, 2008, 12.

[170] Telephone interview.

In part, this solidarity was likely a function of the institutional arrangements in the first place.[171]

The achievement of constitutional provisions for a quota system meant that the majority of women in parliament were not formally mandated to promote political party interest. Rather they were elected as women and party identification was secondary.[172]

Research conducted during the development of the bill confirmed that all women elected through the quota system considered the promotion of women's interests 'very important', while only 42 % of them would say the same about political party interests. In comparison, a slightly lower percentage (93 %) of women elected through party lists considered the promotion of women's interests very important, while, not surprisingly, a considerably larger share of them (64%) prioritized political party interests.[173]

[171] Telephone interview.
[172] Telephone interview.
[173] Schwartz, *Women's Representation.*

While the skill and solidarity of female parliamentarians combined with an openness in the Executive to make the drafting of gender-based violence legislation possible, the participatory approach adopted for the drafting process helps explain the comprehensive content of the final bill and therefore provided a third condition for the development of this piece of legislation.

Interviewed during the development of the bill, Judith Kanakuze explained that the FFRP had made a conscious choice to adopt participatory methods and that this strategy was inspired by her experience in the development of the 2003 Constitution.[176] Women parliamentarians thus received views of the population through numerous processes, including extensive consultations with civil society, a National Conference on gender-based violence in October 2005, and radio discussions. In addition, in October and November 2005, 76 out of 107 parliamentarians travelled to districts for conduct further consultations.

These consultations brought about several provisions that would make the bill so exceptionally comprehensive. Importantly, it was civil society and grassroots consultations which highlighted the significance of conjugal rape – an issue not criminalized in either Kenya or Uganda. According to the report female parliamentarians compiled following their consultations at district level, both being raped by one's spouse and being deprived of the right to decide on sexual relations with one's spouse were thus raised during the grassroots discussions.

[176] Kanakuze, cited in Pearson, 'Legislative Leadership'.

What is more, when an early draft of the bill failed to address conjugal rape, Pro-femmes, who considered the issue a priority, advocated for its inclusion and the final bill consequently took marital rape into consideration.[180]

While the consultations were proposed by the FFRP, international support helped make them possible and therefore represents a final factor in the development of the bill. UNDP provided funds for hiring the consultants, for developing several preparatory documents, to organize a national conference to gather inputs on the law and prepare consultations, and for vehicles, gas and lunch during the grass-root discussions. [181]

However it is important to emphasize that while international resources supported the development of the bill and thereby likely enhanced its quality, the process was by no means driven by international donors. In fact, ahead of their meeting with the UNDP representative, the FFRP had sent a proposal for the development of the bill and application for funding to all embassies in Kigali and never received a response. It required considerable personal commitment by an international representative to convince his team that this initiative was worth funding.[182]

The passage of the anti-gender based violence bill

In August 2006, Judith Kanakuze introduced the bill the FFRP had developed to the

[180] Interviews.
[181] Interview.
[182] Interview.

Chamber of Deputies. It met with opposition from some male parliamentarians. Specific points raised by these opponents included the severity of sentences, with critics arguing that these were excessively harsh. Opposition also focused on the issue of marital rape. Most critics based their opposition on a set of informal practices and norms: culture. They argued that violence against women, including marital rape, and some of its causes were tied up with Rwandan customs and its criminalization would therefore conflict with local traditions.

Two FFRP strategies help explain the passage of the bill despite such opposition. First, both before and during the debate, female parliamentarians reduced opposition by consciously manipulating the public-private divide, framing gender-based violence as a societal (public) rather than a 'women's' or 'cultural' (private) concern.

This involved working with men. For example, the FFRP made a conscious choice to have the bill introduced by four women and four men and divided responsibility for responding to criticisms among them. In addition, the male president of the Standing Committee on Gender and Family Promotion was tasked with supporting Kanakuze's introduction of the bill directly after her intervention. [190] The FFRP also engaged men throughout the consultative process, with men making up half of the parliamentarians participating in the grassroots consultations and even leading some of the groups.[191]

According to Judith Kanakuze, these strategies were designed to ensure gender-based violence was framed as a community issue, rather than a woman's issue.[192] The large number of women in parliament facilitated this because, as women parliamentarians reported, their increased number had notably improved relations with male parliamentarians.[193]

[190] Pearson, 'Legislative Leadership'.
[191] Pearson, 'Legislative Leadership'. Interview.

In addition, supporters of the bill emphasized the societal benefits of reducing gender-based violence. To support this framing, supporters urged their male colleagues to think of the law protecting their daughters and sisters, rather than only regulating relations between them and their wives.[196] They also stressed the societal costs of gender-based violence as "one of the major causes of poverty and economic misery," with one of the male co-sponsors, the head of the Commission on the Economy and Commerce, speaking to the economic costs of gender-based violence during the debate. The heads of the Security and Human Rights Commissions were also recruited to co-sponsor the bill, contributing to the perception that gender-based violence was a security, a human rights, and an economic, rather than purely a woman's, issue.

[192] Pearson, 'Legislative Leadership'.
[193] Schwartz, *Women's Representation.*
[196] See Pearson 2008.

Echoing strategies used in civil society, advocates further framed violence against women as 'public' by connecting it to sexual violence committed during the genocide. In this way, combating gender-based violence could be seen as a contribution to the public reconciliation agenda. This shows that the nature and intensity of conflict had helped shift a key variable identified by a number of feminist accounts of democratic transition and policy formation – public discourse – in ways that facilitated 'framing' women's specific security concerns as public and thereby helped enable the development of dedicated responses.[202]

Female parliamentarians further stressed the benefits all Rwandans could draw from the country's vanguard status in promoting women's rights in view of global norms – benefits which legislation against gender-based violence would further enhance. During her introduction of the law, Judith Kanakuze thus recalled her attendance of the Beijing Plus 10 conference where "Rwanda was appreciated for its gender policy that resulted [in] having many women in decision making instances and the initiative to draft a law that prevent, protect and punish gender based violence."

[202] For research highlighting this variable see e.g. Waylen, *Engendering Transition.* Johnson, 'Domestic Violence Politics in Post-Soviet States'.

Finally, the participatory drafting process became a critical tool in representing the initiative as a response to the demands of Rwandan society rather than the interest of elite women in Kigali. Interviewed at the time, parliamentarians argued that the grassroots consultations had significantly strengthened the legitimacy of the bill: "we figured that, probably, we as speakers, as activist, were not convincing enough until we went back to the grassroots to talk to the people, for them to say in their own words and talk to the policymakers."[204] Kanakuze thus began introducing the bill by recounting the extensive consultative process in the course of which "We have realized the whole society agrees that gender based violence is a society problem."

During the subsequent discussion supporters also frequently referred to comments made during the consultations to defend the bill. For example, female parliamentarians were able to respond to criticism of the 'harsh' sentences envisioned by pointing out that these were weaker than those proposed during the consultations, where, for example "parents suggested that for those who will be convicted for raping children to be sentenced to face death penalty." Taken together these arguments helped frame violence against women as a 'public' issue and, in this way, likely helped sway opposition to the initiative both before and after the parliamentary debate. These strategies show that interpretations of what constitutes 'culture' are not only multiple but also subject to conscious manipulation and re-framing by advocates of specific policy outcomes.

[203] Pearson 'Taking Legislative Leadership'.
[204] Pearson 'Legislative Leadership', 32.

8. Implementation of gender-based violence legislation

As we have seen, Rwanda is not only remarkable for its comprehensive legislation against genocide-related and everyday violence against women, but also for the determination and relative effectiveness with which these formal measures have been put into practice. Several factors explain Rwanda's positive track record in implementation.

'The informal': Elite views of women's rights as a public priority

The first of these is the RPF's commitment to women's rights as a public priority. Asked about key reasons why implementation of gender-based violence legislation has been successful in Rwanda, local civil society as well as international donors and experts thus consistently mentioned 'political will' among the RPF as a primary reason[210]: "The first explanation is that the government really understands."[211]

Many organizations highlighted the president's personal commitment, the fact that "Paul Kagame is the one actually promoting that,"[212] as a particular asset in implementation. Indeed the president has routinely and publicly expressed his conviction that "it requires more than words to protect women and girls from violence. Perpetrators must be held accountable and those who protect them must be shamed."[213] He has thus personally called on security forces within and beyond Rwanda to implement anti-GBV policies and thereby "to turn the theory into practice, now and for the rest of your careers. You have no higher

[210] Interviews.
[211] Interview.
[212] Interview.
[213] At anti-GBV training exercise for African security forces hosted in Kigali. See Eugene Kwimbuka, 'Hold GBV perpetrators to account', *New Times Rwanda*, August 19, 2015.

calling."[214] In this context, it is not surprising that police officers, asked about their priorities, point to "First the problem of rape; next domestic violence."[215]

Kagame's personal commitment has directly impacted implementation because he at times personally intervened to accelerate progress. For example, civil society reported that during a recent leadership retreat where "the president himself called everyone, all the leaders [...] to look at the priorities and what didn't work [...] he said himself: 'I will see you next year and you will have put in place responses to gender-based and sexual violence. You absolutely need to find solutions to GBV."[216]

Democratic institution and processes: Civil society contribution to implementation

In addition to directly accelerating progress, political will at the top has created an enabling environment for relevant civil society activities, as second factor behind strong implementation. As one organization explained with reference to the recent leadership congress, "it is now very easy to work on these issues because even the authorities know that last year he asked...and he doesn't like to ask a second time, he gets upset."[217]

As soon as the anti-GBV bill was passed, Haguruka, Pro-femmes and other organizations thus began to raise awareness of provisions and available services throughout the country.[218] In this context they could build on relatively high levels of awareness resulting from the participatory nature of the law-making process itself. Interviewed during the development of the bill, lawmakers stressed that the consultations had been a conscious strategy to sensitize the population.

[214] See Kwimbuka, 'Hold GBV perpetrators to account'.
[215] Police officers cited in Baker, 'Reconstructing a Policing System', 349.
[216] Interview.
[217] Interview.
[218] Interviews.

In fact, Judith Kanakuze suggested that following the consultations and discussions many people assumed that a law against gender-based violence was already in place.[219] Consequently, while "women didn't know it was a crime [previously], because of radio talk shows and other awareness-raising activities, they now know that it is a crime [...] and they know where to report such cases."[220] This contributes to the high number of cases investigated and sentenced in the courts.

Women's civil society also directly supported women's access to available state services. For example, Haguruka provided legal advice to victims of gender-based violence at their own offices and trained 460 paralegals throughout the country. [221] AVEGA in turn supported women seeking justice for genocide-related sexual violence by helping them collect evidence and accompanying them to trial.[222]

Importantly, women's civil society also continued to advocate for laws and policies that would help implement key legal achievements discussed in this chapter. They thus participated in at least three sets of consultations on the gender-based violence policy that helps implement legislation.[223] What is more, they successfully advocated for new safeguards for rape victims in the transitional justice process during 2001 revisions to the genocide law, which would encourage a greater number of victims to come forward.[224]

[219] Pearson, 'Legislative Leadership', 34.
[220] Interview.
[221] Interviews.
[222] Interview.
[223] Interview.
[224] Interviews.

Relative weakness of the security sector: A disciplined new force and community policing

Interviewees more often highlighted the post-conflict weakness rather than strength of the security sector's resources as facilitating implementation by encouraging a high level of community involvement in policing and enabling the creation of a disciplined police force.

Following civil war and genocide, the leadership needed to "reconstruct [...] a policing system out of the ashes."[251] As a UNDP report concluded in 1995: "The material resources available to both [police] forces have been almost totally destroyed during the civil strife. In terms of both quality and quantity, the human resources available to these agencies do not suffice to meet even basic requirements."[252] According to one observer, "it was closer to the clean slate than perhaps any other African post-conflict state."[253]

And yet the Rwandan security sector has also been more effective at providing security for women than perhaps any other African post-conflict state. This was in part precisely *because* of its post-conflict lack of resources – which tends to be understood as a lack of post-conflict 'capacity' in research on post-conflict statebuilding. The complete destruction of the security sector's capacity thus facilitated the development of a disciplined new police force. While other post-conflict states have struggled with corrupt, undisciplined and disloyal elements of the security sector inherited from previous regimes, "Reconstruction was easier in one sense in Rwanda, since there the former police force had been swept into the Congo forests and beyond. It offered the opportunity of a clean slate to reform the state police and to introduce a version of popular justice that fitted into already existing community structures."[254]

President Kagame seized this opportunity to construct a police force which is "generally, respected by the population for its discipline and lack of bribe taking to a degree that is very unusual in Africa."[255] When taking power, Kagame and his regime made abundantly clear that any officer who would bring shame on the regime would be sacked immediately.

[251] Baker, 'Reconstructing a Policing System'.
[252] UNDP 1995 cited in Baker, 'Reconstructing a Policing System'.
[253] Baker, 'Reconstructing a Policing System'.
[254] Bruce Baker, 'Conflict and African Policing Culture: The Cases of Uganda, Rwanda, Sierra Leone' in Megan O'Neil, Monique Marks and Anne-Marie Singh (eds), *Police Occupational Culture: New Debates and Directions* (Oxford Elsevier Science, 2007) , 6. Baker, 'Reconstructing a Policing system', 351.
[255] Baker, 'Conflict and African Police Culture', 12.

In combination with the ruling elite's determination to fight gender-based violence such discipline would make implementation of gender-based violence policies more effective.

In addition, the post-conflict lack of formal capacity facilitated effective responses to women's security by incentivising the development of community policing. Given continued resource constraints[256], police officers admit that "we can't do anything without the community."[257] Therefore Rwanda chose to include the participation of local people in protecting the population, serving alongside and in partnership with the formal police. [258] This solution was facilitated by the rebel experience of popular participation in security and justice – and hence the outcome of the war.[259]

The so-called 'community police' is selected by other community members, does not carry guns and is not paid. There are about 10 such community police per 150 people. Consequently, "In Rwanda the police are rarely seen beyond the tarmac road unless they are called to a serious incident."[261] Precisely this relative absence of the state security sector and consequent community policing model has been credited with progress in implementation of gender-based violence policies. This is because community policing encourages reporting in two ways.

First, as a UN Women best practice report on anti-GBV responses in Rwanda, explains, such "Interaction between police and communities have enhanced the trust of community members in the police, [the lack of which] is one of the reasons why GBV cases remain

[256] Baker, 'Reconstructing a Policing System'.
[257] Police officer cited in Baker, 'Reconstructing a Policing System'.
[258] See Bruce Baker, 'Post-War Policing by Communities in Sierra Leone, Liberia, and Rwanda', *Democracy and Security,* 3:2, 2007. See also Baker, 'Reconstructing a Policing System'.
[259] Baker, 'Conflict and African Police Culture', 6.
[261] Baker, 'Post-War Policing'.

unreported […]" [262] Representatives of government similarly highlighted that "they are there in the communities, they are close to the victims [and so] the victims can confide in them [...] It's clear that [the contribution of community policing] is positive."[263]

In addition, as UN Women concludes, "the establishment of community policing committees ensures that information on GBV is passed on and exchanged between communities and police."[264]

In sum, in contrast to the focus on state 'capacity' as material resources in much of the literature on post-conflict statebuilding Rwanda shows that effective implementation of gender-based violence policies is possible even in the context of limited resources when there is will, discipline, and an emphasis on mobilization of the population.

This suggests that statebuilding scholars' common focus on aggregate resources (such as per capita electricity consumption or GDP per capita) can be misleading indicators of the 'capacity' of a state. From the perspective of women in particular, the quality of institutions, their prioririties and importantly, their relationships with society, can be as or more important than material resources in shaping the capacity of states to respond to their concerns. State capacity is then not purely technical but shaped by historical legacies, political priorities and processes.

[262] UNIFEM, 'Rwanda National Police Gender Desk'.
[263] Interview.
[264] UNIFEM, 'Rwanda National Police Gender Desk'.

'The informal': Global and societal views of the public-private divide

Finally, it would be impossible to explain implementation of state responses to violence against women without taking into account further informal norms and practices: In addition to elite attitudes, views of the public-private divide at global and societal levels have influenced the relative success of implementation in Rwanda.

At a global level, norms have changed to firmly establish violence against women as a public issue of international concern and a consequent global commitment to addressing women's insecurities, particularly in post- conflict countries.[265] Therefore international donors have dedicated significant resources to supporting the fight against gender-based violence in Rwanda.

For example, the creation of gender desks in the Rwandan Defence Force as well as the gender desks in the National Police and their elevation to an anti-GBV Directorate was made possible through financial resources provided by a UN programme on *Enhancing the Protection from Gender Based Violence.* The Dutch development cooperation and the same UN programme have similarly supported the establishment and reinforcement of the Isange One-Stop Centers. This programme in turn reflects global commitments, namely one of the global pillars of UN Women activity and its commitment to the implementation of UN Security Council Resolution 1325.[266]

However, it is important to emphasize that such funding accelerated, rather than drove, state responses to violence against women in Rwanda. The country does thus not receive more funding for responses to gender-based violence than other countries, whose responses

[265] As demonstrated in a host of Security Council resolutions on women, peace and security and relevant Action Plans following the adoption of UNSCR 1325 in 2000.
[266] Interview.

are significantly more limited. According to UN Women, it is the 'political will' of the Rwandan government that explains why international funding has gone further here than elsewhere.[267]

Conflict-related disruptions in the public-private division of roles between men and women have certainly helped counteract norms constructing women's concerns as 'private' at national level. In particular, the rights women were granted to inherit and co-own marital property shortly after the genocide (in response to conflict-related, gendered demographic shifts and women's new responsibilities) have increased women's decision-making power within households and made it more practically feasible to leave abusive husbands. [271] In this way, these shifts have also facilitated reporting of violence against women.

[267] Interview.

Taken together these factors behind strong implementation shed further doubt on some key ingredients for success proposed by common findings in scholarship on post-conflict statebuilding. After all, the strongest responses to violence against women have been implemented by one of the 'weakest' security sectors in East Africa, numerically and financially speaking. What is more, it appears that precisely this weakness has in some ways been an asset for women's security in that it facilitated the (re-)construction of a police force more responsive to women's needs.

In addition, implementation points to the central importance of 'the informal', including global and local norms about the status of women's security concerns, as a critical factor in the extent to which states provide security for women. This means that the dominant focus on formal institutions in many studies of statebuilding is a key weakness from the perspective of women living in post-conflict environments.

[270] Interview.
[271] Vanhees, *Property Rights for Women in Rwanda.*

9. Conclusion

In conclusion, Rwanda has become successful in providing security for women because its legacies of 'intense' conflict and low levels of post-conflict 'capacity' provided particular opportunities to re-define the public-private divide and thereby construct violence against women as a public issue. In light of the leadership support, a combination of informal processes helped seize these openings.

These effects of legacies of conflict, state 'capacity and informal norms and practices on statebuilding 'success' for women were often different or inverse from what dominant trends in statebuilding scholarship would lead us to anticipate. An examination of the development of Rwanda's strong responses to violence against women therefore suggest that literature on post-conflict statebuilding may not 'work' for men and women equally.

Legacies of conflict

The case of Rwanda thus shows that, for women, the relationship between deadly conflict and statebuilding 'success' can be more complex than studies of post-conflict statebuilding would predict.

"One of history's most intensely violent acts"[289], the Rwandan civil war certainly shattered the state's capacity to protect women's security in the short to medium term, as common observations in research of statebuilding would lead us to anticipate.

However, in a reversal of expectations emerging from dominant trends in this literature, the

[289] Jones, *Peacemaking in Rwanda,* 1-2.

experience of exceptionally severe insecurity also contributed to the country's exceptional success in providing security for women in the longer term. This occurred through two mechanisms.

First, in several ways, conflict changed norms defining the public-private divide, including women's positions in relation to this division. All of these shifts resulted from men and women's distinct experiences of conflict due to the historic public-private division of labour between them – a factor studies of post-conflict statebuilding tend to neglect.

As men were the majority of those fighting, displaced and killed, conflict forced women to take on new tasks previously performed by male relatives. In other words, as central insights of feminist political economy might lead us to anticipate, the extremely 'intense' Rwandan civil war shifted the public-private division of labour between men and women. These new roles strengthened women's demands for state responses to their specific concerns in the post-conflict period as well as a key advocate for women's security identified by many scholars of feminist policy formation: women's civil society.

Yet, the highly 'intense' Rwandan civil war also helped advance state responses to women's security by leading to more complex transformations in the public-private divide. The widespread 'public' sexual violence perpetrated by state actors during the Rwandan civil war paradoxically facilitated state responses to women's security in the

longer term by helping civil society to re-define all violence against women from a 'private' into a public issue.

In addition, the experience of extreme public violence during the civil war led to an increasingly positive perception of values associated with the private sphere. As a result it was at times precisely because of women's continued association with the private sphere that they were able to exercise increased public influence, including on the development of state responses to violence against women.

Finally, the extreme violence experienced in Rwanda facilitated improved responses to violence against women because it led to a new public emphasis on the need to end discrimination, perceived as the main source of the civil war and genocide. In the post-conflict period, advocates were able to leverage this new narrative to 'frame' discrimination against women as a part of this public priority, including during the constitution-making process.

Several of these shifts, then, were possible because the experience of extremely 'intense' conflict in Rwanda changed a variable identified in many studies of feminist policy formation and institutionalism – but neglected in most 'problem-solving' research providing lessons for 'success' in post-conflict statebuilding: public discourse and the extent to which this provides opportunities to re-define women's specific concerns from private into public issues. In particular, Rwanda's conflict led to a new emphasis on sexual violence, peace and reconciliation, and discrimination. These narratives emerged from a combination of the intensity and the *nature* of the violence, marked by high levels of sexual violence and driven by exclusion.

In addition to these normative shifts, the experience of conflict also facilitated the development of Rwanda's comprehensive state responses to violence against women through a second mechanism: by leading to significant institutional reforms in the post-conflict period. These provided opportunities to 'institutionalize' women's enhanced post-conflict status.

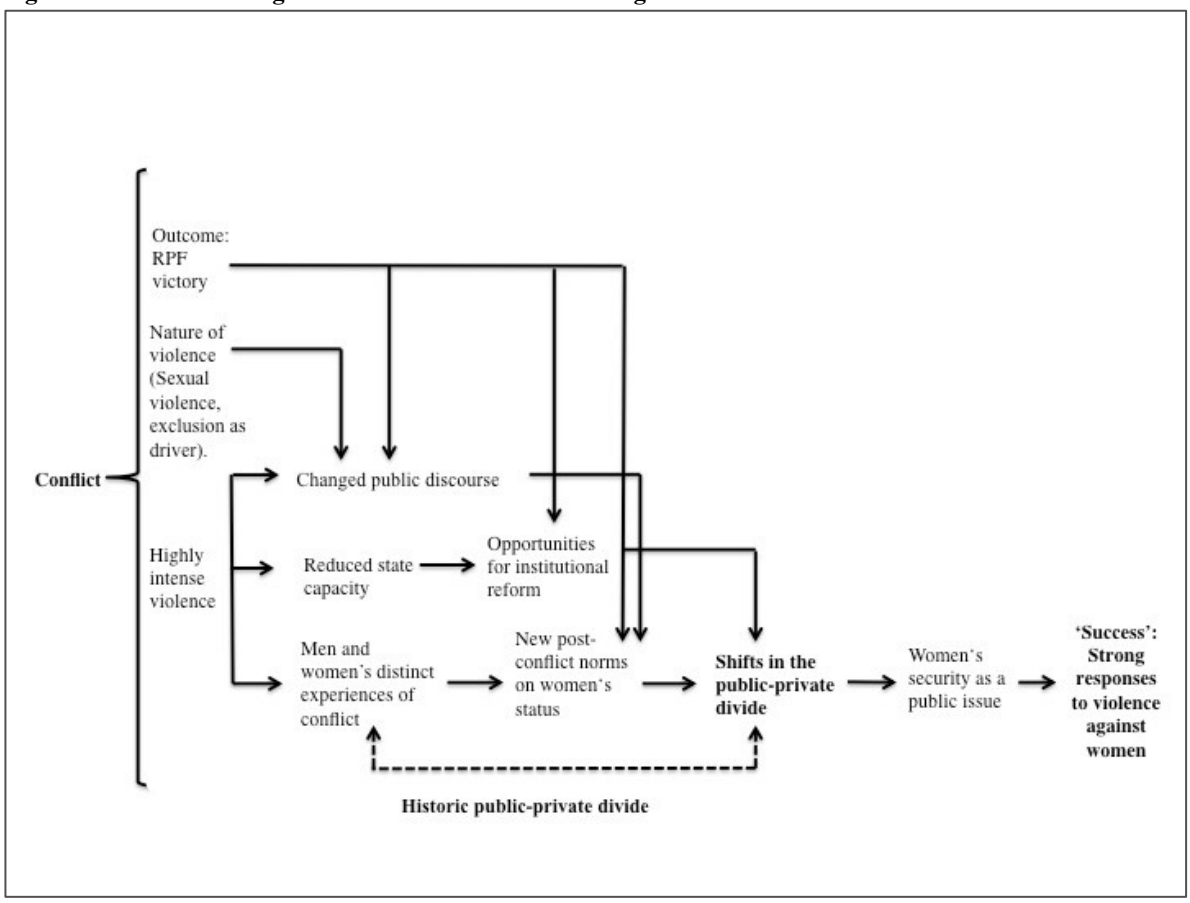
In particular, as we have seen, civil war led to the creation of a new constitution, which opened up a critical window of opportunity for embedding women's new public roles into the emerging post-conflict institutional framework and proved a 'watershed' for women's rights, including to physical security. In addition the destructiveness of conflict required a complete overhaul of Rwanda's security sector. This provided an opportunity to (re-)build security institutions that were more responsive to women's concerns.

However, these effects of conflict were in part conditional on the outcome of conflict. Rather than military victory as such - the outcome commonly emphasized in scholarship on post-conflict statebuilding - it was the nature of the victor that facilitated statebuilding 'success' for women: Victory of a rebel group raised in exile in Uganda.

Rebel victory led to profound transformations in the nature of the state in the post-conflict period and hence more significant institutional reforms than could be expected following a government victory. These extensive reforms provided particular openings for enhancing women's status in the post-conflict period.

All of these effects of conflict on statebuilding 'success' for women are ultimately due to the effect of conflict on a factor neglected in the literature on post-conflict statebuilding: the division of society into a public sphere and a private realm lying beyond the 'proper' concerns of the state, to which women's specific concerns have traditionally been assigned. As a result of this division, in contrast to responses to political armed violence, the development of responses to women's specific security concerns requires a re-definition of what is public and what is private. It is because the intense Rwandan civil war facilitated this re-definition through normative and institutional change that it exercised positive effects on Rwandese women's status in the longer term. Figure V.1 summarizes these connections.

Figure V. 1. Effects of legacies of conflict on statebuilding 'success' for women in Rwanda.



Institutionalization before Liberalization.

As we have seen, democratic institutions and processes were critical in ensuring these post-conflict opportunities for women's security were seized. As scholars of feminist policy formation would anticipate, the strong women's civil society emerging from conflict and pre-genocide political liberalization was thus a key actor in advancing the chain of events leading to comprehensive responses to violence against women, including the 1996 categorization of sexual violence as among the most serious crimes of genocide and the

development of the anti-gender based violence bill a decade later. Due to its location between the public and private spheres, civil society proved more open for women's leadership and participation than political parties or state institutions.

Opportunities for citizens to voice their preferences, including during the constitution-making process, the 2003 elections and the development of the gender-based violence bill, were in turn critical in allowing women's civil society groups to play this role by providing them with access to the policy-making process. Women's civil society also helped propel a large number of women into Rwanda's legislature, which was more accessible for women than positions in the Executive which required greater experience and networks, including in the military. The relative strength of the legislature subsequently helped translate civil society advocacy into legislation against violence against women by empowering female parliamentarians to develop the country's legislation on gender-based violence.

While numerous scholars of statebuilding have emphasized that democracy "poses risks during transition"[290] and "increases the likelihood of renewed violence"[291], Rwanda's experience shows that democratic processes and institutions can also provide immense opportunities during transition to reduce the likelihood of violence against women.

State 'capacity'

The development of state responses to women's security in Rwanda also challenges the common emphasis on the risks posed by weak post-conflict 'capacity', often understood as material resources, in studies of post-conflict statebuilding. As we have seen, in terms of the level of destruction of state institutions including the security sector after the genocide,

Rwanda "was closer to the clean slate than perhaps any other African post-conflict state."[293] Yet Rwanda has also seen exceptional success in providing security for women.

In part, the security sector successfully implemented responses to women's security *despite* its relative weakness in material terms due to the high political priority placed on tackling violence against women.

However, as we have seen, observers suggest that this success was possible precisely *because* of this weakness of the formal security sector in terms of material resources. This weakness provided particular opportunities to (re-)build a more disciplined and trusted police force capable of responding to violence against women and encouraged significant involvement of the population in policing, which in turn helped detect and respond to violence against women.

While many scholars of statebuilding have supported calls to sequence 'Institutionalization before Liberalization'[294] because "liberalization prior to institutionalisation can unleash societal demands before the state has developed the institutional capacity to channel, organize and respond to those demands"[295], state responses to women's security in Rwanda advanced repeatedly precisely because democratic processes were in place and societal demands heard *before* institutions were consolidated, that is, due to elements of political liberalization before institutionalization. These opportunities for citizens to voice their

[293] See Bruce Baker, 'Reconstructing a Policing System', 346.
[294] Paris, *At War's End*.
[295] Barnett, 'a Republican Peace', 89.

preferences allowed women to voice their priorities during critical junctures of post-conflict institutional reform, ensuring that the emerging state structures would respond to their concerns.

It is the relationship between state 'capacity' and the public private divide that best explains why predictions emerging from relevant trends in literature on statebuilding do not account for statebuilding 'success' for women in Rwanda. State 'capacity' is only brought to bear on those issues considered 'public' priorities. Therefore, the extent to which state 'capacity' is used to respond to women's concerns depends on the public-private divide: the extent to which women's security concerns are considered public issues.

The priority placed on violence against women as a key state concern by the Rwandan elite therefore helped compensate for limited state capacity. What is more, the post-conflict weakness of state institutions helped re-define the public-private divide and thereby establish more extensive responsive to women's security: First, by facilitating extensive institutional reforms and second, by encouraging the mobilization of society to compensate for institutional weakness, thereby dissolving the public private divide.

The 'informal' and the public-private divide.

As we have seen, a set of informal practices and norms reflecting the public-private divide played a vital role in mediating the effects of legacies of conflict, democratization and state capacity in advancing women's security in Rwanda. This calls into question whether the dominant focus on formal institutions - and common neglect of interactions between local factors and political systems[296] - in many studies offering general recommendations for 'successful' statebuilding work for men and women equally.[297]

The relative openness of the RPF to enhancing women's public status was thus a necessary condition for several successes in women's civil society advocacy for women's security and helps explain the relative success of this advocacy.

In addition informal networks among women's civil society and between these groups and allies in others spheres - that is, the extent to which women themselves considered their shared experiences as women as a key public identity - helped ensure the success of women's advocacy. Importantly, women were often able to build these networks across societal divides.

[296] For a critique of this trend see e.g. Chesterman et al., 'Conclusion: the future of statebuilding' in Chesterman et al. *Making States Work.*
[297] For further discussion and exceptions see Chapter II section 4.

These bridges emerged as equally – or more – important than the numbers of female parliamentarians and civil society organizations, variables often emphasized in studies on gender and politics, and especially quantitative work, including on the formation of gender equality policies.[298] Many of the skills, connections, and organizations that allowed women's groups to build this level of unity and operate effectively were acquired during previous, pre-conflict periods of civil society organizing.

While these processes add weight to many 'critical' peacebuilding scholars' emphasis on local 'culture', developments in Rwanda also suggest that the common portrayal of "the local"[301] in critical peacebuilding scholarship can be somewhat misleading. A focus on the development of state responses to women's security in Rwanda thus highlights that there are multiple interpretations of 'culture' and the 'local' and that these are subject to conscious manipulation based on strategic interests. Key steps in this process thus involved civil society advocates and parliamentarians strategically re-framing what is 'cultural' and what is an area of public concern where women have formal rights that the state should uniformly uphold. This shows that the 'local' is just as socially constructed and reflective of power relationships as the global peacebuilding norms that critical scholars often criticize on this basis.

[298] Studies focusing on numbers of organisations to indicate the strength of women's organizing include, for example, S. Weldon, 'Women's Movements, Identity Politics and Policy Impact: A Study of Policies on Violence against Women in the 50 United States'. Lane Kenworthy and Melissa Malami, 'Gender Inequality in Political Representation: A Worldwide Comparative Analysis', *Social Forces* 78: 235–69, 1999. S. Laurel Weldon, 'The dimensions of policy impact of feminist civil society: democratic policymaking on violence against women in the fifty U.S. states' *International Feminist Journal of Politics,* 6:1, 2004. Htun and Weldon e.g. also assess the impact of (the number of) female parliamentarians on different gender equality policies, including on violence against women, finding a small and largely insignificant effect in this area. Htun and Weldon, *Gender Justice.* Htun and Weldon, 'Progressive Policy Change'.
[299] Berdal, *Building Peace After War*, 177.
[300] E.g. Roland Paris, *At War's End,* 50.

Global norms - and especially the increased consideration of women's rights as public issues at the global level and consequent increases in the global (or Western) commitment to advancing gender equality across the world - also played a significant role in accelerating changes underway in Rwanda. These global commitments were particularly influential in Rwanda because the Rwandan civil war provided opportunities to re-define the public-private divide and embed new global gender equality norms into the emerging institutional framework, including through the constitution-making process; the vanguard status in women's political representation and consequent international attention Rwanda would soon achieve; and relatively high levels of international aid. However, perhaps even more significant than global norms on gender equality was a process of regional diffusion: The extent to which their previous experience in Uganda shaped RPF openness for advancing women's status, which, as we have seen, served as a key condition for many of the steps leading to Rwanda's comprehensive responses to women's security.

[301] Richmond and Franks, *Liberal Peace Transitions,* 33.

While feminist scholars of policy formation, including in the area of violence against women, commonly anticipate the critical importance of global norms, the case of Rwanda shows that the high vulnerability of post-conflict contexts to these norms can change not only the degree but also the nature of their influence. As we have seen, global norms in Rwanda thus led to self-fulfilling prophecies: Global expectations about the gender equality impact of a large number of female parliamentarians increased funding to the women's caucus, which helped female parliamentarians exercise the expected gender equality impact.

The relative neglect of the causal effects of changing global norms as central explanatory factors in many studies of post-conflict statebuilding 'success' emerges as an oversight from this perspective.[302] However, the development of state responses to violence against women in Rwanda also shows that norms influence local conditions in interaction with the choices of local actors. Advocates for women's security concerns as well as Rwanda's ruling elite thus consciously used global norms to advance their agendas. This calls into question many critical statebuilding scholars' emphasis on the top- down imposition of global standards in the context of post-conflict peacebuilding.[303]

[302] See further chapter II, section 4. E.g. Collier et al. 'Post-conflict risks'. Stedman et al., *Ending Civil Wars* draw attention to international resources in explaining relative success, and argue that the availability of resources is primarily the result of a great power having security interests in the region, rather than global norms. Doyle and Sambanis, *Making War and Building Peace.* Mason et al. 'When Civil Wars Recur'. Quinn et al. 'Sustaining the peace'.

[303] Leading some to draw parallels with imperialism and colonialism. For a review and critique of this trend see e.g. Roland Paris, 'Critiques of the Liberal Peace' in Susanna Campbell, David Chandler and Meera Sabaratnam, *A Liberal Peace? The problems and Pracices of Peacebuilding* (London: Zed Books, 2011).

VI. The development of state responses to violence against women in post-conflict Uganda

This chapter traces the development of more limited state responses to violence against women in post-conflict Uganda. It shows that several 'success factors' identified in Rwanda also contributed to progress in this area in Uganda. However, Uganda ultimately became less successful in providing security for women than Rwanda because its legacies of less 'intense' conflict, higher levels of post-conflict capacity and political processes provided fewer opportunities to re-define the public-private divide and thereby establish violence against women as a public issue. Common findings in scholarship of post-conflict statebuilding do not adequately explain this outcome. Contrary to expectations emerging from dominant trends in this literature:

1. As in Rwanda, the experience of deadly conflict helped increase women's security in the longer term by providing opportunities to re-define the public-private divide. However, because the Ugandan Bush War was less intense than its Rwandan counterpart, these effects were less extensive and less transformational.

2. While these effects of conflict were mediated by conflict outcome, as in Rwanda it was not military victory as such but the nature of the victor that supported statebuilding 'successes' for women.

3. Democratic institutions – and space for women's autonomous mobilizing in particular - played a central role in ensuring these post-conflict opportunities were seized to enhance women's status.

4. As in Rwanda, it was precisely the active participation of a vibrant civil society during moments of institutional flux, rather than stability (elements of political 'Liberalization before Institutionalization') that helped ensure statebuilding 'successes' for women.

5. Uganda developed less extensive responses women's security concerns not only despite but also in some ways because of its higher levels of 'capacity'.

6. Informal practices, norms and sources of authority (including elite views of women's public status and societal divisions shaping these) played a critical role in mediating these relationships.

7. While early opportunities for citizens to voice their preferences were key in advancing state responses to women's security concerns, democratization in the longer term also exercised detrimental effects on women's status. This occurred through two processes identified by statebuilding scholars: The politicization of societal dividing lines and conflictual shifts in power. However, these processes affected state responses to women's concerns in distinct ways. This confirms that relationships between democratic processes and responses to women's specific security concerns can be more complex than studies of feminist policy formation tend to expect.

This chapter will highlight these connections by analyzing key turning points in the development of state responses to violence against women in Uganda. It first assesses the significant, if more limited, impact of conflict on the distribution of labour between men and women in Uganda. It then assesses the proliferation of women's groups under the post-conflict NRM government, their early successes in shaping transitional institutions and in seizing an important post-conflict opening for enhancing women's status: the constitution-making process. The chapter then turns to the development of differing legal protections from violence against women in Uganda as compared to Rwanda: The passage of Uganda's Domestic Violence Act and failure of its Marriage and Divorce Bill, leading to a lack of criminalization of marital rape. The final section analyses the more limited implementation of these formal responses in Uganda than in Rwanda.

1. The Bush War: Shifts in the public-private division of labour

Years of internal conflict undermined the security of both men and women in Uganda. However, the experience of conflict also opened up opportunities for enhancing women's security in the longer term, if to a lesser extent than in Rwanda. This was in part because deadly conflict shifted the gendered public-private division of labour.

'Men saw what women could do': The gender-specific nature of violence and women's roles in the NRA

As in Rwanda, the majority of those killed in Uganda's Bush War were men.[1] Women often experienced sexual violence, mostly at the hand of government soldiers.[2] However, available information suggests that sexual violence was less prevalent, pre-meditated and centrally organized than during the Rwandan civil war.[3]

Men also made up the majority of those fighting in the Bush War.[4] However, as the war proceeded, women increasingly assumed combat roles in the NRA. Over the course of the conflict, women would make up between 5 and 20% of the NRA's combat force.[5] The mobilization of women was facilitated by wider NRM ideology and strategy, which emphasized the mass-mobilization of all segments of society, across ethnic, class and gender divisions.

However, it was reinforced by the need for new 'manpower' after many fighters were killed in the intensifying guerrilla war. [6] The intensity of conflict also helped convince women to step out of traditionally female roles and take up arms: In a context of increasing insecurity, military training and killing proved a last resort to defend themselves and their families. "I

[1] E.g. Rosalind Lubanga, *Documenting Women's Experiences in Armed Conflict Situations in Uganda, 1980-1986, Luwero district. An Isis-WICCE Research Report,* 1998, Isis-WICCE, Kampala, Uganda, 1998. Helen Liebling, *A gendered analysis of the experiences of Ugandan women war survivors* (VDM Verlag, 2009).
[2] E.g. Lubanga, *Women's Experiences*. Liebling, *A gendered analysis.*
[3] The whole population of Luwero was significantly smaller than estimates of the number of women raped in Rwanda. In 2012 research was still aiming to establish whether sexual violence could be seen as a weapon of war or even genocidal during the Bush War, see e.g. Liebling, *A gendered analysis.*
[4] Lubanga, *Women's Experiences.* Liebling, *A gendered analysis.*
[5] Women in Armed Rebellion dataset.
[6] Florence Wakoko and Linda Lobao, 'Reconceptualizing Gender and Reconstructing Social Life: Ugandan Women and the Path to National Development', *Africa Today,* 43:3, 1996.

was protecting myself", one female combatant explained years later, "It is like seeing a poisonous deadly snake […] you either kill it or it kills you." [7] As these practical imperatives linked to conflict intensity explain why women's participation in military tasks *increased* over time, they were likely even more important in expanding women's role in the NRA than ideological considerations.

Women's active participation in combat left a strong impression on soldiers. As the wife of one NRA fighter recalled "Men saw what women could do. They saw women firing guns, they saw women moving with a baby and a gun on their back […]. Even my husband when he was in the bush was astounded that he had not been able to eat or sleep because of the shooting and his stomach was upset all the time. One night they heard sounds and when they went out, the first person to have gone out and start shooting was a young woman of 16. She was there holding a gun firing away. This profoundly affected him."[8]

The sight of female fighters also impressed the civilian population. Describing the NRA entry into Kampala, the girl soldier "China" Keitetsi recalled that "we were overrun by thousands of happy citizens welcoming us. Some were crying, while other kneeled down to thank us kids. But we shared our fame with others: for the first time on Ugandan soil, women were armed, and walked proudly as any man."[9] According to Joyce Mpapnga, who would become the first Minister for Women following the NRA take-over, this was "an eye opener"

[7] Cited in Lubanga, *Women's Experiences*.
[8] Interview with Ruth Kisubika, 1992, cited in Aili Mari Tripp, *Women and politics in Uganda* (Oxford: James Currey, 2000), 110.
[9] China Keitetsi, *Child Soldier* (London: Souvenir Press, 2004), 138.

for the population.[10]

It was not only women's participation in general, but their participation in roles of authority over men that shaped perceptions of what women could do. Some, like Gerturde Njuba, were even part of the NRA 'high command'. According to Captain Olivia Zizinga, a close aid of Musevenis, men were not used to taking orders from women - but had to accept women's new roles as disobedience was not an option in the military. One of the founders of the women's rights organization Action for Development (ACFODE) consequently emphasized that "the most important thing wasn't that women were fighting, but that women were commanding. Mrs Njuba had the authority to shoot men who did not obey her orders […] This was something absolutely unheard of in Uganda, that a woman would be in the army in the first place, and in the second place would be in a command position over men."[11]

'Women were forced to talk men's place': Limited demographic shifts and women's responsibilities beyond the battlefield

Yet conflict also changed the responsibilities of women who did not take up arms. These shifts could already be observed when Tanzania invaded Uganda in 1978. Rural women found themselves talking to, sheltering and feeding foreign soldiers. Some women even hid Tanzanian weapons in their homes. In urban areas, husbands who expected they would

[10] In Tripp, *Women and politics,* 110.
[11] Transcript of dialogue with the author on the founding of ACFODE, Miria Matembe, *Gender, politics, and constitution making in Uganda* (Kampala: Fountain Publishers, 2002), 96.

disappear into the bush taught their wives how to perform 'men's tasks' like driving and running family businesses. [12]

The ensuing 'Bush War' deepened these trends. As most of those killed were men, the number of households headed by women increased considerably in Luwero, the heart of the NRA resistance. Consequently, as research in this district confirmed, "Women were forced to take men's place and perform their work as well as their own […] to act as fathers as well as mothers to their children and to replace men as economic providers and protectors of their families." [13]

Even where male household heads survived the conflict, women were often compelled to take on new income-generating activities so as to cope with economic crisis deepened by years of political instability and conflict.[14] In addition, men's 'failure' to fulfil their socially-assigned roles as providers and protectors during and after conflict undermined their "moral authority to give direction to the family", increasing women's decision-making responsibilities.[15] However, given the lower intensity of conflict as compared to the extreme violence experienced in Rwanda, these gendered shifts in the public-private divide were not as extensive and transformational across the population as those reported in Rwanda. While the Rwandan civil war left a population that was 70% female and faced a myriad of new responsibilities around the country, the overall ratio of men and women in Uganda

[12] Tripp, *Women and Politics,* 110.
[13] Liebling, A gendered analysis, 193.
[14] Sylvia Tamale, *When hens begin to crow: gender and parliamentary politics in Uganda* (Boulder Colorado: Westview Press, 1999), 21. Tripp, *Women and Politics,* 111. Aili Mari Tripp, 'Gender, Political Participation and the Transformation of Associational Life in Uganda and Tanzania', *African Studies Review*, 37:1, 1994, 108.
[15] Liebling, *A gendered analysis.*

did not shift significantly.[16]

Conflict-related sexual violence: A private issue

What is more, while statistics of conflict-related rape in Rwanda were "repeated over and over again"[17] in the post-conflict period, sexual violence during the Ugandan Bush War received scarce public attention.[18] While Rwandan women used such discussions to call for legislation on all forms of gender-based violence shortly after the genocide, their Ugandan counterparts therefore had few such opportunities. Indeed, in contrast to Rwanda, interviewees in Uganda did not link awareness of violence against women to the country's history of conflict-related sexual violence and, as we will see, calls for legal protections from such violence only emerged many years later.

In part this different treatment of conflict-related sexual violence reflected a change in global norms: In contrast to Rwanda, conflict in Uganda ended before the wars in former Yugoslavia would draw increased international attention to rape as a 'weapon of war'. Indeed, first reports discussing sexual violence during the Bush War only emerged ten years later, after rape in war had become an issue of international concern and funding for such research therefore available.[19]

However, as we have seen, the extreme scale and centrally ordered, genocidal nature of sexual violence in Rwanda also contributed to this increase in international attention to rape in war. What is more, the international community subsequently continued to focus on cases where rape was extremely widespread and clearly 'public', that is, used as a

[16] Lubanga, *Women's Experiences*.
[17] Interview.
[18] E.g. Lubanga, *Women's Experiences*.
[19] E.g. Lubanga, *Documenting Women's Experiences*.

systematic, premeditated 'weapon' as in Rwanda. Consequently continued conflict-related sexual violence in the North of Uganda also failed to gain the same level of international attention as rape during conflict in Rwanda or neighbouring DRC. In combination with different levels of accountability for war crimes (see below), the diverging nature of conflict-related sexual violence in Uganda as compared to Rwanda is thus likely more significant than changing global norms in explaining the lack of public discussion of these events in post-conflict Uganda.

As we will see, these differences in conflict-related shifts of the public-private divide generated different opportunity structures for the promotion of women's rights in post-conflict Uganda as compared to Rwanda. Nevertheless, existing changes did alter perceptions of women's roles in society and thereby, as we will see, contributed to several post-conflict advances in women's status.[20] One of these was a proliferation of women's civil society in the post-conflict period.

2. A 'major societal force': The expansion of women's civil society in the post-conflict period

From the mid 1980s, and particularly after the NRM victory, women's groups in Uganda expanded significantly both in their numbers and in their agendas, increasingly moving beyond social welfare objectives to advocate for women's rights and political participation.[21] As a result, in the span of a few years, the women's movement developed into "one of the major societal forces in Uganda."[22] Several factors contributed to these developments.

[20] E.g. Tripp, *Women and politics,* 108. Aili Mari Tripp, *Women and power in postconflict Africa* (New York, NY, USA: Cambridge University Press, 2015), 55.
[21] Tripp, *Women and power,* 57. Tripp, *Women and politics,* 3, 105/106.
[22] Aili Mari Tripp and Kwesiga Joy C., *The women's movement in Uganda: history, challenges, and prospects* (Kampala: Fountain Publishers, 2002).

Effects of the Bush War

Conflict-related shifts in the gendered division of labour fuelled this trend by increasing women's confidence in their skills and contributions to society.[23] As in Rwanda, women also founded several influential organizations to improve responses to shared conflict- related needs, including the War Widows' Foundation and the Uganda Women's Effort to Save Orphans (UWESO). Other groups emerged to step in for services no longer provided by the state due to conflict and reforms designed to address the economic crisis. [24]

The war also led women to mobilize in unprecedented ways to advocate for an end to conflict and abuses of women. In 1985, the newly-founded women's rights organization ACFODE, for example, requested an appointment with the army commander to discuss rape and other violence against women committed by soldiers. However, according to one of the founding members, "When it was time for the meeting, the army commander sent Uganda's First Lady, Mrs Lutwa, to meet us in his place. What an insult, to send this wife of the President, who had little education and not one bit of power or authority herself, to talk to us! Talk to us about what? Womanly things?"[25]

Yet women's groups found other ways to voice their concerns: On 6th September 1985 the National Council for Women (NCW) organized a protest of more than 2000 women in Kampala to call for peace and protection of women. They also wrote to the Ministers of

[23] Tripp, *Women and power.*
[24] Negash Mohammed Hassan, *Trade liberalization and women's livelihood adaptation in Kampala – Uganda,* Master thesis, Department of Sociology and Human Geography, University of Oslo, 2005.
[25] Matembe, *constitutionmaking,* 76.

Internal Affairs and Defence with these concerns, advocating for women's increased participation in government as a means to achieve peace. [26]

The role of changing global norms

Increased global commitments to women's rights as public, international concerns contributed to the women's movements' increased focus on advocacy, women's rights and political participation. In particular, women's leaders recall the 1985 Decade of Women conference held in Nairobi as a catalyst for women's rights mobilization. Ugandan participants returned home with new ideas to strengthen this movement. [27]

Among them was Dr. Maxine Ankrah, a lecturer at Makerere University, who noted two key lessons from Nairobi: First, the level of unity among civil society movements in other countries and, second, their focus on women's rights, rather than social and welfare issues. She soon began to discuss these ideas with colleagues in her office. According to one of those present, "As these women met weekly from August through mid-November to see how they could bring the Nairobi spirit […] to Uganda, their numbers grew. They soon decided to formalise their meetings by forming an organisation."[28] This led to the creation of ACFODE in 1985.[29]

[26] E.g. Tripp, *Women and politics.*
[27] Matembe, *constitution making,* 59. Tripp, *Women and power.*
[28] Matembe, *constitution making,* 67- 68.

The women's rights agenda also began to spread to other groups, including through ACFODE's deliberate efforts.[30] Amongst other initiatives, in December 1986, ACFODE organized a national conference to share lessons from Nairobi with other women and civil society groups. The organization of women lawyers FIDA, for example, was "born" at this event as the strong advocacy organization that it was to become. In these ways, according to the ACFODE founders, "we energised and gave to women the model that became the women's rights agenda which was nowhere in the psyche of Uganda and in none of the organisations that were 5-10, 20, 30, 40 years of age."[31]

International normative shifts also directly contributed to women's mobilization by translating into increased donor support and pressure for women's rights in the 1990s.[32] However, this direct support largely acted as a catalyst, rather than a cause, of women's strengthened mobilization: As we will see, several key achievements of women's civil society advocacy pre-dated the expansion of international pressure for women's rights in Uganda, which only seriously mounted after the 1995 Beijing conference.[33]

Political liberalization under the NRM regime

Increased commitment to democratization and space for civil society under the post-conflict NRM regime helped enable women to translate new global norms into a vibrant domestic women's movement. [34] The Obote and Amin governments had significantly constrained civil society activity and women's autonomous organizing in particular. This had limited

[30] Matembe in conversation between Matembe, Ankrah and Mugisha, printed in Matembe, *constitution making*, 101.
[31] Ankrah in conversation between Matembe, Ankrah, Mugisha.
[32] Tripp, *Women and power,* 63. Tripp, *Women and politics.* Tripp and Kwesiga, *The women's movement.*
[33] Tripp, *Women and power*, 63, On funding of ACFODE: Matembe, *constitution making.*
[34] Tripp, *Women and politics.*

the extent to which lessons learned in Nairobi could translate into Uganda's political life prior to the NRM take-over.[35] ACFODE founders, for example, considered it highly unlikely that the organization they envisaged would be allowed to operate in this political climate. As we have seen, their attempts to advocate for women's rights by engaging the army commander also failed to be met with a serious response.

According to ACOFDE founders, "Incidents like this prepared the way for us to be very grateful when the NRM government took over power in January 1986. The important point here is that with all our convictions and commitment, with all our vigour, the atmosphere in 1985 and before was simply not conducive to women's active participation in public life. In spite of our burning desire to work for the advancement of women, under these repressive dictatorships, we were helpless. However, the New Year brought a change. When the NRM government arrived toward the end of January 1986, we at ACFODE said, this looks like our chance."[36]

In line with the commitment to democracy expressed in its Ten-Point Programme,[37] the new NRM tolerated NGO activity to a greater extent than previous regimes.[38] Its take-over also provided sufficient stability for these groups to expand their work. The post-conflict period therefore saw a general growth in NGO activity.[39]

[35] Matembe, *constitution making,* 69.
[36] Matembe, *constitution making,* 76.
[37] Rubongoya, *Regime hegemony*, 67.
[38] E.g. Tripp, *Women and power*
[39] Rosalind E. Boyd, 'Empowerment of Women in Uganda: Real or Symbolic', *Review of African Political Economy,* 45:46, 1989. Tripp, *Women and politics,* 105.

NRM openness to women's rights

However, women's organizations were able to seize this increased space for civil society to a greater extent than other social groups. [40] In addition to post-conflict shifts in local and international norms, this was due to the NRM's relative openness to women's rights.

Founders of new women's rights organizations, including ACFODE, were aware that "If Uganda hadn't had a leader with foresight, who understood that the time had come for women, we would have been struck down. We went to Nairobi in 1985. Kenya organised the UN Women's Decade conference. Almost immediately, Kenyan women were victimised. In the year 2000 the women of Kenya are nowhere. Even the women who organised the conference are nowhere, because Moi has kept the lid on for 15 years."[41]

Given the significance of this factor, scholars have argued that "Museveni's support has been a tremendous piece of political luck for the women's movement. This contingent variable – support for gender equity issues from a top national leader – is a critical yet unpredictable ingredient for success in feminist politics."[42]

However, the characterization of Museveni's support as sheer "political luck" and "unpredictable" understates the extent to which these attitudes derived from other, tangible factors. First, most scholars agree that Museveni's support was largely based on the new,

[40] Tripp, *Women and politics.*
[41] Matembe conversation with Ankrah and Mugisha, 106.
[42] Anne Marie Goetz, 'Women in politics & gender equity in policy: South Africa & Uganda', *Review of African Political Economy*, 25:76, 244, 1998.

active roles assumed by women during conflict.[43] Explaining the NRM policy on gender through a parable in his autobiography, Museveni himself appeared to understand his support for women's increased public status as "reward" for their contributions to the NRA struggle:

"A subject […] did a distinguished service for [a king] and the king asked his subject how he could reward him. He said to the king: 'Your Majesty, I don't want any gift from you. All I want is that when we are in a public place you should just call me by my name.' The king was baffled […] 'Your Majesty, it will help me very much because if the king calls me by my name in front of so many people, everybody will wonder who I am and they will all come to me and help me […]'. This is what we did for the women."[44]

A range of scholars have suggested that wider power political interests helped reinforce Museveni's support for women's public participation.[45] In particular, support from women in exchange for concessions to their specific concerns could help build political legitimacy of his regime after the NRM take-over, providing one of Museveni's "crucial strategies" for power consolidation as he sought to expand control over the country.[46]

These instrumental elite incentives for supporting women's status – as well as their implications - differ from those reported from Rwanda. In particular, as noted in the previous chapter, with women making up 70 % of the post-conflict population due to the extreme intensity of violence in Rwanda, reconstruction fell heavily on women's shoulders. Therefore, real efforts to enhance their rights and wellbeing became an urgent priority for the country's overall recovery. By contrast, based on elite incentives reported in Uganda,

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[43] Goetz, 'Women in politics', 244. See also Tamale, *hens begin to crow*.
[44] Yoweri Museveni, *Sowing the mustard seed: the struggle for freedom and democracy in Uganda* (London: Macmillan, 1997), 192.
[45] Rubongoya, *Regime hegemony*. Anne Marie Goetz, 'No shortcuts to power: constraints on women's political effectiveness in Uganda', *Journal of Modern African Studies,* 40:4, 2002. Aili Marie Tripp, 'The Politics of Autonomy and Cooptation in Africa: The Case of the Ugandan Women's Movement', *The Journal of Modern African Studies,* 39:1, 2001.
[46] Rubongoya, *Regime hegemony*, 72.

'success' on gender equality would be measured not by the real effect of policies on women's lives but by the extent to which they would suffice to 'reward' NRA fighters, maintain women's support and NRM power.

However, women's organizations would go on to push Museveni's support for women's participation further than he had most likely intended, including by softening his stance towards women's civil mobilization. In this way, Museveni's openness to women's mobilization was in part the result of women's mobilization itself. Upon taking power the NRM did not signal strong support for women's participation in public life. It did not have a particular policy addressing women's concerns, these were not included in the NRM's Ten Point Programme,[47] and activists described his first speeches to women in 1986 as "disheartening": He spoke of changing women's status by ushering in changes in society more broadly and urged women to "pull up their socks" and not ask for too much help.[48]

In fact, in the early days of the regime the NRM made repeated attempts to control women's mobilization: Its Directorate of Women's Affairs had a reputation for summoning leaders of women's organizations and questioning them about their work with various NGOs without NRM approval. Women's groups had to actively resist these efforts to ensure their autonomy. During one of these meetings, Joyce Mpanga, then chair of UWESO, for example, passionately insisted on her freedom of association. She was subsequently summoned by the president and informed that the NRM Secretariat had given her position in UWESO to Prime Minister Kisekka. Mpanga challenged him on this decision and Museveni eventually reversed course. In fact, he ultimately committed to supporting UWESO

[47] Tamale, *hens begin to crow,* 17.
[48] Tripp, *Women and politics,* 69, Citing New Vision, 26 September 1990.

with transport and fund-raising. This event shows the importance of women's groups in relaxing the regime's position towards women's organizing. [49]

The movement system

However, while women's mobilization benefitted from the NRM's democratic openness for civil society activity and women's organising in particular, an increasingly un-democratic feature of its political vision also increased the effectiveness of the women's movement: The NRM's 'no-party' system.

Following years of conflict, as activists observed, "Women were in a particularly fragmented situation, divided not only be tribe, region and religion, but also divided by patriarchal structures that demanded that women be loyal first to family and religion often at great cost to themselves and other women."[50] The Nairobi conference had shown women's leaders that effective advocacy required bridging these divisions.

The NRM facilitated such unity because the ambition to unite diverse social group, that is, this "binding part had a parallel in the NRM's Ten Point Programme"[51]: The NRM eschewed the politicization of ethnicity, religion and region along party lines, which had fuelled conflict in the past. On these grounds, Museveni and his NRM opposed political parties in general and multiparty democracy in particular.[52] Shortly after taking power, the NRM government therefore suspended multi-party politics in favour of a 'no-party' or

[49] Tripp, *Women and politics*, 85.
[50] Matembe, *constitution making,* 72, 67.
[51] Matembe, *constitution making*, 72.
[52] Rubongoya, *Regime hegemony,* 61.

'movement' system where individuals were to compete in elections on their own merit rather than as members of political parties. This decision was to be reconsidered following an initial transition period.

The movement system would increasingly constrain opportunities for citizens to voice their demands and hold the power of the Executive in check: While curtailing activity of opposition political parties, it provided the NRM – as a 'movement' representing all Ugandans – with a justification not to formalize itself as a political party. The NRM could therefore maintain control over key political processes and avoid measures for internal democracy, such as holding elections for its offices or creating elected bodies to agree on policies.[53]

However, this suspension of multi-party politics also helped women work together on shared concerns – both in politics and through civil society - by reducing possible party political dividing lines.[54] As we will see, the effects of the re-introduction of multi-party politics in 2006 would confirm the importance of this unifying effect for earlier successes in women's mobilization.

In sum, catalysed by new international norms, conflict-related shifts in the public-private division of labour between men and women fuelled an expansion of women's rights mobilization in Uganda, including by facilitating the emergence of a relatively supportive ruling elite. While increased democratic space provided new women's organizations with

[53] Tripp, *Women and politics*, 58. This did start to occur in 1995 after the Constitution was agreed – but only to a limited extent and very reluctantly see Nelson Kasfir, ''No-Party Democracy' in Uganda', *Journal of Democracy,* 9:2, 1998. See also Aili Marie Tripp, *Museveni's Uganda: paradoxes of power in a hybrid regime* (Boulder, Colo: Lynne Rienner Publishers, 2010).
[54] Goetz, 'Women in politics'. Goetz, 'No shortcuts'.

opportunities to voice their preferences, the increasingly un-democratic no-party system helped them seize this opportunity by facilitating unity in women's mobilization.

3. Early successes and limitations of women's civil society advocacy

Shortly after the NRM take-over, women's civil society activists achieved first successes in the chain of events leading to responses to women's security concerns: the creation of a Ministry of Gender and women's representation in leading government positions. Contrary to what dominant trends in scholarship of statebuilding would lead us to anticipate, it was precisely the engagement of autonomous civil society during this moment when state institutions were being fundamentally transformed, that is, were distinctly non-institutionalized, that enabled such successes.

Women's civil society perceived the NRM victory as a window of opportunity. According to one of the ACFODE founders, "When the NRM government arrived toward the end of January 1986, we at ACFODE said, this looks like our chance."[55] In particular, "we actually looked at NRM as like our home because they had women at these high levels [of commanders in the NRA], and we felt that this opened up the way for us to participate as well."[56] In this way, women's active roles in the NRA during conflict facilitated post- conflict increases in women's public participation by *signalling* to civil society that the NRM might be open to such measures and thereby encouraging advocacy, whether or not this assessment was in fact correct.

[55] Matembe, *constitution making,* 77.
[56] Conversation with Ankrah and Mugisha*,* 96.

Women's groups therefore began to engage the new government on women's rights without delay. On 8 March 1986 ACFODE and other women's groups organized an International Women's Day celebration attended by more than 500 women and President Museveni as the guest of honour.[57] Women's leaders also worked to secure a meeting with the new ruling elite. As Ankrah recalled, "fortunately we had enough contacts within the NRM and so we began to remind them that we were there lobbying for women before the NRM came to official power and therefore we deserved to talk to the leadership."[58]

As a result, shortly after the NRM take-over, 20 leaders of the NCW, ACFODE and other groups met with Museveni himself. They brought along a memo with their demands and called for women's representation in the government leadership. Museveni asked the women to identify suitable candidates. They therefore shared CVs and made recommendations for various postings. The leadership acted on many of these, including by appointing nine female ministers. As we have seen, NRM policy and rhetoric suggest that the NRM was not initially envisaging such measures for women's representation. Civil society advocacy therefore made a critical contribution.

Women's active participation in combat also facilitated the success of these lobbying activities in several ways: Women's role in the NRA not only encouraged women's groups to engage the new leadership but, as we have seen, also helped convince Museveni that they deserved a role in governance. Women's civil society groups actively leveraged this argument, suggesting that women's contributions to the guerrilla war had earned them

[57] Matembe, *constitution* making, 77 .
[58] In 1992 interview cited in Tripp, *Women and Politics,* 70. Tripp, *Women and Power,* 61.

leadership positions. [59] What is more, several of the women appointed to leading government posts were former commanders in the NRA. Among them was Gertrude Njuba, as Deputy Minister of Industry.[60] In this way women's increased political power was in part a direct reward for the contributions and loyalty of individual women during the conflict.[61]

Women's civil society also drew on international normative shifts to make demands beyond women's representation in the national leadership. During the December 1986 conference ACFODE organized to highlight lessons from the Nairobi conference for Ugandan women and the NRM, the group thus publicly called for the creation of a Ministry of Gender, the establishment of a women's desk in each Ministry and the representation of women in local government at all levels. [62]

The NRM acted on most of these demands. A Ministry of Women in Development was set up in the Office of the President in 1988. Over the coming years women's groups also advocated to protect the integrity of the institution against NRM interference. [63] Museveni moreover agreed to reserve seats for women in all tiers of the local governance system. Importantly, "in a gesture which laid the foundation for the pattern of patronage appointments which was to follow" [64], he went beyond women's demands by adding one reserved seat for women per district in the transitional parliament, the National Resistance Council (NRC).

[59] Goetz, 'No shortcuts to power'. Vibeke Wang, 'Women changing policy outcomes: Learning from pro-women legislation in the Ugandan Parliament', *Women's Studies International Forum*, 2013, 319.
[60] Tripp, *Women and Politics*.
[61] Transcript of conversation with Ankrah and Mugisha, in Matembe, *constitution making,* 96,97.
[62] Matembe, *constitution making,* 77
[63] Tripp, *Women and Politics*.
[64] Goetz, *'No shortcuts'*.

As a result of these provisions, women's representation in parliament increased significantly in the 1989 elections - from one woman out of 189 members (0,5 %) in 1980 to 41 women (17 %) in 1989. This was a landmark achievement for women's political participation in Uganda and, as we will see, an important ingredient for statebuilding 'successes' for women going forward. However, it did not indicate the same level of post- conflict elite and societal commitment to women's public participation seen in Rwanda, where women exceeded their 30 % quota by also winning 15 out of 53 (28%) open seats, mainly as RPF candidates.[65] In Uganda, by contrast, women only won two seats in open contest (the vast majority of which went to NRM-affiliated candidates) and the NRM only appointed women to 5 out of 40 seats directly controlled by government.

What is more, as opposed to Rwanda, women's efforts to secure justice for conflict-related sexual violence largely failed in Uganda.[66] While the Rwandan regime chose a policy of maximum accountability for genocide and war crimes, the Ugandan leadership, faced with continued resistance of members of the defeated army in the North and rebels elsewhere in the country, offered a presidential pardon to those who agreed to lay down arms.[67] The new army's involvement in sexual violence and other conflict-related crimes in the North in subsequent years reinforced this choice of amnesty. While Rwanda classified rape as among the most severe crimes of genocide subject to the death penalty, conflict-related sexual violence in Uganda was therefore largely met with impunity.

[65] With women almost 30 % of those entering parliament as directly elected RPF coalition representatives. See e.g. Appendix 4: Results of the Elections of Party and Independent Candidates for Rwanda's Chamber of Deputies, 30 September 2003, in Ingrid Samset and Orrvar Dalby, *Rwanda: Presidential and Parliamentary Elections 2003,* NORDEM Report 12/2003.
[66] Liebling, *A gendered analysis.*
[67] E.g. Ryszard Kapuscinski, 'Uganda: After the Terror', *The New York Times,* 12 March 1989. Liebling, *A gendered analysis.*

4. The post-conflict constitution: A window of opportunity

Nevertheless, existing successes of women's advocacy (women's representation in parliament, the Ministry of Gender and strong women's civil society) did in turn help seize a window of opportunity for women's status provided by conflict in Uganda as in Rwanda: The creation of a new constitution, which had been a war-time promise of the NRM.

In 1988/9 the NRM delivered on this commitment by appointing twenty-one Commissioners, including two women, to a National Constitutional Commission (NCC) tasked with the development of a draft constitution through an open and participatory process. Following country-wide consultations[68], the NCC published a draft document in June 1993. The following year a Constituent Assembly (CA) was elected to review and finalise the draft. In 1995, Uganda's new constitution was finally declared.

As in Rwanda, this process proved a watershed in advancing women's status: The new constitution would outlaw discrimination based on sex, provide for equality in marriage and enshrine quotas for women's political participation. As we will see, these provisions provided critical stepping stones towards Uganda's responses to women's security concerns. This section highlights key factors that explain the emergence of these constitutional articles by turning first to the work of the NNC and, second, to the CA.

The National Constitutional Commission (NCC)

The draft constitution and report developed by the NCC already contained several important women's rights provisions. These were enabled by four main factors.

[68] Matembe, *constitution making,* 121.

NRM openness to women's rights and participation

The relative openness towards enhancing women's status among the NRM leadership served as a first necessary – if insufficient – condition for this outcome.

The NRM controlled appointments to the NCC: Commissioners were selected exclusively either by the Minister for Constitutional Affairs, a long-time NRM loyalist[69], or directly by the president.[70] All but one of the Commissioners emerging from this nomination process were NRM members. The NRM's official line, including its previous public support for women's participation, was therefore likely to shape the contributions of Commissioners and increase the NCC's openness to women's rights.

The experience of the NRA resistance helped reinforce supportive attitudes in the Commission. As one of the female Commissioners recalled, gender-sensitive men on the NCC included Kiddu Makubuya, Rev. Dr. John Mary Waliggo, the Secretary of the Commission, and Captain Kale Kyihura who "joined the NRA in the bush early in the struggle. Many of those army men came out of the bush committed to bringing women up."[71] These attitudes created a permissive environment for work to integrate gender into the draft constitution. As Waliggo highlighted, "although there were only two women out of 21 commissioners, one thing we have to appreciate, is that we did not find, even me big obstacles or opposition to women's rights […]. We moved together on it."[72]

Given the NRM's tight control of the nomination process, its leadership was also responsible for this level of women's representation on the NCC. The president ultimately

[69] Sadab Kitatta Kaaya, 'Sam Njuba book reveals Museveni secrets', The Observer, 22 December 2013.
[70] E.g. O. Furley and J. Katalikawe, 'Constitutional Reform in Uganda: The New Approach,' *African Affairs,* 96:383, 1997, 254.
[71] Matembe, *constitution making*, 139, 140.
[72] Matembe , *constitution making*, 145, 146.

appointed the well-known lawyers Mary Maitum and Miria Matembe. Both had a track record of publicly advocacy for women's rights. Matembe had helped found ACFODE and would continue to serve as its chairperson while on the NCC. Museveni nominated her immediately after a first meeting between them, where she expressed her support for what the government was doing for women.[73]

For all of these reasons it is highly likely that Museveni was aware of Maitum and Matembe's progressive stance on gender-related issues, expected that they would play a role in advocating for women's rights on the NCC, and nominated them in part with this role in mind. Matembe herself certainly came to assume that "the appointment of two highly qualified women lawyers demonstrated an intention to ensure that women's concerns would be seriously addressed."[74]

However, such openness towards women's rights within the NRM leadership was also insufficient to secure the extensive gender equality provisions in the final constitution. First, the evidence suggests that the group of Commissioners initially selected by the NRM would not have developed these articles: When Matembe joined the NCC in March 1989 to replace another member after the Commission's work had already begun, she found that women's rights had thus far been neglected.[75] Second, the appointment of two women out of 21 commissioners (9.5 %), without providing for any formal decision-making rules that would guarantee their influence, hardly reflects an intention to create a "model instrument" in terms of women's rights.[76] Finally, as we have seen, the women's movement played a significant role in convincing Museveni of the importance of women's participation in the

[73] Matembe, *constitution making*, 122, 124.
[74] Matembe, *constitution making*, 122.
[75] Matembe, *constitution making*, 126.
[76] Furley, 'Constitutional reform in Uganda', 258.

first place.

Taken together, these considerations suggest that advocates seized the opportunity provided by the NRM's openness to women's rights to propel constitutional provisions on gender equality further than the NRM leadership envisaged. Like in Rwanda, the level of public participation in the Ugandan constitution-making process was a necessary condition for women to do so.

Democratic processes: Opportunities for citizens to voice their preferences

As we have seen, the NCC was to identify issues for debate by the CA through an open and consultative process. This was part of the NRM's early commitment to democratic governance. In fact, as soon as the UPM had gone into the "bush", it "issued a promise to all Ugandans that should they win and remove dictatorship, they would invite all Ugandans to contribute their view in the making of a new constitution, to agreed-upon rules for everyone."[77]

The NCC delivered on this promise by organizing seminars in all districts and with major civil society organizations to raise awareness about the process, collect views on the procedure and key issues to be addressed. The NCC then toured all 900 sub-counties to give one-day workshops on constitutional issues identified in the previous phase. Groups could also organize their own seminars and invite Commissioners to attend. Finally, individuals and organizations were invited to submit their views and memoranda to the Commission.[78]

[77] Waliggo, cited in Matembe, *constitution making*, 144.
[78] Matembe and Waliggo in Matembe, *constitution making*.

These participatory processes provided a critical entry point for the participation of women and advocacy for women's rights. While only two women were represented on the NCC, women eventually submitted almost half of the memoranda received by the Commission and many of these raised gender-related concerns. As we will see, these inputs amplified the influence of female Commissioners in advocating for women's rights on the NCC and helped ensure their success.

However, these participatory channels were also insufficient for achieving the wide-ranging gender-related recommendations ultimately issued by the NCC. The process was only imperfectly participatory. NRM leaders thus vetted memoranda compiled at the sub-county level before submission and Commissioners were accused of dismissing memoranda on contentious issues.[79] The NRM-appointed NCC therefore retained relatively tight control over the drafting process. This amplified the significance of the NRM's openness to women's rights, discussed above, in ensuring women's inputs through participatory processes would translate into the NCC's recommendations.

Consultative processes were also insufficient because women's participation in all elements of public consultations was initially quite limited.[80] Active mobilization by civil society and networks with allies on the NCC were required to overcome these constraints.

Democratic institutions: Women's mobilization

The newly established Ministry for Gender and the women's organizations that had pushed

[79] Aili Mari Tripp, 'The Politics of Constitution Making in Uganda', in Laurel E.Miller with Louis Aucoin, eds., *Framing the State in Times of Transition: Case Studies in Constitution Making* (United States Institute of Peace, 2010). Furley and Katalikawe, 'Constitutional Reform', 254. See also *Tripp,* Museveni's Uganda.
[80] Benjamin J. Odoki, *The Search for a National Consensus: The Making of the 1995 Uganda Constitution* (Kampala: Fountain Publishers, 2005). Ministry of Gender, *Women and the 1995 Constitution*. Goetz, 'Women in politics', 245.

for its creation recognized that initially only a faction of those participating in consultative processes were women: Given societal expectations for female behaviour, women were less likely to speak-up in mixed-sex discussion groups or to be sufficiently educated to send written memoranda.[81]

With support from DANIDA, the Ministry of Gender and groups such as ACFODE and FIDA therefore organized dedicated seminars for women at national, district and country level designed to provide "an additional channel for giving their views on what they wanted to be included in the new Constitution, especially in as far as they concerned the rights of women."[82] Between November 1990 and May 1991, more than 4000 women participated in 113 such seminars held in 25 of the 34 districts. [83]

Their views were then compiled into a joint memorandum entitled "The Recommendations of the women of Uganda to the Uganda Constitutional Commission"[84] and submitted to the NCC. According to Commissioner Matembe, "Some of us thought of the report simply as 'The Voices of Women'."[85] The memorandum addressed both wider issues and specific women's rights concerns, including the elimination of discrimination based on sex and the need for harmonized, non-discriminatory legislation on marriage and divorce.[86]

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[81] Goetz, 'Women in politics', 245.
[82] Ministry of Gender, *Women and the 1995 Constitution*. See also Matembe, 'Spirits in High Gear as Uganda Prepares for a New Constitution', from Arise, the Magazine of Ugandan Women's Organisation AFCODE, Kampala, Uganda. Reprinted by University of Pennsylvania – African Studies Center.
[83] World Bank, *Uganda: Growing out of poverty*, Africa Country Department, Report No 11380-UG, 1993.
[84] Ministry of Gender, *Women and the 1995 Constitution*.
[85] Matembe, *constitution making,* 134, 135.
[86] See 'Through the Ministry of Women in Development, Recommendations Made by the Women of Uganda to the Constitutional Commission (1991)' in Susan Deller, *Women's Human Rights: The International and Comparative Law Casebook* (Philadelphia: University of Pennsylvania Press, 2008), 556-560. See also Tripp, *Women and Politics.* Goetz, 'No shortcuts'.

In addition to this process, individual women's groups organized seminars and invited Commissioners to participate, while sending their own memoranda to the NCC. [87] Ultimately, women provided more memoranda than any other social group in Uganda.[88]

However, it was not only the scope but also the coherence of women's proposals, facilitated by women's mobilization, that ensured their influence. According to NCC Secretary Waliggo, "They had a unity of purpose and of proposals. Most of their submissions had similar points and arguments [...]. This was the greatest success for the Ugandan women."[89] Their joint memorandum reinforced this coherence, making women "the best organized group for the submission of views to the Constitutional Commission."[90]

'The informal': Networks with allies on the Constitutional Commission

The two female Commissioners committed to women's rights further enhanced women's participation in consultations and helped translate their inputs into the final text. Noticing the neglect of gender issues when she joined the Commission, Matembe "was ready to call attention to this oversight as soon as the opportunity presented itself."[91]

A first opportunity came during the early district seminars designed to identify important constitutional issues. According to Matembe, "It was obvious that most of the people invited to attend these district seminars for leaders were men, simply because the participants were invited in their leadership capacities, and most leadership positions were held by men. […] I think it was taken for granted that when the Commission invited people in those

[87] Ministry of Gender, 'Women and the Constitution'. Matembe, 'Spirits in High Gear'.
[88] Waliggo, 140. Twigo in Matembe, *constitution making* 148, Matembe, *constitution making,* 130/1, Tripp, *Women and power.* Tripp, *Museveni's Uganda*.
[89] See also Odoki, *a National Consensus*
[90] Waliggo, 140.
[91] Matembe, *constitution making,* 126.

categories that all Ugandans would be represented."[92] Recognizing this situation the two female Commissioners successfully lobbied their colleagues to invite all women leaders in a district to the consultations.[93]

Matembe also personally mobilized local women to participate in the seminars she held: "I would arrive in a place before the day fixed for the seminar and move around the villages to mobilise the women […].When I was able to contact local women ahead of time, these meetings took on a different dynamic. Now, in contrast to the previous male dominated meetings, local women invaded the hall. The idea of an invasion is fitting. It was as if the women were invading foreign territory."[94]

Female Commissioners subsequently helped ensure women's presence would translate into meaningful participation. Matembe soon observed that men tended to dominate discussions in mixed groups: "Part of the problem was that women were not used to speaking in public, especially in the presence of such large numbers of male leaders, including the elders […]. In that case, I would encourage them to participate by asking the audience to let women speak. Sometimes I would just choose some women to talk, even when they were not asking for the floor. Eventually, after a few women had raised provocative questions, others would start giving their views."[95] Matembe and Maitum also ensured women's concerns would receive attention by advocating for "Women and the Constitution" to be included as a specific topic for discussion during the seminars.[96]

The female Commissioners subsequently helped advocates overcome constraints to the

[92] Matembe, *constitution making,* 126/127.
[93] Matembe, *constitution making,* 126/127.
[94] Matembe, *constitution making,* 127/128, Waliggo in Matembe, 147.
[95] Matembe, *constitution making,* 130.
[96] Waliggo in Matembe, *constitution making,* 143, Matembe, p. 127, Odoki, *a National Consensus,* 73.

participatory nature of the formal process by consistently highlighting women's inputs in the NCC's deliberations. In particular, "the two women commissioners never hesitated to draw the attention of the male commissioners to the women's voices memorandum. Whenever they were reluctant to accept provisions in the draft that would fully ensure gender equity and protection for women's rights, we would point to that extraordinary report of what women expected from the constitution, and reminding the Commission that women constituted more than half of the county's population. The report proved to be a very useful tool to direct discussion on the drafting of provision on women's rights."[97] As in Rwanda, women's joint submission to the constitutional review process was thus critical to their success.

Informal decision-making rules further amplified the influence of female Commissioners: At the start of the proceedings, the NCC decided to make decisions based on consensus. As a result, women could not simply be outvoted although they were in a clear minority.[98]

Throughout these deliberations, Matembe and her colleague actively raised their colleagues' awareness of women's specific concern and, according to the NCC Chair, "most members became more gender-sensitive because of these two women."[99] In view of the female Commissioners' many efforts he concluded that "All the women – if not the men – in the country owe them a debt for the gender-sensitive tone and content of the Constitution."[100]

As a result of these factors the NCC documents submitted to the CA included several

[97] Matembe, *constitution making,* 135, Waliggo in Matembe.
[98] Matembe, *constitution* making, 156.
[99] Odoki, *a National Consensus,* Matembe, *constitution making*, 139/140.
[100] Odoki, *a National Consensus.*

significant gender equality provisions. These included women's rights to affirmative action and the specific proposal to reserve fifteen seats for women in the national parliament based on regional representation.[101] The NCC also recommended that the constitution outlaw discrimination based on gender, enshrine equality between men and women and that Marriage Laws be revised on this basis. [102]

The Constituent Assembly

In the course of subsequent CA debates, these provisions were extended further. Several factors account for this achievement.

Women's representation in the NRC and CA

First, women were elected to 52 of 284 seats in the CA (18 %), allowing them to act as their own negotiation and voting block. Most of them took up seats that had been reserved for women representatives from the districts, with nine women elected in open contests.[103]

This level of representation in the CA was in turn facilitated by women's presence in the NRC, itself a result of earlier women's civil society lobbying and the new roles assumed by women during conflict: During NRC debates on the establishment of the CA, female NRC members successfully advocated for increasing the numbers of designated women's representatives in the CA from an initial 15 to 39 – one per district.[104]

The seats reserved for women in the NRC also provided an argument for those in favour of women's special representation in the CA. Women's participation in the CA in turn proved

[101] Report of the Uganda Constitutional Commission. See also Waliggo in Matembe, 154.
[102] Report of the Uganda Constitutional Commission.
[103] Goetz, 'No Shortcuts'.
[104] Matembe, *constitution making*, 168.

a model for constitutional provisions on women's representation. In this way, according to Matembe, women's district representation "was an idea that caught on. After the NRC elections in 1989, the argument could be made that anything less was unacceptable to all but the most unenlightened. The NRC adopted this formula for the CA. Then in the CA, the women delegates led the fight to ensure that one woman parliamentary seat per district became part of the new constitution, although the draft constitution had included only 15 parliamentary seats for women."[105]

'The informal': Unity among women and effective coalition-building

Yet the impact of female CA delegates was not only the result of their sheer numbers but also of active coalition-building, including among female delegates. Early in the proceedings female representatives called a meeting to constitute a women's caucus. Most women in the Assembly would join this body.

An important function of the caucus was to ensure that "the women in the CA formed a united front so that we could act as a powerful voting block."[106] Female delegates were aware that united action was critical to success and would remind each other not to publicly disagree on questions relating to gender.[107] In addition, the caucus developed several support structures for female representatives, including an information centre that offered legal consultancy and meeting facilities. [108] With support from DANIDA, the Ministry of Gender also continued to support the caucus by sharing information on gender-related clauses and lobbying all CA delegates on these issues. [109] Inputs from the country-wide consultations also

[105] Matembe, *constitution making*, 179.
[106] Matembe, *constitution making*, 183.
[107] Matembe, *constitution making*, 189.
[108] Matembe, *constitution making*, 189.
[109] E.g. Goetz, 'No Shortcuts'. Ministry of Gender, *Women and the 1995 Constitution.*

informed the delegates' positions and allowed them to argue that they had a mandate for the promotion of progressive gender equity provisions. [110] As a result of the activities, the women's caucus "was by all accounts one of the most cohesive and effective caucuses in the Assembly."[111]

The caucus further enhanced its weight by building wider alliances. According to Matembe, who was elected to the CA after serving on the NCC, "We were 52 women out of a total of 284 delegates. If our weakness is numbers, we said, then why don't we boost our numbers by forming alliances with the other interest groups, the workers, the youth, the army, and people with disabilities?"[112] Consequently they built a block of special interest groups – an expanded group of 72.

The caucus also sought out male delegates who would support gender equality provisions.[113] They agreed that these men should be asked to move amendments on their behalf, to avoid portraying these as mere 'women's issues'. [114] To generate wider support, the caucus would jointly organize events to present the amendments they envisaged and convince male CA delegates of their importance.[115]

As a result of these activities, according to delegate Kanyeihamba, women played such a critical role in the CA that by the end of the debates men were frightened to oppose amendments moved by women, including the extension of the initial recommendation of 15

[110] Goetz, 'Women in politics'. Goetz, 'No Shortcuts'.
[111] Matembe, *constitution making*, 196.
[112] Matembe*, constitution making.*
[113] Matembe, *constitution making,* 186.
[114] Matembe, *constitution making,* 188.
[115] Matembe, *constitution making*, 188. John Mary Waliggo, *Struggle for equality: women and empowerment in Uganda* (Eldoret: AMECEA Gaba, 2002).

parliamentary seats to 39 – one per district.[116] Looking back on their achievements Matembe highlighted that "I cannot stress enough that women managed to achieve what they did in the CA because of successful coalition building […] in the CA we managed to work with a common purpose."[117]

Rules of procedure: Overcoming informal constraints to women's effective participation

The power of the caucus was further enhanced as individual members attained positions of particular influence. Matembe, for example, was elected to the Legal and Drafting Committee in charge of reconciling amendments and drafting the final wording of the constitution.[118] This increased women's influence on the document.

Female NRC delegates had also realised that they were disadvantaged when the CA Chairperson and Deputy were men: "Among other things, this gender inequity seriously affected whether female delegates felt free to contribute to the proceedings."[119] It was therefore agreed that one of these leadership positions would be assumed by a woman.

The CA rules of procedure also played a role in enhancing women's influence. Initially all CA debates were to take place in plenary. When this approach was found to be inefficient a decision was made to work in five select committees. This worked to women's advantage as "Women played much more active roles in committee sessions than in the plenary proceedings. In these small, less formal settings, women felt more at ease to take part."[120] In fact, according to a researcher monitoring the debates, women spoke two and a half

[116] (1997 interview) Matembe, 196.
[117] Matembe, *constitution making,* 195.
[118] Matembe, *constitution making,* 189.
[119] Matembe, *constitution making,* 194, 195.
[120] Matembe, *constitution making.*

times more in committees than in the House.[121] Empowered by this setting, women on the Committee on Local Government successfully introduced the principle that one third of the seats on local government councils should be reserved for women. [122]

NRM ideology and incentives

Finally, the NRM's ideology and practical interests allowed for the prominence of gender equality provisions in the final document. The NRM reportedly controlled more than two thirds of CA representatives. Over time the proceedings became increasingly polarized along political lines, with the NRM caucus blocking technically reasonable proposals because these might undermine its hold on power in the future.[123]

CA delegates generally became increasingly conscious of the implications their positions in the CA might have for their success in the first parliamentary elections following the adoption of a new constitution. As a result, they were for example reluctant to take a clear position on land law reform, which had become highly controversial due to its implications for ethnicity-based conflicts. Delegates therefore handed the issue over to the future parliament, with constitutional Article 237 (9) ordering land law reforms by July 1998.[124]

Given NRM dominance in the CA and such focus on forthcoming elections, it was highly significant that gender equality provisions – including quota arrangements - suited the

[121] Tamale, *hens begin to crow.*
[122] Matembe, *constitution making,* 190.
[123] E.g. Kanyeihamba. For example the proposal to hold presidential and parliamentary elections on the same day based on expenses, logistics and practicality. On this example see also Tripp, *Museveni's Uganda.*
[124] S. Kawamara-Mishambi. and I. Ovonji-Odida, 'The 'Lost Clause' – The Campaign to Advance Women's Property Rights in the Uganda 1998 Land Act' in Anne Marie Goetz and S. Hassim, eds., *No Shortcuts to Power: African Women in Politics and Policy—Making* (London: Zed Press, 2003).

NRM line and political interests. Indeed, non-NRM groups opposed special seats for women, youth and persons with disabilities on the grounds that these groups were allied with the ruling party – and their special representation would therefore further entrench NRM dominance. [125] As we will see in the next section, these suspicions were not unfounded. It is also likely that NRM dominance of the CA facilitated unity among female delegates, which, as we have seen, proved an important ingredient of success. After all, this meant that there simply were fewer political dividing lines that *could* have prevented them from jointly advocating for concerns as women.

Taken together these factors ensured that the CA further extended gender-related provisions proposed by the NCC. In addition to women's special representation and other provisions, the final constitution enshrined clauses on equality in marriage (Article 31) and prohibiting the discrimination against women in the name of culture (Article 32). In a decision that would also prove significant for women's mobilization, constitutional drafters extended the suspension of multi-party politics for another five years.

As the next sections will discuss, gender-sensitive constitutional provisions would provide an important foundation for strengthened responses to violence against women. In this way, as in Rwanda, conflict opened up new opportunities for increasing women's security not only by shifting the public-private division of labour but also by leading to profound institutional reforms, which provided unique openings for enhancing women's formal status. This highlights that for part of the population, conflict may not only be a "trap"[126], as emphasized in statebuilding scholarship, but also an opportunity for transformation of their relation to the state.

[125] Tripp, *Women and Power*.
[126] See Chapter II section 1.

Even in the context of a relatively supportive ruling elite, and again as in Rwanda, the existence of a strong women's civil society and opportunities for their participation during these institutional reforms were required to allow women to seize these opportunities. This sheds a different light on many statebuilding scholars' warnings not to "unleash societal demands"[127] before state institutions are consolidated.

5. The 'lost amendment': Spousal co-ownership and the 1998 Land Act

Civil society soon began to leverage new constitutional rights to advocate for women's concerns in the land law reforms constitutionally ordered by July 1998. Given patriarchal systems of inheritance and property ownership, women in most societies of Uganda did not own land either in their birth place or in the homes they would move to after marriage, normally located in the villages of their husbands. In case of dissolution of marriage they therefore "walked away empty-handed."[128]

From 1995 the Uganda Land Alliance (ULA) and the Uganda Women's Network (UWONET) therefore campaigned for the reforms to integrate married women's right to co-own part of their husband's land. They argued that this was required to realize constitutional gender equality provisions, enhance women's productivity and therefore development – and for the NRM to retain women's support. Invoking these arguments, newly-elected representative Miriam Matembe introduced a proposed co-ownership amendment to parliament, which was adopted on 25 June 1998.[129]

[127] Barnett, 'a Republican Peace', 89.
[128] In Kawamara-Mishambi and Ovonji-Odida, 'Lost Clause'.
[129] Kawamara-Mishambi and Ovonji-Odida, 'Lost Clause', 174.

However, when the bill was published a week later, it did not include the amendment on co-ownership. President Museveni ultimately admitted that, in an "extraordinary exercise of executive *diktat*" [130], he had personally intervened to pull the clause and pass it over to the Domestic Relations Bill. He had already expressed his objections earlier during the debate, echoing wider public opposition. In particular he argued that spousal co-ownership would encourage women to "marry and divorce as many husbands as possible in order to accumulate land from different husbands."[131]

In part, these objections were enabled by the less extensive shifts in the division of labour provoked by conflict in Uganda as compared to Rwanda. As we have seen, the sheer number of women in the 70 % female population who sought to re-claim land – as well as the urgency of meeting their claims for the country's reconstruction – thus forced a perception of spousal co-ownership as a public issue in Rwanda. In this context, it would be more difficult to portray and dismiss spousal co-ownership as a strategy for women to deceive men and accumulate property.

In addition, the politicization of Uganda's diverse group identities undermined women's claims to land in several ways. Historical ethnic conflicts and competing interests in land already made land reforms so controversial that decision-makers were reluctant to add further challenges to the agenda. [132] Once the co-ownership clause was lost, civil society advocates were discouraged from pursuing it further "on the grounds that this might revive the dangerous ethnisation of the debate". They concluded that "This subordination of

[130] Kawamara-Mishambi and Ovonji-Odida, 'Lost Clause', 160.
[131] Kawamara-Mishambi and Ovonji-Odida, 'Lost Clause', 176.
[132] Kawamara-Mishambi and I. Ovonji-Odida, 'Lost Clause', 165.

women's property ownership rights to the politics of ethnic compromise degrades the quality of women's citizenship."[133] Co-ownership was also thought to further inflame communal tensions because land originating from the husband's clan could consequently transfer to the wife's family upon the dissolution of marriage. [134]

In view of such opposition, Museveni's decision to pass spousal co-ownership over to the Domestic Relations Bill (DRB) was interpreted as a compromise allowing him to "save face" with his women supporters while satisfying men and advocates of Uganda's diverse communities.[135] However, women's groups understood this decision as a strategic move to drop the issue from the agenda altogether as the DRB was already "riddled with controversy" and therefore unlikely to pass.[136]

As we will see, failure to enhance women's co-ownership in Uganda, as opposed to Rwanda, would compromise state responses to women's security by undermining implementation of domestic violence legislation - and posing an additional stumbling bloc in efforts to criminalize marital rape.

6. Building state responses to women's security concerns: Development of the Domestic Violence Act and the Marriage and Divorce Bill

New constitutional provisions not only strengthened advocacy for spousal co-ownership in land reforms but also for new legislation on marriage, the Domestic Relations Bill (DRB).

[133] Kawamara-Mishambi and I. Ovonji-Odida, 'Lost Clause', 179.
[134] Aili Mari Tripp, 'The Politics Of Women's Rights and Cultural Diversity in Uganda', in Maxine Molyneux and Shahra Razavi, eds., *Gender Justice, Development, and Rights* (Oxford: Oxford University Press, 2002).
[135] Tripp, 'The Politics of Women's Rights', 424.
[136] Jacqueline Asiimwe of ULA in Tripp, 'The Politics of Women's Rights', 426.

This draft law would include protections from the most common forms of sexual violence against women in Uganda: marital rape. The DRB in turn contributed to the development of a Domestic Violence Act (DVA).

Intertwined at the outset, the fates of these initiatives subsequently diverged. First presented to parliament in December 2003, the DRB was only returned to the house for a second reading in May 2005. However the government then withdrew the bill before the reading was conducted in line with parliamentary rules and procedures, arguing that further stakeholder consultations were required. Re-named the Marriage and Divorce Bill, the initiative also failed to succeed in the subsequent parliament (2006-2010).

The DVA, by contrast, was passed in 2010 along with a range of further legislation on violence against women. As civil society groups highlighted "That was the year where women's issues actually came on top. We had the FGM act passed we had the trafficking in persons act passed, that same year of 2010. Parliament was on fire on GBV issues. Even the Domestic Violence Act went through. The only law that didn't succeed that year was the Marriage and Divorce Bill."[137]

This bill could therefore only be re-introduced in the following parliament, in 2013. On this occasion, while the debate was already on-going the speaker adjourned the house and requested members to return to their constituencies for further consultations. The initiative has since stalled.

[137] Interview CEDOVIP. Interviews relating to Uganda were conducted in Kampala in fall and winter 2015/2016.

The failure of the Marriage and Divorce Bill lies behind an important difference in state responses to violence against women between Uganda and Rwanda: The lack of criminalization of marital rape in Uganda, as opposed to Rwanda. The following two sections highlight key factors behind this state of legal protections in Uganda by analysing the closely connected history of the DVA and Marriage and Divorce Bill. While this section reviews factors driving the development of both bills, the next section assesses why the Marriage and Divorce Bill ultimately failed.

Post-conflict constitutional provisions on gender equality

Uganda's "very progressive[138] constitutional women's rights provisions served to revive civil society advocacy for harmonized domestic relations legislation. As the Centre for Domestic Violence Prevention (CEDOVIP) recalled, civil society was aware that "we needed now to revise some of these old laws to conform to the new changes within the constitution."[139] In particular marriage laws would need to be reviewed to give full effect to constitutional articles 31 (on equality in marriage) and 32(2) (prohibiting the violation of women's human rights on the basis of culture, custom or tradition). [140] Consequently, in the late 1990s and 2000s, civil society, women in parliament and the Ministry of Gender stepped up efforts to update this legislation. [141]

[138] Interview CEDOVIP
[139] Interview CEDOVIP. See also Ministry of Gender, *Women and the 1995 Constitution.*
[140] Interview former anti-GBV coordinator in the Ministry of Gender and Social Development. Ministry of Gender, *Women and the 1995 Constitution.* J. Ahikire and A. A. Mwiine, 'The politics of promoting gender equity in contemporary Uganda: Cases of the Domestic Violence Law and the policy on Universal Primary Education', *ESID Working Paper No. 55*, 2015. Manchester, UK: University of Manchester, 9.
[141] Mubarak Mabuya (former anti-GBV coordinator Ministry of Gender), *The challenges and opportunities involved when making, amending, or repealing the domestic relations law in Uganda.* Masters thesis, Faculty of Arts, Makerere University, 2008, on file with author.

As a result of their advocacy, the Ugandan Law Reform Commission was tasked to conduct two surveys on marriage and family in 1997 and 2000 as a basis for relevant legislation.[142] However, according to the former gender-based violence co-ordinator in the Ministry of Gender, Mubarak Mubaya, "as they carried out this survey, one thing that they had not planned for was the issue of domestic violence […] [People interviewed kept saying]: Our problem is domestic violence, our problem is domestic violence, our problem is domestic violence. So they [were] shocked: they go to investigate an issue of family, and then they find there is an issue of domestic violence affecting women, affecting children."[143] In fact, as CEDOVIP recalled, "They found that in every ten homes nine of those homes experienced domestic violence. That gave birth to the domestic violence project."[144]

Accordingly, in 2004, the Law Reform Commission launched a further study dedicated to domestic violence "to show the extent of the problem and whether it actually required a different legislation."[145] According to CEDOVIP, the results "came out in 2006, of course with a clear recommendation that the figures were way high. I think by then we were at around 60 % of women in physical violence, around 39 % sexual violence between ages of 15 and 49, every year. So when that came out [it] justified the need for the law. So the process for drafting the bill then started."[146]

[142] Interview former anti-GBV coordinator in the Ministry of Gender.
[143] Interview CEDOVIP.
[144] Interview former anti-GBV coordinator in the Ministry of Gender.
[145] Interview CEDOVIP.
[146] Interviews CEDOVIP, CARE, UWONET.

Civil society advocacy

"A formidable force of civil society"[147] played a key role in pushing these legislative projects forward. As CEDOVIP explained, from their perspective "the journey for the Domestic Violence Act started around 2004. There were about three [civil society] organizations by then working on domestic violence."[148] In this context, recognizing that "Service providers were still taking it as a family issue, […] the need for the law on domestic violence came up."[149]

Women's civil society therefore began to lobby the government for such legislation through capacity building sessions and advocacy meetings. In this way, in addition to the findings of the Law Reform Commission's studies "there [was] also other energy, like CEDOVIP, Centre for Domestic Violence Prevention, campaigning, sensitizing people around domestic violence."[150] According to respondents in both civil society and government these efforts were critical in propelling the launch of a legislative project on domestic violence.[151]

Civil society subsequently helped develop the Law Reform's Commission study dedicated to domestic violence[152] and FIDA, CEDOVIP and other groups participated in a taskforce convened by the Commission to draft legislation on this basis.[153] In their efforts to advocate for comprehensive protections in this context, women's groups began to realize that "'we are working individually but we are pushing for the same thing, so how do we come

[147] Interview Ministry of Gender.
[148] Interview CEDOVIP.
[149] Interview CEDOVIP.
[150] Interview former anti-GBV coordinator in the Ministry of Gender.
[151] Interview CEDOVIP, former anti-GBV coordinator in the Ministry of Gender, ACORD, Ministry of Gender.
[152] Interview CEDOVIP.
[153] Interview Law Reform Commission.

together?' So by end of 2006, they had formed a coalition, the Domestic Violence Act Coalition."[154]

This alliance contributed significantly to the content of the DVA. According to the lead organization CEDOVIP, "they came up with one joint position paper on this law, what are the things that we want, what should the law have. And those are the things that we pushed before the Commission."[155] Due to these efforts, amongst other provisions, the coalition succeeded in securing a more comprehensive definition of domestic violence, beyond physical violence and violence within formal marriages, as well as civic responsibility to report.[156] The group also prepared the ground for the passage of the law by mobilizing support from key decision-makers and the public through workshops, demonstrations and media engagement.[157]

An effective parliamentary women's caucus

An exceptionally effective women's parliamentary caucus (UWOPA) in the 8th parliament (2006-2010) provided a critical channel through which these civil society advocacy efforts reached decision-makers: Once mobilized by civil society, the caucus played a key role in rallying support from other members of parliament and cabinet.[158]

In part the relatively high number of female parliamentarians due to constitutional quota provisions proved helpful because, as documented in research in the 2006-2010 and 1996-

[154] Interview CEDOVIP.
[155] Interview CEDOVIP.
[156] Interview CEDOVIP.
[157] Wang, 'Women changing policy outcomes', 41.
[158] Ahikire and Mwiine, 'promoting gender equity', 12.

2001 parliaments, they were more likely to focus on women's issues.[159] Conversely, opposition to legislation on women's security came disproportionately from male MPs.[160]

However, the sheer quantity of women's parliamentary representation was also insufficient for the passage of such initiatives: While women had entered parliament in significant numbers since 1996, they achieved few successes in translating gender-sensitive constitutional provisions into legislative reform before the Eighth parliament (2006-2010). Indeed interviewees for this study consistently stressed a change in quality rather than quantity of female representation as critical in explaining why a wide range of legislation on women's rights was put forward in this period.

As the Ministry of Gender recalled, "The women's caucus in parliament, UWOPA, was *very very very very* progressive"[161] on women's rights. According to UWONET, this was in part because "We had more senior women members of parliament who had worked on these issues for more years than in this [ninth] parliament."[162] In particular, the female deputy speaker of the house, Hon. Rebecca A. Kadaga, was "a champion for gender equality and women's rights, so gender-related legislation really had a fertile ground in the Eighth parliament."[163] As a result of her office she "played [a role in] putting things on the agenda and say ok: this year we are having all women issues addressed. You know, that helped [...] Because she even chaired all those sessions that passed all those bills. That was incredible."[164]

[159] Wang, 'Women changing policy outcomes'. Tamale, *hens begin to crow*.
[160] Amongi 2010 interview, Wang, 'Women changing policy outcomes', 116.
[161] Interview Ministry of Gender.
[162] Interview UWOPA.
[163] Interviews Ministry of Gender, CARE International, CEDOVIP.
[164] Interview CEDOVIP.

The caucus also demonstrated an exceptionally high level of coordination and activity. They met significantly more frequently than in previous parliamentary periods and drafted a specific legislative agenda on gender equality, leading observers to draw comparisons with the prominence of the women's caucus in the CA.[165]

Following a conscious change in strategy by leading UWOPA members, the caucus moreover cooperated closely with civil society, especially as compared to previous parliamentary periods, and female parliamentarians as well as the Ministry of Gender joined the civil society advocacy coalition. As CEDOVIP recalled, "civil society would do all the research, the evidence collection on issues, push them to the parliamentarians, they pushed them to the floor of parliament, question government […] so we kind of had that working relationship. And when there was progress they would also give us feedback and [say]: ok, now we've made these steps, how do we move forward? Then we'd sit and strategize […] that coordination helped in terms of advocacy."[166]

While this level of coordination was "a common denominator" of the many legislative successes on gender equality achieved during this parliament[167], the caucus and civil society worked together especially effectively during efforts to pass the DVA, including by conducting joint advocacy meetings with the Law Reform Commission and the Ministry of Justice. As CEDOVIP recalled "with the help of UWOPA there was actually an arranged meeting for the women movement with the president. So that meeting happened and […]

[165] Interviews Ministry of Gender, CEDOVIP. Wang, 'Women changing policy outcomes'.
[166] Interviews CEDOVIP, UNFPA. Wang, 'Women changing policy outcomes'.
[167] Wang, 'Women changing policy outcomes'.

he said, ok, I'll work on this."[168]

Global norms: International perceptions of women's rights as public issues

In addition to the role of individuals, increased international support for the women's caucus facilitated its more active role in the 8th Parliament. In particular, direct international financial assistance enabled the establishment of a full-time Secretariat. This proved "invaluable" in coordinating UWOPA initiatives within and outside of parliament.[169] International donors also helped organize consultations, trainings for members of parliament in advocacy, networking, community sensitisation and outreach.[170] While the caucus partly began attracting more international support because it was already becoming more effective, these resources certainly further expanded its activities.

International actors also actors exercised direct pressure in favour of the DRB and DVA. In particular, the Club of Madrid, a group of former heads of state and government, advocated for these initiatives at a high level. However, local actors actively encouraged international allies to get involved. According to the UWOPA coordinator "We have targeted them, and had them to do statements to government to show they are not in approval of a certain policy and […] demand certain policies to be changed."[171] The domestic violence coalition

[168] Interview CEODVIP.
[169] Wang, 'Women Changing Policy Outcomes', 116.
[170] Wang 'Women Changing Policy Outcomes'.
[171] Interview Kyatuheire, in Wang, 'Women Changing Policy Outcomes', 119.

also consciously included international actors such as UN Women, UNFPA and Club de Madrid.[172]

Increased regional commitments to women's rights further enhanced incentives for Uganda's political leadership to pass legislation so as to avoid being 'shamed' on the international stage. In particular, "Uganda was hosting the AU summit [in July 2010, on the theme of maternal and child health] and it would have looked *bad* if we had not ratified certain instruments." [173] Uganda consequently ratified the AU's Maputo protocol on women's rights in 2010, which, inter alia, calls on state parties to "enact and enforce laws to prohibit all forms of violence against women".[174] In their lobbying activities, civil society highlighted the need to pass legislation domesticating the protocol, threatening that they would point out any gaps to a global audience during the AU summit.[175]

Global normative shifts had also enhanced advocates' awareness of the need to develop specific responses to violence against women in the first place. According to the Ministry of Gender, for example, "when the Ministry started way back in 1988 gender-based violence was not a very very prominent, separate issue […] but with increased research, increased sharing from partners, particularly the UN partners, it came to the realization that it had to have [a] specific prevention and response strategy and action […] So I think internationally, regionally there was more awareness of the magnitude of gender-based violence and of the need for specific strategies and interventions."[176]

[172] Ahikire and Mwiine, 'The politics of promoting gender equity', 12.
[173] Interview UWONET.
[174] Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 4 (a).
[175] Interview ACORD.
[176] Interview Ministry of Gender.

In this way, a combination of new constitutional provisions on gender equality and a strong force of civil society and female parliamentarians mobilizing for their realisation with international support enabled the passage of the DVA and a range of further legislation on women's rights in 2010.

7. Diverging fates of the initiatives: Failure of the Marriage and Divorce Bill

However, these factors were insufficient to ensure success of the Marriage and Divorce Bill: Despite largely similar advocacy strategies and introduction during the same parliamentary period[177], the Marriage and Divorce Bill failed, while the DVA succeeded. As a result, as opposed to Rwanda, Uganda has failed to criminalize marital rape. Several factors help explain this outcome.

The public-private divide

First, "the domestic violence act is not a law like the Marriage and Divorce (Act), which is seeking to *change* the social status [quo]." [178] With violence already a crime in Uganda, issues addressed in the DVA "are not totally new things […] and they are not asking you to denounce your culture."[179] In fact, "when you look at the laws that were passed in 2010, the FGM Act, the trafficking in persons [Act], the Domestic Violence Act, the Maputo Protocol being ratified, all those are not *core* to overturning social order, and integral to family relations. So that's why I would say [by contrast] the Marriage and Divorce bill has

[177] Wang, 'Women Changing Policy Outcomes', 120 endnote 10.
[178] Interview UWONET.
[179] Interview UNFPA.

been on our parliaments' business for so many years. It's actually the longest standing bill not yet enacted."[180]

Conscious 'framing' of the DVA during civil society and parliamentary advocacy certainly contributed to perceptions of domestic violence as a public (rather than private or cultural) issue and dedicated legislation as protecting, rather than undermining, social order. To counteract initial perceptions of the law as a "women's issue" [181], as in Rwanda, advocates highlighted the wider societal advantages of the law: "we kind of sold the benefits in terms of the family, putting the family together for the children, how this works for everyone."[182]

They also appealed to men by engaging them as fathers of daughters, and hence protectors, rather than as husbands and hence potential perpetrators. As Care International explained, men would say: '[…] if I had my son in law batter my daughter I would kill him […] they start realizing they are part of it."[183] In addition, according to the Ministry of Gender "the justification [for the DVA] was around: this is a national issue that affects socio-economic development, health, it's a human rights issue, it's an economic issue as well, because it affects productivity, it affects the wellbeing of the home, and de-stabilizes income generation, capacity and so on. So it is through that [strategy] that I think it was easy for the Domestic Violence Act to go through."[184]

This 'framing' in turn facilitated a second strategy to break down perceptions of the law as a 'women's issue': Conscious efforts to "work with and through the men […] [to] let the

[180] Interviews UWONET, UNFPA.
[181] Interviews Mubarak, CEDOVIP.
[182] Interview CEDOVIP.
[183] Interview Care.
[184] Interviews Ministry of Gender, former consultant at Law Reform Commission.

men talk for you."[185] CEDOVIP confirmed how important it was that "we put up male champions for this law so it doesn't look like: 'oh it's a female law'."[186] In order to get men on board, advocates changed not only the content but also the tone of their engagement. As Care International recalled, "at the beginning it was seen like […] a 'women's issue' because most of the women there were seen [as] confrontational, rather than dialoguing, which makes a difference." [187] Shortly before the second reading of the DVA, news of a case of lethal domestic violence against a male general further helped frame such violence as a public issue and mobilize support among male parliamentarians: As Mubaya recalled, during the reading of the DVA, "members were saying that if a general can [avoid being] killed by bullets but is killed in a domestic row, then this is a very serious issue."[188]

However, the issues covered in the Marriage and Divorce Bill posed deeper challenges to 'cultural' practices, the intimate sphere and men's power over women – and hence the nature of the public-private divide – than the DVA. Conscious 'framing' failed to overcome these. As UNFPA explained, "Marriage and Divorce is the law which will transform culture. And that is why it's not been passed."[189] As during discussions of gender-based violence legislation in Rwanda, particularly controversial provisions included the criminalization of marital rape. This was in part due to the firm location of these issues in the private sphere: "because the marriage and divorce bill officially enters into the bedroom [you can] forget [the issues of] defilement, rape [it covers]. It has a long way to go."[190]

[185] Interview Care.
[186] Interview CEDOVIP.
[187] Interview Care.
[188] Interview former anti-GBV coordinator in the Ministry of Gender.
[189] Interview UNFPA
[190] Interview UNFPA.

In addition, access to women's bodies went to the heart of cultural understandings of marriage. According to UWONET, which coordinated the coalition advocating for passage of the bill, "in Ugandan settings many people say, when you are a wife, these are obligations, these are rights in marriage, you should not be able to negotiate sex. And when married, if and when your husband wants to have sex, he should have sex. So we received a lot of backlash on some of these things." [191] Given this understanding of marriage, according to the UWOPA Secretariat, "In this parliament I don't think any man agreed to the fact that marital rape exists." [192] "It was culturally a difficult one", CEDOVIP confirmed.[193]

However, advocates partly interpreted objections as a result of the interference of these provisions with cultural rules and 'private' power relations *that reinforced men's privileges*, rather than only interference with culture and the public-private divide as such. [194] Without taking these power dimensions into account it is difficult to explain why men were disproportionately opposed to criminalizing marital rape.

Testimony to the level of resistance faced, provisions on spousal rape were significantly watered down in subsequent drafts of the bill: Later versions would focus on the right of a woman to negotiate sex after giving birth or in cases of ill health. [195] However, even these provisions continued to face opposition. [196] This was evident during a UWOPA meeting on sexual offences legislation attended during the research for this thesis: In this context, a

[191] Interview UWONET.
[192] Interview UWOPA.
[193] Interview CEDOVIP.
[194] Interview Law Reform Commission.
[195] Interview UWONET.
[196] Interview UWONET.

male affiliate of UWOPA, likely among the most gender-sensitive men in parliament, considered these limited provisions inappropriate as they would open the door for the "sexual starvation" of "our boys".[197]

Several further provision of the Marriage and Divorce Bill met with considerable opposition because they appeared to undermine 'culture' and men's power over women. A provision making bride price optional was a "huge challenge" because it was interpreted to erode cultural practices. [198] In addition, the sanctity of marriage meant that "the bill faced a challenge of its own name."[199] The public and religious leaders opposed putting 'Marriage and Divorce' together, arguing that this implied that the two somehow naturally followed one another.

Finally, provisions establishing that property acquired before or during marriage shall be owned in common by the spouses, transferred to the DRB from discussions on the Land Act, were, again, highly contested and proved an additional stumbling bloc. According to UNFPA, "the minute you tell a man that after cohabiting five or ten years or so, they can claim your property no man is going to sign off [….] I don't know how America did it."[200] As we have seen, the intensity of violence in Rwanda, and consequent demographic shifts had established this issue as a public priority shortly after the genocide. In the absence of similar transformations in Uganda spousal co-ownership continued to be perceived as a 'women's' ('private') issue, further increasing opposition to the DRB.

[197] Notes on UWOPA breakfast meeting, on file with author.
[198] Interview CEDOVIP.
[199] Interview UWOPA.
[200] Interview UNFPA. The legislation would also have covered rights of women co-habiting without formal marriage.

However, as we have seen, parliamentarians in Rwanda initially also voiced opposition to provisions criminalizing marital rape in the context of the country's domestic violence legislation. Additional factors must then be taken into account to explain why legislation on these issues could succeed in Rwanda regardless, while failing in Uganda.

The power of diverse religious institutions

First, the extent of resistance to these provisions in Uganda partly resulted from the influence of diverse religious institutions, with religious leaders "at the fore" of opposition to the bill.[201]

Given the nature of issues addressed in the DVA, civil society succeeded in gaining the active support of several influential religious leaders in advocating for this initiative. These included the imam of the Ugandan Muslim Supreme Council and the Catholic Archbishop of Kampala archdioceses, who dedicated his 2009 Easter sermon to the 'sin' of failing to report violence in the home.[202]

By contrast, several religious groups objected the Marriage and Divorce Bill because it appeared to encroach on their sphere of autonomy vis-à-vis the state. Uganda's Muslim community in particular organized repeated protests. Ahead of the 2005 parliamentary debate of the bill, for example, approximately 7000 Muslim men and women took to the streets in Kampala, shouting 'Allah Akbar' (God is Great) and carrying banners with slogans such as "Dare not tamper with our Constitution-The Quran" or "Ugandan Women

[201] Interview UWONET.
[202] Ahikire and Mwiine, 'promoting gender equity', 16.

condemn the Domestic Relations Bill." In this context, leaders reminded their community that "The Koran caters for every aspect of marriage, children, and relationship [...] There is no need of making another law for Muslims."[203] When the demonstration arrived at parliament a delegation entered to deliver their memorandum on the bill to then Deputy Speaker, Rebecca Kadaga. Testimony to the weight of their objections, a separate bill was subsequently developed for the Muslim community: the Administration of Muslim Personal Law Bill 2008.

However, Muslim communities then began to object progress on the DRB/Marriage and Divorce Bill not based on principles but in an attempt to push for follow-up on their own legislative initiative. [204] The sheer diversity of religious groups and practices in Uganda also complicated the introduction of homogenous rules governing marriage and divorce, including times and places where marriages could be conducted. In competition for resources and followers, different religious groups feared that specific proposals might give others greater advantages.[205]

In addition, this diversity complicated the maintenance of any formal agreements reached with religious leaders by increasing the numbers of actors involved, with civil society "stabbed in the back" by religious groups after they thought a deal on the bill had been made: "The bill [went] to parliament, before we knew it they were appearing before the

[203] 'Ugandan Muslims block marriage bill, 2004-2005', *Global Nonviolent Action Database, https://nvdatabase.swarthmore.edu/content/ugandan-muslims-block-marriage-bill-2004-2005*
[204] Interview CEDOVIP.
[205] Interview CEDOVIP.

committee complaining […] how [they are] uncomfortable with this. We [were] caught off guard."[206]

High-level political interests and Executive Control of Parliament

However, religious and cultural opposition ultimately only blocked the Marriage and Divorce Bill because it amplified opposition in the Executive, contrasting with elite support for such initiatives in Rwanda - as well as for the DVA in Uganda.

With regard to the DVA, President Museveni publicly declared his support as early as March 2008, when the drafting had just begun, highlighting that work against domestic violence was needed to enforce existing public priorities: "by battering their wives, men are breaking the laws of Uganda which advocate for equal rights and protection of people. Therefore we need legislation on domestic violence. I hear there is one in the pipeline, so we need to expedite it."[207] The DVA civil society coalition actively leveraged his support in advocacy activities, repeatedly replaying the president's recorded statement on domestic violence throughout their campaign.[208]

While lobbying for the Marriage and Divorce Bill, by contrast, UWONET and others noted that "one of our challenges has been political will […] Our head of state, our president, has

[206] Interview CEDOVIP.
[207] Ahikire and Mwiine, 'promoting gender equity', 13.
[208] Ahikire and Mwiine, 'promoting gender equity', 13.

been having issues with the bill."[209] He repeatedly made his position publicly known. In 2002, for example the "President wrote to the Ministry of Justice and Constitutional Affairs arguing that the DRB was shallow and could not address the issues of Ugandan society. He noted that the Bill was copying Western (European, American) ways of life, which had led to enormous damage to humanity and thousands of broken families."[210]

In 2013, he outlined his objections to the Marriage and Divorce Bill in a 21-page letter to members of parliament. Echoing his earlier opposition to the Land Act amendment he criticized middle class women for wanting to turn marriage into a business through spousal co-ownership and emphasized that "the greatest point in all this is not to antagonise our pre-capitalist traditional societies with ultra-modern liberal ideas of the elite."[211]

Museveni's opposition indirectly reduced the chances for success of the Marriage and Divorce Bill by fuelling societal opposition[212] and combined with Executive control of the legislature to undermine it directly: In his 2002 letter to the Ministry of Justice he thus explained that he was responsible for delaying the initiative. In 2005 Museveni similarly took personal responsibility for the withdrawal of the bill from parliament.[213]

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[209] Interview UWONET.
[210] Mabuya, *the domestic relations law in Uganda,* 28.
[211] Mercy Nalugo, 'Museveni writes to MPs on marriage Bill', *Daily Monitor,* Friday 22 March 2013.
[212] Interview Ministry of Gender.
[213] Ahikire and Mwiine, 'promoting gender equity'. Kari Nordstoga Hanssen, 'Towards Multiparty System in Uganda: The Effect on Female Representation in Politics', CMI. WP 2006: 9– citing The Monitor 05.05. 2005

Finally, during the 2013 parliamentary discussion clauses were already being passed and the legislation looked set to succeed. However, "then the bill was stalled […] there was money that was given to members of parliament […] because the president said: "hey hey hey, wait! why are we passing this bill. I want all the members of parliament to go and *consult* constituents on whether they want this bill passed […] So the bill was withdrawn from the floor of parliament *after* those clauses had been passed."[214]

In this context "our members of parliament were each given 5 million Ugandan shillings, which is equivalent maybe to 2000 US Dollars to go and consult."[215] Several interviewees suggested that the sum was likely designed as an incentive for parliamentarians, rather than only a support for workshops in their constituencies. MPs then went to their communities, mobilizing opposition to the bill and often spreading considerable misinformation.[216] Following the process "there was an uproar from everyone saying: We don't want the bill. And so the bill was withdrawn."[217] Given that government stepped in to order such consultations once clauses of the bill had already been passed, societal opposition only stopped the initiative because it combined with elite incentives and the Executive's control of parliament.

Ironically, women's representation in parliament through constitutional quotas facilitated the level of control over parliament that undermined this legislation. Women elected on quota have had strong affiliation with the NRM because they were frequently reminded that they owed their position to the NRM and its policies, and especially Museveni's top-down

[214] Interview.
[215] Interview.
[216] Interview.
[217] Interview.

decision to grant quotas in the national parliament. Several legislators have argued that this has made it difficult for female parliamentarians to push for their own agendas.[218] In addition, women's representatives were likely to be NRM loyalists because, prior to the re-introduction of multi-party politics, they were chosen by Electoral Colleges closely tied to the NRM. Indeed Museveni has publicly counted all special interest group representatives as supporters of the NRM in his reactions to elections.[219]

Democratization: The political significance of religious groups and new divisions in the women's movement

While Executive dominance of parliament enabled Museveni to intervene, levels of democratization intensified opposition to legislation criminalizing marital rape and helped set elite incentives to undermine the initiative.

Although Museveni's objections reflected wider societal opposition, they were also fuelled by the need to maintain the support of powerful religious and cultural groups so as to advance wider political goals. As one former employee who worked on the Marriage and Divorce Bill commented: "For him it is just a case of appeasing interest groups. There was a big clash [with] the Muslims [over the Marriage and Divorce Bill] […] So anytime the president feels like he is losing a certain interest group, he'll just come and stop whatever it is that's upsetting them whether it's in parliament, whether it's a court case, whether it's an administrative decision, it doesn't matter. So that's

[218] Hanssen, 'Towards Multiparty System'. Also supported by Tamale, *hens begin to crow.*
[219] Hanssen, 'Towards Multiparty System', citing (*The Monitor*, July 11, 2003).

just the way he operates."[220] In particular, Museveni has continued a long tradition of courting religious leaders in general, and Pentacostal and Muslim communities in particular, as they play a significant role in mobilizing support for political leaders.[221]

Levels of democratization in Uganda enhanced the political significance of these groups. The Ugandan leadership was generally relatively dependent on popular support, in turn influenced by religious communities. Religious groups in Uganda were able to express and advocate their political preferences relatively freely, including through media and civil society. Muslim leaders became increasingly vocal in the political sphere through these democratic channels, including by setting up NGOs, writing newspapers, and speaking publicly on political issues.[223]

What is more, the Marriage and Divorce Bill was repeatedly introduced during moments when democratic processes threatened Museveni's hold on power and he was therefore particularly dependent on the backing of these religious leaders. When the Bill was discussed in 2005, a multi-party system had been reintroduced following a referendum, the first multi-party elections were impending and Museveni was seeking support to lift the two five-year term limits for the office of president. Explaining his opposition to the DRB,

[220] Interview.
[221] E.g. Dr. Sabiki Makara, 'The Challenge and Prospect of Multiparty Democracy in Uganda', in Yusuf Kiranda and Mathias Kamp (eds), *Reality Check: The state of multiparty democracy in Uganda* (Kampala, Konrad Adenauer Stiftung, 2010). Robert Alfred Dowd, *Christianity, Islam and liberal democracy: lessons from sub-Saharan Africa* (New York: Oxford University Press, 2015).
[223] Richard Downie, 'Religion and the State in Uganda: Co-option and Compromise', in Jennifer G. Cooke and Richard Downie, eds., *Religious Authority and the State in Africa,* A Report of the CSIS Africa Program, 2015.

Miriam Matembe, former NCC Commissioner and MP, argued that Museveni was not interested in the Domestic Relations Bill, but in a third term, which required gaining support from Muslims and men opposing the initiative. [224] In 2010, when the Bill was re-introduced, relatively competitive elections were around the corner. In 2013, in turn, efforts had begun to bring parliament to drop the age limit on presidential candidates.[225] According to the Ministry of Gender, "it was not a time to alienate a very big section of the community, especially the religious leaders who have a very big say in our society."[226]

The imperatives of managing the re-introduction of multi-party politics also diverted parliamentarians' attention from gender equality legislation. When the Marriage and Divorce Bill was withdrawn in 2005, parliament was approaching the end of its term and, given the urgency of the new political dispensation, would spend the rest of its period discussing laws to bring it into being. Therefore the bill had to be introduced again in the new parliament (2006-2010) – and lobbying of parliamentarians start afresh.[227]

Finally, the re-introduction of a multi-party system in 2006 increased divisions in the women's movement, aggravating controversy over the Marriage and Divorce Bill when it was re-introduced in the 9th parliament (2011 – 2016). The multi-party dispensation was accompanied by a change in the selection process for female quota representatives – who continued to make up the vast majority of female parliamentarians.[228] Rather than through NRM-controlled electoral colleges, they were to be selected in each district through female

[224] Hanssen, 'Towards Multiparty System', reference to Monitor 29 09 05 article.
[225] 'Uganda and its president: A leader who cannot bear to retire', 12th October 2013, The Economist.
[226] Interview Ministry of Gender.
[227] Mabuya, *The domestic relations law in Uganda.*
[228] See e.g. Vibeke Wang and Mi Yung Yoon, 'Recruitment mechanisms for reserved seats for women in parliament and switches to non-quota seats: a comparative study of Tanzania and Uganda', *Journal of Modern African Studies, 56:2, 2018.*

candidate only elections with universal suffrage. The number of non-NRM women's representatives consequently grew in the 2006 and further in the 2011 elections. Rather than universally beholden to the NRM, these women depended on the support of distinct parties as well as popular opinion in their districts for their candidacies and ultimatevictory.

By setting these new incentives the multi-party system reduced the unity among women's representatives, which the movement system had helped create. As CEDOVIP observed "after the multi-party dispensation there were a lot of divisions, it kind of brought the fierce politics out [...] [women] kind of forgot that unifying factor that we are first women then we each have our own political opinions or political attachments. That has been lacking."[229]

The re-introduction of multi-party politics also increased the need to emphasize distinctions between different political groupings and hence the importance of party discipline. This meant that female members would feel unable to speak out on women's rights issues if their parties did not follow this line – with party positions continuing to be largely determined by a few established leaders due to a lack of internal democracy.[230]

This helps explain why in 2013, according to ACCORD, the bill "was shot down by, to a large extent, friendly fire."[231] While "fire" from male parliamentarians was expected[232], as UWONET recalled, "we were so shocked to find that there were a number of female

[229] Interview CEDOVIP.
[230] Interviews CEDOVIP, ACORD, UWONET. Makara, 'Multiparty Democracy in Uganda'.
[231] Interview ACORD.
[232] Interview ACORD.

politicians that came out to say, look: we are not going to support the bill."[233] Many joined those mobilizing against the bill in their constituencies.[234]

While the multi-party dispensation was agreed in 2006, its divisive effects on the women's movement were not felt until several years onwards: "the effect is actually more [intense] now [….] Probably because it was a trial process, it was kind of a learning process for the parties on how to control their members."[235] This explains why UWOPA and female parliamentarians in the 8th parliament continued to show a high level of coherence, including in passing the DVA – and why previous research has not observed these effects.[236]

In addition, initial divisive effects may have been offset by a simultaneous increase in international funding due to the introduction of multi-party politics: Following this dispensation, the women's caucus attracted increased resources, with international actors suggesting that "UWOPA, I think, got sexy in 2005 for the development community because it was easy to work with […] It cuts across parties, which gives everyone a warm, fuzzy feeling."[237] Yet new divisions would soon undermine the effects of this funding.

Beyond these divisions, the introduction of multi-party politics and more competitive elections fuelled a 'commercialisation of politics.' Reflecting on their relationships with parliamentarians, civil society highlighted that "When you look at their financial situations

[233] Interview UWONET.
[234] Interview ACORD.
[235] Interview CEDOVIP.
[236] E.g. Wang, 'Women Changing Policy Outcomes'.
[237] Wang, 'Women Changing Policy Outcomes', 119. Interviews Law Reform Commission, former consultant Law Reform Commission.

it's kind of hard. Many currently are borrowing [money] to now have elections. Because elections have been monetized. So someone has to spend a lot of money just to buy himself into the seat. So when he gets into the seat he has a lot of debt, he's actually thinking of how do I now retain myself, sustain myself for the next five years and have enough to campaign in the next financial year."[238]

As a result, parliamentarians have become less accessible for (women's) civil society who are often operating on a low budget and, as opposed to other actors, are not able to pay parliamentarians to attend their advocacy meetings: "when there is another deal where he can be earning some money, definitely your function will not be on his agenda."[239] Party politics also posed new challenges for civil society advocacy because they would now need to engage individual parties rather than only the cross-party women's caucus. However, they felt this would risk them being perceived as politically biased, and hence undermine their relations with parliament.[240] In part as a result of these trends, relations between the caucus and women's civil society generally deteriorated.[241]

In combination, as UWONET pointed out, these developments mean that, "in the early 90s and the early 2000s there was a *much* stronger women's movement - around a number of issues, not just the [Marriage and Divorce] bill. But over the years we see that movement becoming less and less vibrant […] Because now we see a lot of fragmentation, we see a lot of individualization of certain issues, rather than having this collective voice."[242]

[238] Interview CEDOVIP.
[239] Interview CEDOVIP.
[240] Interview CEDOVIP.
[241] Interview CEDOVIP.
[242] Interview UWONET.

The history of the Marriage and Divorce Bill then confirms that links between democratic processes and policies on violence against women can be even more complex than scholars of feminist policy formation have tended to anticipate based on developments in Western democracies.[243] In fact, it is the combination of levels democratization with religious diversity and opposition among the political leadership that best explains why efforts to criminalize marital rape failed in Uganda.

8. Implementation of state responses to women's security concerns

As opposed to Rwanda, Uganda has "done well in terms of having good laws, but implementation has failed."[244] According to FIDA, six years after adoption of the DVA "[if] you ask me how many cases have been prosecuted under the act […] in terms of reporting and being able to secure [a] good decision I can comfortably say we've not made five cases in FIDA. And this is a women's institution - women walk here every day."[245]

'Capacity' of formal institutions

In part limited implementation results from a general lack of resources – or 'capacity' as

[243] E.g. Htun and Weldon,*Gender Justice.* Htun and Weldon 'Progressive Policy Change'. Htun and Weldon, 'Why Do Governments Promote Women's Rights'?.
[244] Interview FIDA, Raising Voices.
[245] Interview FIDA.

commonly measured in literature on statebuilding.[246] This includes severe shortages of judges, prosecutors and state's attorneys, as well as health personnel available to testify in court. [247] In addition, "police officers are *very* few, very few. So we cannot ably respond to each and every case."[248] With even poorly staffed police posts "few and far" between, victims often have to travel considerable distances to secure a response. [249]

Police stations are also poorly equipped, lacking transport and even basic office supplies.[250] As a result, victims of crime, including SGBV survivors, are often asked to contribute these lacking resources. In fact, "they are at times told to transport the rapist or the perpetrator to police or to [the] health facility medical examination."[251]

These resource constraints disproportionately impact responses to domestic and sexual violence, for several reasons. First, as Mubaya explained, "if someone stole your car, you can arrest the thief after a week and the evidence will still be intact, but with rape this evidence can disappear, you see. So […] although the [limited] budgets may affect the justice sector in general, they have much more [wide-]reaching implications on cases like rape and defilement […]. Because responses are time-sensitive. So the issue of budgets becomes very important. The issue of budgets becomes vital."[252]

Moreover, small police stations mean that "issues of privacy [are] still a big issue. You

[246] Interview UWONET. Interview former anti-GBV coordinator in the Ministry of Gender, ACORD.
[247] E.g. UWOPA, Draft Monitoring Report on the Implementation of the Domestic Violence Act, 2016, on file with author. ACORD, *Making the Law Count: Uganda: an audit of legal practice on sexual violence*, 2010.
[248] Interview FIDA.
[249] ACORD, *Making the Law Count.*
[250] ACORD, *Making the Law Count.*
[251] Interview former anti-GBV coordinator in the Ministry of Gender. See also UWOPA, Draft Monitoring Report. ACORD, *Making the Law Count.*
[252] Interview former anti-GBV coordinator in the Ministry of Gender.

can't [take] somebody aside and then you listen to their issues."[253] Given the stigma attached to gender-based violence, this seriously affects reporting of these cases.[254] In addition, as most state institutions have little history of addressing SGBV, developing effective responses would require funds for special equipment and training of police and prosecutors.[255] Enforcing protection orders would also depend on a particularly high level of resources: In Uganda, the ratio of police officers for the population is approximately 1 per 10 000 people.[256] As FIDA explained, "So now if two policemen are put to work, [on] one woman […] it doesn't make sense."[257]

This shows that a lack of resources in formal state institutions, often emphasized in studies of statebuilding as a key risk for statebuilding 'success', is certainly significant in explaining the Ugandan state's limited 'success' in providing security for women. However, as we have seen, the considerable less 'capable' Rwanda was significantly more successful in responding to women's security concerns than Uganda. This suggests that resource constraints are an insufficient explanation for limited implementation in Uganda. Several additional factors must be taken into account.

'The informal': The priority placed on violence against women as a public issue among state elites

First, the Rwandese leadership was more willing to use its limited resources to respond to violence against women than the Ugandan elite.

[253] Interview, Uganda National Police, Child and Family Protection Unit.
[254] Also Interview former anti-GBV coordinator in the Ministry of Gender.
[255] Interview former anti-GBV coordinator in the Ministry of Gender.
[256] UNODC, see chapter IV.
[257] Interview FIDA.

Rather than inherent resources constraints, the lack of resources for SGBV responses in Uganda thus partly reflects that "It's not a priority in this country.".[258] The Ministry tasked with coordinating responses to gender-based violence is thus allocated less resources than other Ministries. In fact, the "Ministry of Gender has the smallest budget in the country."[259] It also lacks influence at cabinet level. According to CEDOVIP, "it's kind of a Ministry that is the least priority for government. Their issues are the least considered so we feel like whatever they present in some of those spaces they are not taken seriously or they are the ones that are put last on the agenda. So every time the meeting drags on, we push it to next time and next time becomes next time until you drop off the agenda."[260]

These limitations seriously constrain implementation of gender-based violence legislation. For example, the Ministry of Gender held overall responsibility for the development of a policy to put the DVA into practice. However, while this had been formulated in parallel to the DVA itself, during the time of the research – at least eight years later – it had still not been finalized.[261] According to the Ministry itself the key reasons for this delay was their lack of resources to conduct the required consultations.[262] According to civil society, it also reflected a lack of political will at cabinet level: "It's not a priority right now. Though we are seeing other things coming in one week and [at the] end of the week, everything is passed. We kind of feel jealous."[263] Civil society and UWOPA monitoring concluded that the lack of a policy in turn posed a key constraint in efforts to implement the DVA,

[258] Interviews FIDA, Ministry of Health, ACORD, *Making the Law Count.*
[259] Interviews FIDA, ACORD.
[260] Interview CEDOVIP.
[261] Interviews CEDOVIP, Ministry of Gender.
[262] Interview Ministry of Gender.
[263] Interview CEDOVIP. Also interview FIDA.

seriously undermining efforts to sensitize and guide service providers in their responsibilities in this area.[264]

Similarly, while the police faces general resource constraints and although the "police has progressed in terms of putting a child and family protection unit to attend to these [gender-based violence] issues immediately, it is the least funded, the least financially supported department in the police [...]. So even when police want to work [on GBV cases] they are incapacitated."[265] Overall "they have only about 540 officers, who serve in the [121] districts. So you find that in some districts there is actually no child and family officer." [266] With survivors consequently forced to travel significant distances – and invest considerable time and resources – to access a response, many drop their cases.[267]

This contrasts with the priority placed on police responses to gender-based violence in Rwanda. According to CEDOVIP "The other thing that we are also envisaging here in Uganda that we have learned from Rwanda is that much as we have a child and family Department, it's still lacking in terms of capacity and resources. Rwanda they have […] the (police) Gender Department: 'Wow'!"[268]

[264] Interview CEDOVIP. UWOPA, Draft Monitoring Report.
[265] Interview FIDA.
[266] Interview CEDOVIP.
[267] Interview CEDOVIP.
[268] Interview CEDOVIP

Political liberalization and patronage

What is more, increasing levels of political competition have incentivised elites to employ state resources for patronage and electoral campaigns. Especially since the re-introduction of multi-partyism, the NRM has spent enormous amounts of state resources on election campaigns, financed through "looting of the national budget" and the passage of supplementary budgets, making the 2011 and 2016 elections the most expensive events in Uganda's post-independence history. [270] Indeed, in 2011, observers assess that "Museveni won mostly because he threw overwhelming state resources into his campaign."[271]

In addition, the president has aimed to enhance his electoral support by rapidly increasing the number of districts - from 33 in 1990 to 121 in 2017, [272] providing new jobs and increased parliamentary representation for specific areas. This has reduced the effectiveness of local government (local councils) by creating administrative problems and aggravating staff shortages, with staffing levels at 55 % of full capacity on average and falling to 10 %

[269] Green, 'Patronage as Institutional Choice'.
[270] Angeloa Izama and Michael Wilkerson, 'Uganda: Museveni's Triumph and Weakness', *Journal of Democracy,* 22:3. Frederick Golooba-Mutebi and Sam Hickey, 'Investigating the links between political settlements and inclusive development in Uganda: towards a research agenda', ESID Working Paper, No 20, 2013.
[271] Izama and Wilkerson, 'Uganda'. Golooba-Mutebi and Hickey, 'political settlements'.
[272] For figure in 1990 see Elliott D. Green, 'Patronage, district creation, and reform in Uganda', *Studies in Comparative International Development,* 45:1, 2010.

in many districts. In addition, this strategy has further reduced the level of funds available to individual local councils, thereby increasing incentives for corruption.[273]

This increases barriers for the implementation of the DVA – which specifies local councils as the first point of contact for reporting. [274] Encouraged by lacking funds, local councils use various opportunities to make money out of gender-based violence cases. As a result, "most survivors opt not to continue with the process of seeking justice, because they are frustrated by the various costs within the system."[275] Corruption also significantly reduced the level of trust in – and hence reporting to - the local council system in the first place.[276]

Lack of funds, human resources and documentation also reduce the general level of activity of the councils in responding to violence against women. During UWOPA research, for example, respondents noted that local councils rarely organized community meetings and that they had never participated in community outreach designed to raise awareness of domestic violence. Local councils had also stopped registering local citizens. Perpetrators of serious cases of domestic violence were therefore able to escape justice by moving to a different area.[277]

[273] Green, 'Patronage, district creation, and reform'.
[274] Republic of Uganda, The Domestic Violence Act, 2010. Interview FIDA.
[275] ACORD, *Making the Law Count.*
[276] UWOPA, *Draft monitoring report,* 30.
[277] UWOPA, *Draft monitoring report*, 14.
[278] Baker, 'Reconstructing a Policing System', 347.

Ugandan civil society organizations themselves noted that "if you compare for example Uganda and Rwanda, Rwanda has taken some time to build institutions from the bottom up […] We have many projects that make up what we call Uganda and sometimes these projects are not very coherent." [279] Consequently, "In terms of service provision generally, not only for GBV, you see that their systems are working more than ours."[280]

The 'intensity' of conflict and state capacity

Greater destruction, rather than strength of post- conflict capacity in Rwanda provided greater opportunities to build institutions effective in responding to violence against women. This included the police: As opposed to the relatively 'clean slate' seen in Rwanda, which the RPF seized to build a disciplined police force, the strength of police in Uganda remained more level throughout the conflict. Therefore "Uganda […] inherited police forces 'contaminated' by past human rights abuses and extortion. Yet to disband them would have proved costly and left a vacuum."[281]

Although the conflict opened some opportunities for reforms and vetting [282], "there are still hangovers from the past culture of abuse and corruption" including persistent accusations of bribe seeking. [283] Indeed, a 2002 national integrity survey concluded that people considered the Uganda Police the most corrupt institution in the country.[284]

[279] Interview ACORD.
[280] Interview CEDOVIP.
[281] Baker, 'African Policing Culture, 23.
[282] Bruce Baker, 'How Civil War Altered Policing in Sierra Leone and Uganda', *Commonwealth & Comparative Politics,* 45:3 2007.
[283] Baker, 'African Policing Culture', 13.
[284] Baker, 'How Civil War Altered Policing'.

These perceptions help explain why few cases of domestic and sexual violence are brought to the police in the first place: During UWOPA research "From all the FGDs (focus group discussions) conducted, the respondents said the police were corrupt and that the perpetrators would be released in no time. This had hindered them from reporting and following up on cases."[285]

A system of community policing created in Uganda, as in Rwanda, partly to substitute for limited post-conflict capacity, appears to have had some positive impacts on these strained relations between society and the police. [286] However, this system is far less extensive than in Rwanda and does not link into a similarly disciplined police force. This helps explain why it has not delivered the same successes in responding to women's security concerns as in Rwanda.

'The informal': Societal views of the public-private divide

While a general lack of trust in the police posed a barrier, the extent to which societal norms continued to frame violence against women a private issue further undermined police effectiveness in responding to these specific concerns. Even the head of the police's family and child protection unit recognized that "not everybody at the police station may be helpful. Because we are being influenced by the culture, by the law and by religion."[287]

[285] UWOPA, *Draft monitoring report,* 28.
[286] Baker, 'African Policing Culture'. Baker, 'How Civil War Altered Policing'. Bruce Baker, 'Multi-choice policing in Uganda', *Policing and Society*, 15:1, 2005.
[287] Interview, head of child and family protection, Uganda National Police.

In light of these attitudes, FIDA concluded that when calling police to ask for protection in a domestic violence case, "You're better off saying I suspect a terrorist here, [saying] probably there is damage to property, he could have a bomb. Those are *issues*. Those are the issues that move police to be in a particular place within no time. But not issues of domestic violence."[288]

In the judiciary UWOPA similarly found that "We have a history of gender-based violence cases being given less priority. So we have a back-log of so many cases that have not been tackled because of fewer judges or fewer courts or priority to other crimes [...]"[289] In part this reflects discrimination against women as such, with severe verdicts repeatedly secured where the perpetrator was a woman. [290]

Societal norms on women's status also prevented survivors from reporting cases in the first place. In particular, they "end up staying in these abusive relationships simply because of the […] cultural and religious value of the institution of marriage and the family […] This makes the law enforcement difficult."[291] Even where domestic violence is raised as a concern, "they are told: 'these are domestic issues"[292] either to be addressed individually or solved through family relations, rather than the formal institutions of the state.

Customs assigning women unequal status in the family also constrain the effectiveness of law enforcement in more indirect ways. With men serving as main providers, women are less likely to be able to incur the costs involved in pursuing cases. In addition, incarceration

[288] Interview FIDA.
[289] Interview UWOPA.
[290] Interviews CEDOVIP, FIDA.
[291] Interview former anti-GBV coordinator in the Ministry of Gender.
[292] Interview former anti-GBV coordinator in the Ministry of Gender.

of violent partners means risking the survival of the entire household. [293] As land belong to the man, women are also likely to get pushed off the land when male partners are incarcerated. [294] As opposed to Rwanda, the lack of legislation on spousal co-ownership of property, including land, has perpetuated these trends. The institutions of bride price also prevents women from returning home, as families of women are often expected – but unable – to repay these sums in cases of separation.[295] Given that the Land Act as well as the DRB/Marriage and Divorce Bill aimed to address these challenges, failure to pass these initiatives also constrains implementation of the DVA.

9. Conclusion

In conclusion, several 'success factors' identified in Rwanda also contributed to progress in state responses to women's security concerns in Uganda. However, Uganda would ultimately see less 'success' in this area because its legacies of less 'intense' conflict, higher levels of post-conflict capacity and political processes provided fewer opportunities to re-define the public-private divide and thereby establish violence against women as a public issue. As in Rwanda, the effects of these factors were different, and often inverse, from what common findings in scholarship of post-conflict statebuilding would lead us to anticipate. The case of Uganda therefore adds weight to the conclusion that dominant trends in this literature do not 'work' for men and women equally:

Legacies of conflict

[293] Interviews UNFPA, FIDA, former anti-GBV coordinator in the Ministry of Gender.. UWOPA, *Draft monitoring report.*
[294] Interview UNFPA.
[295] Interview UNFPA.

As in Rwanda, deadly conflict in Uganda opened up important opportunities to re-negotiate the public-private divide and thereby helped *increase* state responses to women's security in the longer term - reversing the relationship common findings in statebuilding scholarship would lead us to expect. This occurred through two main mechanisms also seen in Rwanda:

First, conflict shifted the gendered public-private division of labour: It forced women to take on new roles traditionally performed by men, including as active combatants, key providers and decision-makers within households. It also provided women with experience in mobilizing for peace. These shifts in turn strengthened women's civil society mobilization, their claims to participation in formal politics, and receptiveness towards these demands among the NRM leadership – all of which proved critical in achieving key steps towards the development of formal responses to women's security in Uganda, including women's increased representation in the transitional parliament and the declaration of a more gender-sensitive constitution in 1995.

Second, conflict led to profound changes in Uganda's governance and institutions, and thereby offered windows of opportunity to (re-)build institutions that were more responsive to women's concerns. As we have seen, women's civil society lobbying during the earliest days of the NRM regime helped ensure women's participation in emerging transitional institutions and the establishment of a Ministry of Gender. Women's participation in the transitional parliament, the Ministry of Gender, and the existence of a strong autonomous women's civil society in turn helped seize another critical opening for advancing women's status resulting from conflict: The post-conflict constitution-making process. Constitutional

provisions on gender equality in turn enabled advocacy for the achievement of formal responses to women's security concerns, including the DVA.

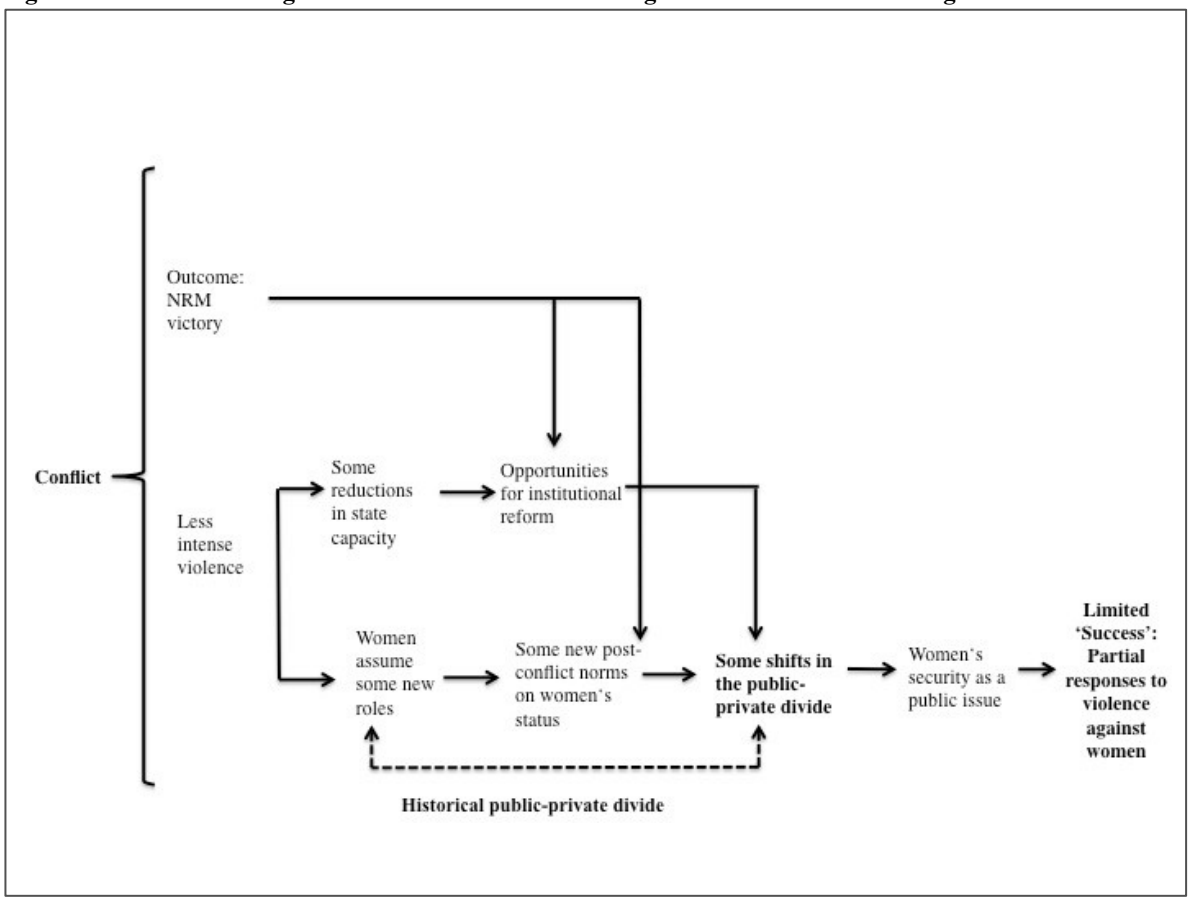
As in Rwanda, the scope of these institutional and governance reforms – and the opportunities they provided for enhancing women's status – was partly a function of the outcome of the war: military victory by the NRM. While statebuilding scholars often emphasize the positive impact of military victory as such, for women the *nature* of the victor proved critical for statebuilding 'successes': Victory by a *rebel group* led to deep institutional transformations, including the development of a new constitution, and therefore provided significant opportunities for enshrining women's rights in the post- conflict institutional structure. In addition, victory by a rebel group ideologically open to – and dependent on – mass mobilization, including participation of women, helped shape the post-conflict regimes' relatively open attitudes towards enhancing women's public status.

While similar, these post-conflict normative and institutional shifts were less extensive in Uganda than in Rwanda due to the lower intensity and destructiveness of conflict combined with the diverging nature of violence. With women making up the majority of the Rwandan population after the extremely deadly conflict, their empowerment and property rights were urgent priorities for reconstruction. In Uganda, by contrast, women's rights in key areas such as land often continued to be seen as private issues. Efforts to enhance women's property rights thus failed repeatedly, undermining attempts to criminalize marital rape and implement legislation on domestic violence. While the extreme scale of sexual violence during conflict in Rwanda led to accountability for these crimes and opportunities to re- define all violence against women as a public issue shortly after the genocide, Ugandan

survivors had few such opportunities and calls for gender-based violence legislation therefore only emerged many years later. Finally, lower levels of destruction of Uganda's security sector provided fewer openings to re-build security institutions that would respond to these issues. These differences help explain why Rwanda went further in the development and implementation of responses to women's security concerns than Uganda.

Figure VI.1 below highlights the connections between conflict and relative statebuilding 'success' for women identified in Uganda.

Figure VI. 1. Effects of legacies of conflict on statebuilding 'success' for women in Uganda.



Democratic institutions: Civil society, elections and referenda, and constraints on the Executive.

As in Rwanda, democratic institutions and processes were critical in ensuring that post-conflict opportunities for women's security were seized by providing women, who were under-represented in the public sphere and especially among the elites governing state institutions, with access to decision-making about statebuilding priorities.

In particular, steps towards post-conflict political liberalization empowered the strengthened women's civil society coming out of conflict to mobilize for women's rights. Women's autonomous organizing subsequently played a key role in actively leveraging conflict-induced shifts in the public-private division of labour to call for increases in women's political participation and helped advance most steps in the development of new responses to women's security. The critical contribution of autonomous women's civil society confirms a key finding of many scholars of feminist policy formation.

Opportunities for citizens to voice their preferences, including in the context of the constitution-making process, allowed women's civil society to play this role by enabling them to access decision-making processes and thereby translate their advocacy into formal measures. Empowered by the relative strength and independence of the legislature, female parliamentarians facilitated such access for women's civil society advocacy, including during the development of the constitution and the DVA. Conversely, in the context of the

Marriage and Divorce Bill, Executive intervention in legislative processes combined with elite opposition to repeatedly undermine the initiative. In these ways, the development of state responses to women's security in Uganda confirms that especially for marginalized groups democratization not only poses risks, but also immense opportunities, during transition.

In particular, successes for women's security were achieved due to the strength, autonomy and opportunities for engagement of civil society during the early moments of the post-conflict period when state institutions were distinctly non-institutionalized: The relative openness of the NRM towards independent civil society organizations and their engagement during the creation of transitional institutions and the constitution-making process enabled key achievements for women's rights on which later advocacy for women's security could build. In this way, elements of democratization before institutionalization were critical in building a post-conflict state that provided some security for women. Combined with findings from Rwanda, this calls into question the common emphasis on 'Institutionalization before Liberalization' [296] in studies of post-conflict statebuilding.

However, the extent to which democratic processes provided such openings for the articulation of women's concerns was mediated by informal norms and practices: the relative association of women with the private sphere among global, elite and societal actors, which was in turn shaped by the religious diversity of Uganda. Due to the

[296] Paris, *At War's End.*

intervening role of these factors democratic processes exercised complex and contradictory effects on gender equality outcomes.

First, women's persistent association with the private sphere meant that formally democratic processes were at times *insufficient* to advance women's status. During the constitution-making process, opportunities for women to participate thus failed to provide an effective voice for women because female participants were not raised to speak in front of men or in highly public, formalised settings. Conscious efforts to mobilize women and adjust the nature of deliberative fora were required to counteract these trends. When democratization increased through the re-introduction of multi-party politics in 2005/2006 women's groups had to acquire further skills for effective public participation in a changed political context, delaying the extent to which they could increase their advocacy activities. During debates of the Marriage and Divorce Bill, women's association with the private sphere in turn meant that Muslim women used opportunities for citizens to voice their preferences to advocate for interests of the wider religious group that had historically represented them in the public sphere, rather than shared concerns as women.

Second, and conversely, where women's specific concerns were considered public issues, advocacy for state responses at times advanced *despite* constraints to democratic participation. When women themselves viewed their experiences as women as a primary 'public' identity and consequently formed alliances with each other across civil society and government, they were able to bypass constraints in levels of participation, including around the constitution-making process, and advance provisions on women's status. They were supported by the extent to which male elites on the NCC already considered women's

rights a public concern – reflecting the NRM stance shaped in conflict – which reduced the need for popular participation to raise awareness of these issues.

Finally, given the weight of these informal norms and practices, while democratic processes opened critical opportunities for women to voice their concerns, some effects of democratic processes simultaneously undermined the extent to which women would be able to seize these opportunities. This occurred in several ways: First, in a context of significant societal opposition to enhancing the public status of women's concerns through the Marriage and Divorce Bill, democratic processes also provided opportunities to voice these objections to gender equality legislation. Elite accountability to these preferences helped stall, rather than advance, this initiative. In fact, given these attitudes, the tool used to undermine the initiative was itself a democratic process: consultations in communities.

Second, democratic processes intensified such opposition by enhancing the politicization of societal dividing lines. Often identified by statebuilding scholars, this trend affected women in distinct ways. Democratic processes thus increased the political significance of religious groups, and hence a key source of opposition to the Marriage and Divorce Bill. Democratic processes in Uganda provided these groups with channels to assert their autonomy from the state, including in areas of marriage of divorce, and increased elite dependence on their support given their significance in mobilizing society.

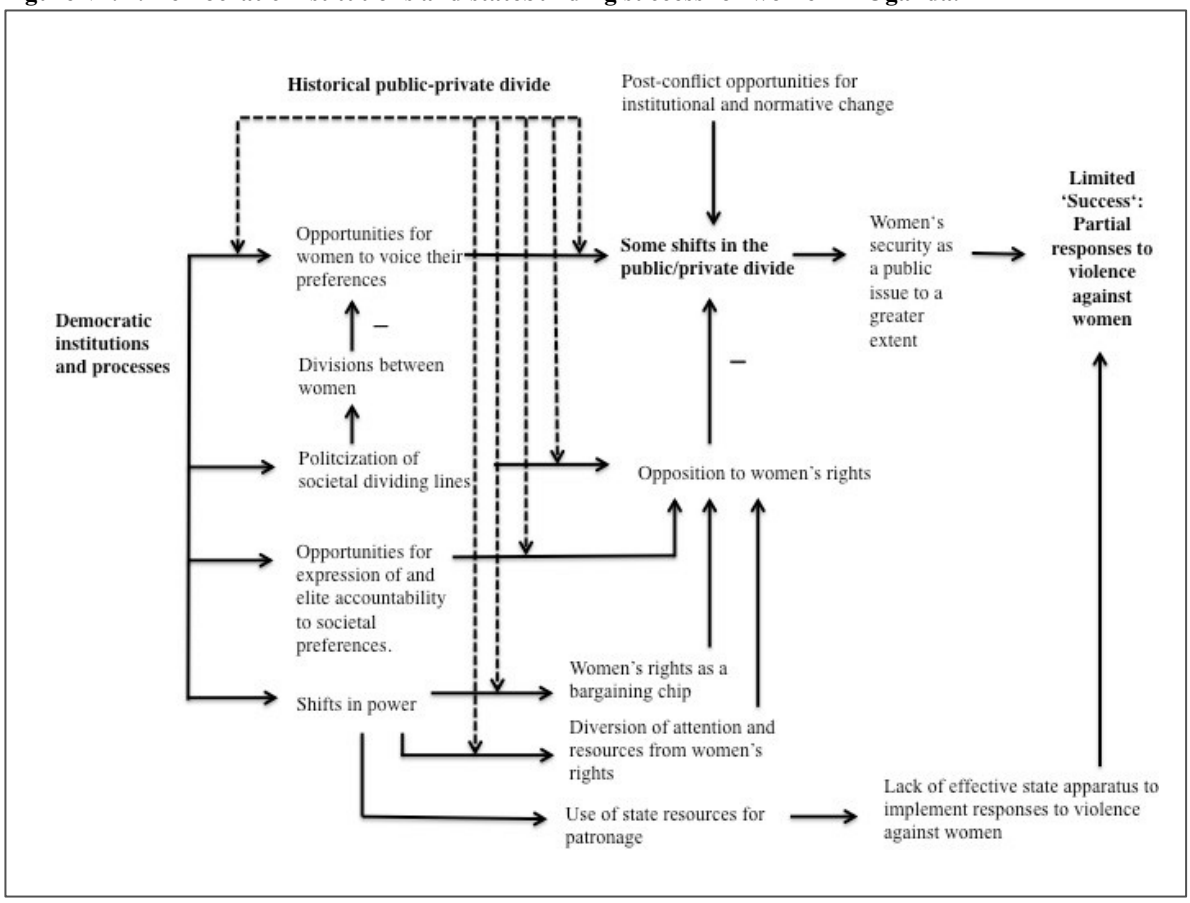
By enhancing the political significance of wider political dividing lines, democratic processes also introduced new divisions in the women's movement. While the 'movement'

system had previously facilitated united action for women's common concerns, the re-introduction of multi-party politics in 2005/2006 created new obstacles for developing responses to marital rape by reducing the extent to which UWOPA could speak with one voice.

Finally, as many statebuilding scholars have emphasized, increased political competition risked dramatic shifts in power. This trend undermined opportunities for women's rights in several distinct ways. Managing these shifts required large amounts of financial and human resources, thereby diverting attention and commitment from the comparatively 'low' priority of women's rights, including the Marriage and Divorce Bill. What is more, threats of shifts in power were often managed through patronage politics. Given the power of religious institutions in the mobilisation of society, women's rights themselves became a bargaining chip in this context when Museveni intervened in parliamentary processes to halt the Marriage and Divorce Bill so as to secure support from the Muslim community for an extension of his power beyond constitutional term limits - and hence avoid release into an uncertain future where he would be held to account for his rule. Finally, political liberalization in Uganda set incentives to undermine local institutions charged with the promotion of women's security through the multiplication of districts as a patronage instrument.

Figure VI. 2 summarizes the connections between democratic institutions and processes and statebuilding success for women in Uganda.

Figure VI. 2. Democratic institutions and statebuilding success for women in Uganda.



State capacity

The case of Uganda also confirms that levels of resources or 'capacity' available after conflict fail to account for the extent to which states provide security for women because their use depends on political decisions, including the extent to which women's concerns are considered public priorities.

As common findings in studies of post-conflict statebuilding would lead us to anticipate, Uganda's limited financial and human resources certainly constrained implementation of formal state responses to women's security. However, limited consideration of women's security concerns as 'public' priorities among governing elites, services providers and society further reduced the extent to which resources theoretically available were used to respond to these specific issues.

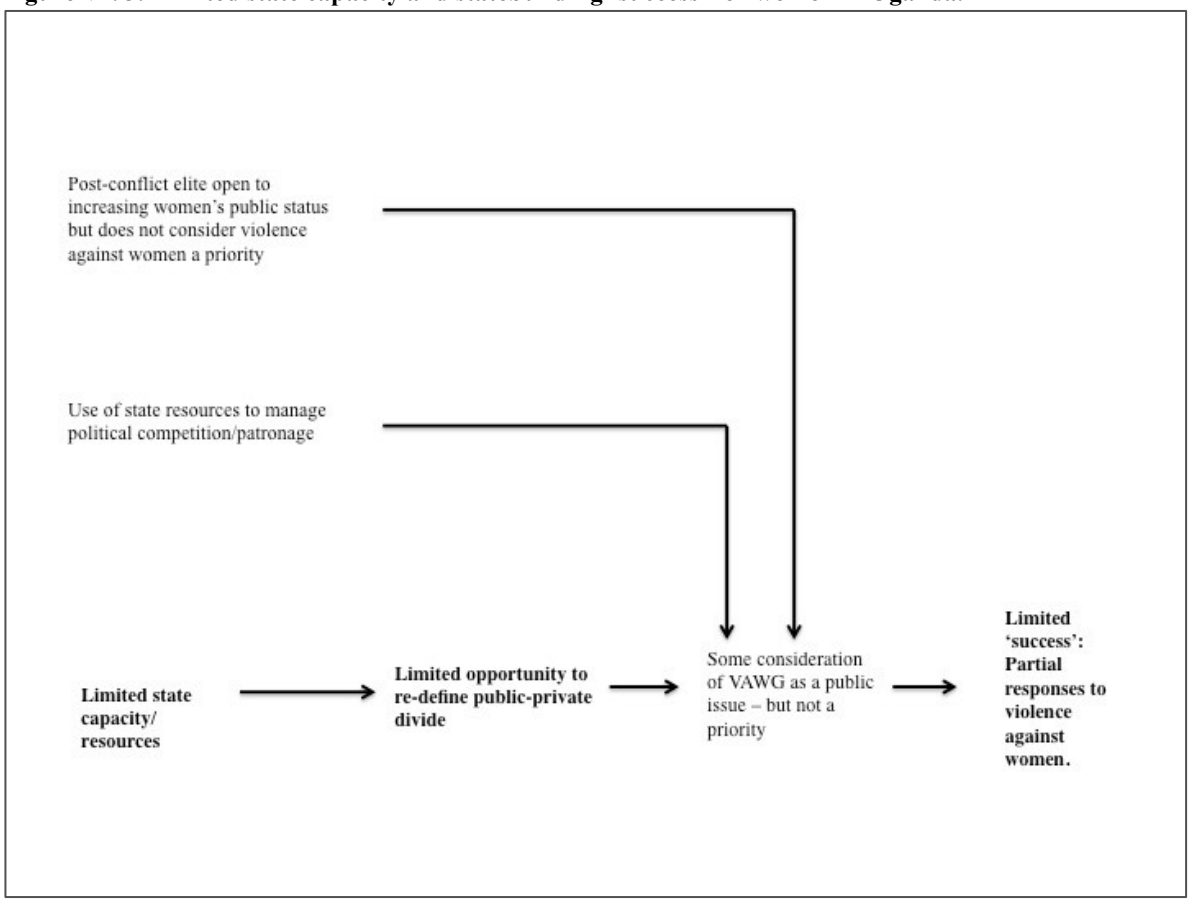
In addition, wider political priorities mediated the extent to which existing resources would translate into institutional 'capacity'. As noted above, the imperatives of maintaining power in the context of increased political competition trumped logics of institutional effectiveness in the use of state resources, and led governing elites to undermine institutions charged with promoting women's security. In combination these political priorities and the higher priority placed on violence against women among ruling elites in Rwanda, helps explain why Rwanda has been more successful in this area despite more limited resources.

In fact, however, Rwanda has also been more successful *because* of its more limited capacity. As in Rwanda, the *destruction* of Uganda's capacity during conflict provided

opportunities to improve responses to women's security concerns by re-defining the priorities governing state institutions and re-building post-conflict institutions that were more responsive to women's concerns. However, given the lower level of destruction of the security sector in Uganda as compared to Rwanda, these opportunities were less significant and the country continued to struggle with the institutional 'hangover' of a corrupt police force, which often was not trusted to respond to violence against women and other crimes.

Figure VI. 3 highlights these connections between state capacity and statebuilding 'success' for women in Uganda.

Figure VI. 3. Limited state capacity and statebuilding 'success' for women in Uganda.



'The informal'

As highlighted throughout, the role of informal practices and norms (and notably women's relative association with the private sphere, in turn shaped by the nature of societal divisions) as intervening factors is key in explaining the impact of legacies of conflict, democratization and state capacity on relative statebuilding 'success' for women in Uganda. This challenges the dominant focus on formal institutions as main explanatory factors in many studies analysing varied statebuilding 'success' across different cases.[297]

As we have seen, the extent to which elites, social groups and women themselves associated women and their concerns with the private sphere thus constrained the use of existing state 'capacity' and democratic processes to advance women's rights. The persistence of these norms highlights the significance of historical legacies in shaping opportunities for statebuilding 'success' for women, challenging the common portrayal of post-conflict settings as a 'clean slate'.

Yet conflict provided some opportunities to shift such norms and helped convince the leadership to support increases in women's status. Elite support in turn enabled several important steps in the development of Uganda's responses to women's security concerns, including women's representation in transitional parliament and the creation of a more gender-sensitive constitution. Lower levels of elite commitment to women's rights as public priorities - partly as a result of diverging legacies of conflict – in turn help explain

[297] For further discussion and examples of exceptions, see Chapter II, section 4.

why Uganda, in contrast to Rwanda, failed to criminalize marital rape and effectively implement legislation on domestic violence.

Higher levels of religious and ethnic diversity in Uganda, as compared to Rwanda, further contributed to lower levels of support for women's public status. These divisions increased opposition faced in efforts to criminalize marital rape and provide for spousal co-ownership of land, undermining implementation of responses to domestic violence. While statebuilding scholars continue to debate the significance of such divisions, these then clearly impacted the changes of statebuilding 'success' for women in Uganda. However, the way religious diversity is understood in many studies of post-conflict statebuilding, and especially quantitative work, may be inadequate in accounting for Ugandan women's experiences. From their perspective it was not only the sheer number of religious groups, but their relations and attitudes towards the private sphere (and women's role within it), on the one hand, and towards the public sphere (that is, their level of political weight through democratization), on the other, that most strongly influenced the chances of statebuilding 'success'. The significance of religious actors in the context of the Marriage and Divorce Bill also calls into question studies of feminist policy formation, which argue that power of these groups is not critical with regard to policies on violence against women, as opposed to other areas of gender equality policy.[298]

While the significance of these elements of 'the informal' confirms some insights emphasized in critical peacebuilding studies, the case study also adds weight to the conclusion that 'the local' and 'everyday' is socially constructed and open to manipulation:

[298] Such as Htun and Weldon, *Gender Justice*. Htun and Weldon, 'Progressive Policy Change'. Htun and Weldon, 'Why do Governments Promote Women's Rights'?.

As in Rwanda, women's civil society activists thus consciously reframed notions of culture and the public-private divide to advocate for the DVA. Conversely, debates of the Marriage and Divorce Bill suggest that parliamentarians and other actors partly employed appeals to culture strategically to advance opposition motivated by the desire to maintain power.

As we have seen, global norms – and particularly the extent to which women's specific concerns were considered a public priority at the international level – also shaped opportunities for post-conflict responses to women's security in Uganda. The 1985 Nairobi conference thus catalysed the development of a stronger, more overtly political women's movement in Uganda, which actively drew on pressure and funding from the international community to advocate for the gender-sensitive constitutional provisions and passage of the DVA. The DVA also highlights the significance of regional treaties in building pressure on local elites.

However, the impacts of these global normative shifts depended on local opportunity structures, which were enhanced by legacies of conflict. In particular, it was only when conflict propelled into power a leader that was more open to women's rights and civil society mobilizing than his predecessor that the ideas spread in Nairobi could begin to take root in Uganda. Post-conflict institutional reforms helped enshrine them in the country's institutional structure. At every step of this process, the existence of a strong, autonomous women's civil society helped translate global norms into local contexts through active advocacy. The fact that several of their achievements pre-dated increased international influence in Uganda and that they actively mobilized international pressure confirms that

international involvement should be seen primarily as a catalyst, rather than an independent cause, of progress on women's rights in Uganda.

While studies with a feminist focus, including on the formation of policies on violence against women, often anticipate the role of global norms, the case of Uganda again suggests that the very high 'vulnerability' of post-conflict contexts to these norms may change not only the extent but also the nature of their influence. Global norms thus led to self-fulfilling prophecies: Steps towards democratization (the multi-party dispensation) partly enhanced gender equality outcomes in the short term by increasing the availability of funding for female parliamentarians. This helped offset some direct, negative effects of the dispensation on the women's movement.

VII. The development state responses to violence against women in Kenya

This chapter examines the more delayed and partial development of state responses to violence against women in Kenya. It shows that Kenya became less successful in providing security for women than Uganda and Rwanda because its history of relative stability, higher levels of capacity and democratization process provided fewer opportunities to re-define the public-private divide and thereby establish violence against women as a public priority. In contrast to expectations emerging from dominant trends in statebuilding scholarship the case study confirms that:

1. Conflict can *increase* opportunities to strengthen state responses to women's specific security concerns by shifting the public-private divide: Kenya's history of relative stability provided fewer opportunities to develop responses to women's security than legacies of conflict in Rwanda and Uganda. The 2007-2008 electoral violence ultimately facilitated limited progress in this area, confirming the significance of this causal mechanism in post-conflict countries.

2. It is the *combination* of democratic processes and post-conflict shifts in institutions, norms and leadership, that is, precisely democratization after *conflict*, that can facilitate statebuilding 'successes' for women: In the absence of such post-conflict opportunity structures, Kenya's democratization process provided few advances in women's status.

3. However, democratic processes can simultaneously undermine the extent to which women are able to seize democratic openings to advocate for their concerns. In Kenya this occurred through the politicization of societal dividing lines and shifts in power. While identified by many statebuilding scholars, these processes affected women in distinct ways.

4. State 'capacity' is insufficient to provide security for women and may reduce opportunities to do so: Higher levels of capacity in Kenya thus failed to translate into responses to women's concerns and reduced incentives for reform.

5. Interactions of formal institutions and the 'informal' are critical in shaping how states 'work' for women: Ethnic norms and views of women's concerns as 'private' thus shaped the (limited and at times negative) effects of state 'capacity' and democratization on women's status in Kenya.

This chapter arrives at these findings by tracing key steps in the development of limited responses to domestic and sexual violence in Kenya: The weak effects of international norms and democratization in the early 1990s on women's status; subsequent efforts to develop a new constitution, which failed in a 2005 referendum; the development of dedicated legislation on Sexual Offences in 2006; ultimate adoption of a new constitution following the 2007/2008 electoral violence; consequent successes in developing domestic violence legislation and, finally, limited implementation of these provisions.

1. Global norms and democratization: Limited effects on women's status in the 1990s

In the 1980s and 1990s Kenyan society was exposed to the same global norms that helped transform women's status in Uganda and Rwanda and experienced a process of democratization. However, in the absence of opportunity structures which conflict helped create in Uganda and especially Rwanda (leadership and societal openness to advancing women's status as well as institutional reforms), global norms and democratization failed to translate into increased state responses to women's concerns.

While conflict in Uganda and Rwanda in the 1980s and 1990s propelled into power rebel leaders who were open to women's public participation, partly as a result of their experiences of civil war, Kenya remained under the control of a regime with little interest in women's rights. To the extent that post-independence president Kenyatta and his successor Moi considered 'women's issues' it was in relation to their roles in the household and social welfare. [1] While the NRM victory in 1986 provided increased space for independent mobilizing in Uganda, Kenya's regime offered few openings for such activities during this period. [2]

In this political context the 1985 Nairobi conference exercised a significantly more limited impact in Kenya than in neighbouring Uganda. As we have seen, Museveni's support and

[1] E.g. Lisa Aubrey, *The Politics of Development Cooperation: NGOs, Gender and Partnership in Kenya* (London and New York: Routledge Studies, 1997).
[2] E.g. Maria Nzomo, 'The Impact of the Women's Decade on Policies, Programs and Empowerment of Women in Kenya', *Issue: A Journal of Opinion,* 17:2, 1989.

post-conflict space for women's mobilizing in Uganda helped translate international norms into the creation of an active Ministry of Gender and women's political participation. By contrast, although "Kenya organised the UN Women's Decade conference, almost immediately Kenyan women were victimised. In the year 2000 the women of Kenya are nowhere. Even the women who organised the conference are nowhere, because Moi has kept the lid on for 15 years."[3] In fact, to the extent that Moi responded to 'Women's Decade' recommendations, he tended to take steps that further reduced the strength of the women's movement. Gender units created within state institutions, for example, helped spread patriarchal stereotypes and control women's organizations.[4][5]

The ensuing process of democratization certainly helped counteract these trends and generate new calls for enhancing women's status. By 1991, increased local and international calls for democratization compelled Moi to repeal section 2 (A) of the constitution, which declared Kenya a one-party system, and enable the introduction two- term limits on the presidency. Women's groups had joined civil society calls for such political liberalization. [6] They also began to seize this increased democratic space to pursue a more 'political agenda', going beyond welfare issues to call for women's rights and political participation.[7]

[3] Matembe in conversation between Matembe, Ankrah and Mugisha, 106.
[4] E.g. Winnie Mittulah, 'Gender Inclusion in Transition Politics: A Review and Critique of Women's Engagement,' in Walter O. Oyugi, Peter Wayanda and C. Odhiambo-Mbai, eds., *The Politics of Transition in Kenya: From KANU to NARC.* (Nairobi: Henrich Böll Stiftung, 2003).
[5] E.g. Nzomo, 'The Impact', Aubrey, *The Politics of Development Co-operation.*
[6] E.g. Maria Nzomo, 'Women in Political Leadership in Kenya: Access, agenda setting & accountability'.
[7] E.g. Wanjiku Mukabi Kabira, *Time for harvest: women and constitution making in Kenya* (Nairobi, Kenya: University of Nairobi Press, 2012). Athena D. Mutua, 'Gender Equality and Women's Solidarity across Religious, Ethnic and Class Differences in the Kenyan Constitutional Review Process', *William & Mary Journal of Women and the Law,* 13: 1, 2006. Charles Horsnby, *Kenya: a history since independence* (London: I.B. Tauris, 2012).

Multi-party elections organised in 1992 offered a particular rallying point for these efforts. As one activist recalled "women felt that this was the year of reckoning […] Women declared that they were on a journey to elective leadership and other leadership positions. They never looked back."[8] In February the organizations FEMNET and NCW brought together more than 2000 Kenyan women at a convention in Nairobi to discuss their participation in political parties and institutions. Women's groups also trained women as voters and candidates and took advantage of elite splits following democratization by lobbying new political parties to consider gender issues in their agendas for democratic governance. They found greater openness for these demands among opposition leaders, including Mwai Kibaki and Raila Odinga.[9]

However, in the absence of affirmative action measures, which post-conflict regimes established in Rwanda and Uganda, these efforts largely failed to bear fruit: Women only gained six seats in parliament in 1992. In the second multi-party elections of 1997, the number of women elected decreased to four. [10] Activists and researchers found that persistent norms constructing women's 'proper' place to lie in 'private' sphere of the family and household discouraged women from standing and voters and parties from supporting them.[11] This contrasts with Rwanda where conflict helped convince the public and leadership to support women as candidates, including in open seats, *because* of women's private roles.

[8] Kabira, *Harvest,* 843.
[9] Kabira, *Harvest.*
[10] E.g. Maria Nzomo, 'Civil Society in the Kenyan Political Transition: 1990-2002', in *Politics of Transition.* An additional four were nominated as a result of an initial constitutional revisions in 1997.
[11] Maria Nzomo, 'The 2002 general elections in Kenya women's performance and prospects in parliamentary politics', *A Journal of Social & Religious Concern,* 18: 1-2, 2003. Nyokabi Kamau, *Women and Political Leadership in Kenya. Ten Case Studies* (Heinrich Böll Stiftung, 2010). Douglas Lucas Kivoi, 'Factors Impeding Political Participation and Representation of Women in Kenya', *Humanities and Social Sciences,* 2: 6, 2014.

In light of female candidates' lack of success in Kenya, "women knew that without affirmative action, the story of their representation would not change."[12] Inspired by the 1995 Beijing Declaration[13] , Kenyan activists therefore began to lobby for quota mechanisms as their counterparts had done in Rwanda and Uganda. Phoebe Asiyo, one of the women who had entered parliament in 1992 after serving as president of the women's group MYWO, tabled a motion to introduce such special measures in 1997. Women's organizations also appeared before parliament to support the initiative.

However, these efforts failed due to a lack of the levels of elite support, and participatory institutional reforms, in place in post-conflict Uganda and Rwanda. While female parliamentarians, including in the ruling party, as well as opposition representatives supported Asiyo's motion, the KANU majority strongly opposed it.[14] President Moi did not hide his own objections, criticizing the Beijing conference in general as 'promoting lesbianism.'[15]

Formed in response to this failure, an alliance of women's groups and parliamentarians, the Women's Parliamentary Caucus (WPC), prepared to re-introduce the motion. However, women continued to find that "the main obstacle […] is the head of state, president Daniel Arap Moi himself, who has clearly stated that he is opposed to affirmative action."[16] Indeed, when the affirmative action bill was re-introduced in 2000, and seemed to gather

[12] Kabira, *Harvest,* 843.
[13] Kabira, *Harvest,* 22ff.
[14] Kabira, *Harvest.*
[15] Horsnby, *Kenya,* 590.
[16] Judith Achieng, 'President Moi, Enemy of Women's Progress?' IPS, Oct 16, 2000.

wider support in parliament, it was shelved once President Moi again announced his objections. [17]

At the same time, democratization fuelled the politicization of ethnic divisions, which would undermine women's mobilization in the longer term. Given the power of diverse ethnic identities in mobilizing Kenyan communities, political leaders responded to increased political competition by working to reinforce their ethnic communities' sense of common identity and interests. In this context, the 1992 and 1997 elections were marked by violence against certain ethnic communities designed to prevent them from voting for opposition candidates. [18]

2. The constitutional review process: Part I

These divisions and a lack of political incentives for reform would undermine efforts to seize a further entry point for women's demands: A process to review Kenya's constitution, demanded by civil society and opposition political parties as part of their wider calls for democratization.

Launched in 1997, the review process would produce several constitutional drafts over the coming eight years. All of them featured significant advances in women's rights, including affirmative action provisions.[19] These were secured through several factors, which similarly

[17] Maria Nzomo, 'Women in Kenya's Political Leadership: The Struggle for Participation in Governance Through Affirmative Action', in *The Power to Participate,* Perspectives, 2:11, Heinrich Böll Stiftung.
[18] Susanne D. Mueller, 'The Political Economy of Kenya's Crisis', *Journal of Eastern African Studies*, 2:2, 2008.
[19] E.g. Kabira, *Harvest.*

enabled constitutional gender equality provisions in Uganda and Rwanda: a relatively participatory process, women's active mobilization and alliances between them.

Given women's low levels of representation in parliament initial plans to have parliament lead the constitutional review process disadvantaged women. However, calls for a more directly "people driven process" [20] ultimately resulted in relatively high levels of popular consultation during the design of the constitutional review process and in the review itself. This provided a central entry point for the participation of women.

Women's active civil society mobilization helped seize these openings to voice women's distinct concerns.[21] In particular, during stakeholder consultations on the design of the review process conduced in 1998, women's groups successfully advocated for the process to be revised to ensure women's special representation in all bodies charged with the constitutional review. Women would consequently take up 30% of seats on the Commission charged with preparing the initial draft (the Constitution of Kenya Review Commission, CKRC) and 30 % of district and civil society representatives in the National Constitutional Conference (NCC) charged with revising this document. [22]

Women's mobilization also helped seize consultation conducted by the CKRC to ensure women's voices were heard. As in Uganda, women's association with the private sphere constrained the extent to which they were initially able to use participatory processes to voice their demands. According KCRK Commissioner Wanjiku Kabira, during general

[20] Attorney General Wako, Second Reading of amendment to initial review process, 19 November 1998, Hansard Kenya.
[21] E.g. Interviews CREAW, a Kenya women's rights NGO, FIDA. All interviews relating to Kenya were conducted May-July 2016. Kabira, *Harvest.*
[22] Wanjiku Mukabi Kabira and E. N. Kimani, 'The Historical Journey of Women's Leadership in Kenya', *Journal of Emerging Trends in Educational Research and Policy Studies,* 3:6, 2012. Mutua, 'Gender Equality'.

consultative meetings, "it was not unlikely for us to hear more than twenty men speak before a woman could get courage and volunteer to speak and give her views. Very often, unless one asked them to speak, women who had not gone through civic education would sit there looking mesmerised, impressed by how knowledgeable men were […] Their behaviour was understandable because women had not before been given opportunities to express themselves in political processes such as this one of negotiating a new constitutional dispensation."[23]

Women's groups helped bridge this gap by conducting civic education.[24] In addition female representatives involved in the design of the constitutional process ensured that there would be women-only sessions, where "women spoke freely about gender based violence, their vulnerability, and their desire to have their rights upheld among other issues that affect them [...] when women sat separately from the men, their expressions changed. Their kindred spirit emerged, they laughed at themselves, at men and at culture. They would laugh and encourage each other to speak."[25] Many women's groups also submitted reports to the CKRC, which eventually received more than 17 000 presentations on affirmative action for women. Due to these efforts the draft constitution developed by the CKRC reflected demands for women's rights raised in previous advocacy, including the principle that women would represent one-third of elected and appointed government positions.

[23] Kabira, *Harvest,* 94.
[24] Kabira, *Harvest,* 94.
[25] Kabira, *Harvest,* 94/5.

Women were able to extend these provisions further during the NCC.[26] Working together, female delegates organised themselves strategically to ensure their representation in all critical conference committees.[27] They met for lunch twice a week – and more often informally - to share information on developments in the NCC's committees, to strategize together and learn about specific issues such as affirmative action.[28] As one CKRC Commissioner recalled, "they had a unity of purpose […] More often than not, the men at Bomas were afraid of facing this combined women power."[29]Civil society groups helped facilitate this level of unity by hosting workshops to build trust and consensus among female delegates.[30] However, this collaboration was fragile and divisions between women risked to derail their participation in the constitutional review several times.[31]

Indeed, fuelled by the politicization of ethnicity, divisions between women and a lack of political incentives for reform ultimately undermined the realisation of gender equality gains achieved in the constitutional draft: When the final document – including its progressive gender equality provisions – was finally put to referendum in 2005, the majority of Kenyans (57 %) rejected it, largely voting along ethnic lines. [32] Kikuyu, Embu and Meru voted in favour of the constitution, with president Kibaki and most other politicians from the area campaigning on the 'yes' team. As the largest ethnic bloc in Kenya they were considered to gain from the constitution because it checked power to some degree but did not diffuse it too widely (by maintaining a powerful presidency and

[26] Grace Maingi, 'The Kenyan Constitutional Reform Process: A case study on the work of FIDA Kenya in Securing Women's Rights', *Feminist Africa,* 15, 2015. Kabira, *Harvest.* Tripp, Aili Marie 'Women's Movements and Constitution Making after Civil Unrest and Conflict in Africa: The cases of Kenya and Somalia', *Politics and Gender,* 2:12, 2016.
[27] Kabira, *Harvest.*
[28] Kabira, *Harvest,* 299.
[29] Kabira, *Harvest* 259.
[30] E.g. Maingi, 'The Kenyan Constitutional Reform Process'.
[31] E.g. Kabira, *Harvest.* Maingi, 'Kenyan Constitutional Reform'.
[32] See e.g. Alicia. L. Bannon, 'Designing a Constitution-Drafting Process: Lessons from Kenya', *Yale Law Journal,* 116:8, 2007.

limited devolution). By contrast, the Luo, Kalenjin and some smaller neighbouring communities followed the advice of Luo leader Odinga and Kalenjin Moi to reject the constitution. These groups were concerned about the potential of Kikuyu dominance under a constitutional draft that failed to divide powers widely.[33]

Women from the latter communities prioritized their ethnic identities over their shared concerns as women by voting – and in some cases campaigning – against the draft in line with these general patterns.[34] As Kabira concluded this showed "what the primary identity is, ethnic, while womanhood is their second identity […]. That is the reason women returned to the shadows when the debate turned ethnic rather than agree to form a united front to fight for their rights as women."[35] The 2005 referendum - and the divisions it ignited - led to a temporary breakdown of the women's movement.[36] Perceptions of irreversible rifts between Kikuyu (along with Meru and Embu) and the rest of Kenya grew further in its aftermath.[37] In this way, Kenya's first national referendum further deepened the politicization of ethnicity fuelled by the re-introduction of multi-party politics in the 1990s.

However, the constitution failed not only because of ethnic divisions as such but also due to a lack of high-level incentives to revise the constitution. While conflicts in Uganda and Rwanda had added urgency to such reforms, individual leaders in Kenya opposed them due to individual political interests. Odinga, for example, rejected the draft not least because the

[33] Beth Elise Whitaker and Jason Giersch, 'Voting on a constitution: Implications for democracy in Kenya', *Journal of Contemporary African Studies,* 27, 2009.
[34] Kabira, 316.
[35] Kabira, *Harvest,* 317.
[36] Kabira, *Harvest*.
[37] Whitaker and Giersch, 'Voting on a constitution'.

final version eliminated the office of Prime Minister he had been promised in an earlier deal with opposition parties. The 'no' campaign also provided an opportunity to position himself as a presidential candidate for 2007. Odinga and other leaders therefore actively stoked ethnic tensions, at times spreading misinformation, to advance their wider agendas: "a sign of trouble to come."[38] As we will see, it was only once the 2007/2008 electoral violence fuelled by these tensions highlighted the urgent need for constitutional reform that these reviews - and their progressive women's rights provisions - could finally be realized in Kenya.

3. The 2006 Sexual Offences Act

However, in the meantime, a change in political leadership and a small increase in women's parliamentary representation enabled initial progress in Kenya's responses to women's security concerns: Passage of the 2006 Sexual Offences Act, which provided definitions and minimum sentences for crimes such as rape and consolidated the law on sexual offences, facilitating implementation. [39] The fact that these advances were possible once Moi left office and women's representation increased further highlights the significance of Moi's opposition to affirmative action and his hold on power in the 1990s in explaining why Kenya failed to make the same progress as Rwanda and Uganda under post-conflict leaders during the same period.

Moi's KANU had maintained the presidency and a parliamentary majority in multi-party elections in 1992 and 1997 as opposition parties failed to build a united front. However, in

[38] Horsnby, *Kenya,* 740 note133.
[39] Speech by Deputy Chief Justice of the Republic of Kenya at 17th CMJA Triennial conference, Wellington, 13th – 18th September 2015.

2002, Moi was barred from running due to term limits introduced in the early 1990s and several leaders defected from KANU when he chose the relatively inexperienced son of Jomo Kenyatta, Uhuru Kenyatta, as his successor. They included Raila Odinga whose NDP had merged with KANU in 2000. Along with other opposition leaders he went on to join a National Rainbow Coalition (NARC) of opposition parties and supported Mwai Kibaki as presidential candidate in exchange for the promise that he would assume the office of Prime Minister, then envisaged under an early constitutional draft. [40] Due to this alliance, the 2002 elections ended four decades of KANU rule, sweeping Kibaki into the presidency and securing a parliamentary majority for his NARC coalition. [41]

The NARC victory facilitated the enactment of the Sexual Offences Act in two ways. First, taking power under a banner of democratization and reform, the NARC government increased space for civil society to influence public policy processes.[42] As a result, "the women's movement also became really strong around 2002"[43], including in advocating for draft sexual offences legislation developed by FIDA and other civil society organizations – and called for as early as 1992 during the FEMNET/NCW Women's Convention.[44]

Second, NARC victory facilitated uptake of civil society advocacy by enabling a slight increase of women's parliamentary representation, with women taking up 18 (out of 221) seats in parliament in 2002. Most of them (13 or 72 %) joined under the NARC coalition, either nominated by NARC (5) or elected under their party ticket (8). [45] While unprecedented, to most observers these numbers continued to seem like a "drop in the

[40] E.g. Stephen N. Ndegwa, 'Kenya: Third Time Lucky?', *Journal of Democracy*, 14: 3, 2003.
[41] E.g. Joel D. Barkan, 'Kenya After Moi', *Foreign Affairs,* 83:1, 2004.
[42] Freedom House, *Freedom in the World 2003.*
[43] Interview Action Aid.
[44] Interviews, consultant for the PDVA, FIDA.
[45] Winnie Mitullah, 'Gender Inclusion In Transition Politics: A Review and Critique of Women's Engagment', in *Politics of Transition.*

ocean" [46] and a missed opportunity to exploit a moment of shifting alliance and agendas to advance women's concerns. However, women failed to organize to advance joint demands in the run up to the 2002 elections, marked by "a notable absence of women's voices".[47] This partly resulted from the increasing politicization of ethnic divisions. This trend had, inter alia, contributed to a split of the WPC, the key civil society alliance for women's political participation, along ethnic lines. The split significantly reduced the effectiveness of women's mobilization.[48]

The limited increase in women's representation in the 2002 elections then largely resulted from the change in political leadership to NARC and its relatively more open attitudes to advancing women's status, partly shaped by women's lobbying of opposition leaders from the 1990s. [49] This translated into greater participation of women in the opposition parties, with a relatively high number of women running on the NARC ticket.[50]

Although the consequent increase in women's representation was a "far cry"[51] from the critical mass considered necessary to influence parliamentary culture and outcomes, it proved a necessary condition for civil society efforts to translate into parliamentary action on sexual offences. As the mover of the bill recalled, "Women NGO's and activists in civil society had for sometime before 2004 attempted to lobby Parliament and the Government to make the necessary changes to have an effective Sexual Offences Law but to no avail.

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[46] Maria Nzomo, 'Introduction', in Maria Nzomo, ed., *Women in Politics: Challenges of Democratic Transition in Kenya* (Heinrich Böll Stiftung, 2003), 15.
[47] Maria Nzomo, 'Taking stock – women's performance in Kenya's parliamentary politics in the 2002 general elections', in *Women in Politics.* Maria Nzomo, 'The 2002 general elections in Kenya: Women's performance and prospects in parliamentary politics', *A journal of Social & Religious Concern,* 18:1-2, 2003.
[48] Mutua 'Gender Equality'. Nzomo 'Taking stock'. Tripp, 'Women's Movements'.
[49] Kabira, *Harvest.*
[50] Nzomo, 'Civil Society'.
[51] Nzomo, 'The 2002 general elections', 4.

Access to the corridors of power normally proved difficult due to the marginal numbers of women in Parliament: The relative increase of women in the 9th Parliament in 2003 opened up possibilities for development of women-friendly legislation, including the Sexual Offences Bill."[52]

Female MPs generally served as "Strong Allies and supporters of the Bill." [53] It particularly benefited from the commitment and active engagement of Njoki Ndungu, who joined parliament on the NARC ticket after working in civil society: "Very passionate about the rights of women and especially sexual violence,"[54] Ndungu picked up the draft developed by civil society[55] and introduced it as a private members' bill so as to "jump the queue of Government sponsored legislation"[56], which often stalled in government bureaucracy. With Ndungu consequently responsible for most of the preparations, the bill was "a labour-intensive project. It was also a very costly exercise and I had to finance part of it from my personal resources."[57] Strong collaboration with civil society helped meet these challenges as women's groups continued to provide support with research and drafting. [58]

Ndungu and her allies also played a key role in advocating for the passage of the bill: "there were not a lot of women parliament so she really had to lobby the male members of parliament to be able to pass."[59] Leaders of the different political parties were specifically engaged and their notes for the different debates prepared to ensure their support.[60] In

[52] Hon. Njoki S. Ndungu, 'The Kenya Experience', Regional Seminar for Asian Parliaments, New Delhi 15-17 September 2011.
[53] Ndungu, 'The Kenya Experience'.
[54] Interview CREAW.
[55] Interview PDVA consultant.
[56] Ndungu, 'The Kenya Experience'.
[57] 'Legislating against Sexual Violence in Kenya: An Interview with the Hon. Njoki Ndungu', *Association for Women's rights in Development,* 2006, *Reproductive Health Matters* 2007*,* 15:29.
[58] E.g. Interview, Gender-based Violence Recovery Centre. 'An Interview with Hon Ndungu'. Freedom House, *Freedom of the World 2006.*
[59] Interviews PDVA consultant, FIDA.
[60] Ndungu, 'The Kenya Experience'.

addition, female MPs worked with religious leaders and the Attorney General and Commissioner of Police who ensured support from government and access to information about challenges in the enforcement of sexual violence laws. Again collaboration with civil society proved vital in this context. The Nairobi Women's Hospital in particular provided data for advocacy while survivors treated at its Gender Violence Recovery Centre (GVRC) offered testimonies at workshops held to sensitize MPs, religious leaders and law enforcement officers. This helped shift attitudes among those initially opposing the initiative.[61]

As in Rwanda and Uganda, the view of sexual violence as a 'private' and cultural issue, and a consequent perception of relevant legislation as a threat to the cultural autonomy of Kenya's diverse communities, posed a key challenge in these advocacy activities. During parliamentary discussions, several MPs thus argued that 'consent' as defined in the bill did not exist in the Kenyan cultural context as "an African lady says "no" when she means "yes."[62] Consequently MPs repeatedly expressed that the bill appeared to be a manifestation of foreign ideologies: "We are wondering if this bill is meant for Kenya or for some foreign country."[63]

In particular, MPs opposed the idea that marital rape can exist in Kenya's cultural context: "can you see the damage that western indoctrination has done to us. I cannot rape my wife!" Criticising the state of legal protections in Western countries, some MPs informed that chamber that in Norway "if you request your wife to allow you to enjoy your conjugal

[61] Interview GVRC, See also parliamentary readings of the bill: Hansard, 27 April 2005.
[62] 'Kenyan Women's Anger at MP 'slur', BBC, 27 April 2006.
[63] Hansard 27 April 2006.

rights and she refuses then you try harder, you will be jailed for ten years. That is why the men from Norway have fled to Portugal and Spain. Now women are suffering there. There is a lot of lesbianism in that country because of these bad laws."[64]

MPs moreover highlighted that the bill would encroach on the cultural practices and autonomy of individual communities. The Assistant Minister for East African community, Bonny Khalwale, for example, informed the chamber that "The sister of your wife, if you are a Luo or Luyia, is your wife [...] So [if the law is passed] many Luos and Luhyas will end up in jail and they will say: "Where was Dr. Khalwale when this law was being passed?"[65] With regard to FGM, he urged: "for God's sake, do not use this House to regulate culture [...] To ask certain people in this country to stop circumcising girls is like asking Luhyas to stop circumcising boys, and they will not accept it."[66] On the nature of consent, a colleague noted that "in the Kisii community culture, if you approach a girl the first time and she says yes, you leave her because she is a prostitute."[67] Consequently, persisting despite a lack of consent was simply "the way we seduce our woman […] this Bill must be in tandem with the cultures of this country."[68] Members concluded that "it is (in) the absence of sensitivity to the reality of culture that the hon. Member [Ndungu], who is an urbanite, thinks that this is a light matter."[69]

As in Rwanda and Uganda, female MPs counteracted these perceptions by re-framing sexual violence as a public issue affecting both men and women and the entire Kenyan

[64] Hansard 27 April 2006.
[65] Hansard 26 April 2006.
[66] Hansard 26 April 2006.
[67] Hansard 26 April 2006.
[68] Hansard 26 April 2006.
[69] Hansard 26 April 2006.

society. They thus encouraged MPs to look "at the bill not from the point of their own lifestyles but based on the rights enshrined in the constitution and within their own framework: this could be my sister, this could be my brother […]."[70] During parliamentary debates, supporters thus stressed that "anyone trying to harass a man's mother is in trouble. I would like the men to look at this bill in that perspective. It is not necessarily for any other woman, but their mothers. This proposed law is also good for our daughters and sisters."[71] As in Uganda and Rwanda, this helped highlight the role of men as protectors rather than potential perpetrators, and the legislation therefore strengthening, rather than undermining their power and communities.

Echoing their counterparts in Rwanda and Uganda, Kenyan parliamentarians also highlighted the importance of a collaborative approach in getting their male colleagues on board: "A strong radical feminist approach tends to create apprehension and irrational opposition in a male-dominated institution. Well-intentioned protestors marched outside Parliament at the start of the debate but almost caused the collapse of the process: Male MP's do not take kindly to threats (through placarding, sms messages, and language), which they perceive to be invading their male 'political' space. Many women activists do not understand this, and such activity undermined if not threatened the Bill while under debate."[72]

Supporters also framed sexual violence as a public issue by highlighting costs to Kenya's economy, education and health system, while highlighting that rape had served as an

[70] Interview CREAW.
[71] Hansard 30 May 2006.
[72] Ndungu, 'The Kenya Experience', Hansard 27 April 2006.

assault against ethnic groups and nations in Rwanda and elsewhere. In particular, however, the link with the "HIV phenomenon helped to push the sexual offences [as an issue]."[73] In fact, HIV "was declared by the previous president, president Moi, as a national disaster. And [because] sexual offences were part of the drivers then obviously they also were looked upon in a different light." [74] Ndungu'u and others stressed this link during parliamentary debates: "As we fight the toll of HIV/AIDS on the population of this country, we have to face the facts that three out of 10 rape victims are infected by their rapists."[75]

While these arguments helped re-frame elements of the Sexual Offences Act and thereby reduced opposition, the public-private divide was also negotiated by agreeing several amendments to exclude issues more closely associated with 'culture' and the private sphere - including marital rape.[76]

4. The constitution-making process: Part II

While the Sexual Offence Act enabled progress in addressing sexual violence, it was only following the 2007-2008 electoral violence – and the consequent revival of Kenya's constitutional review – that Kenya would begin to move towards the responses to domestic violence developed in Uganda and Rwanda.

The 2007 general elections featured a new set of political alliances. These included the Party of National Unity (PNU), made up of remnants of NARC and KANU, with Kibaki as their presidential candidate. They were opposed by the Orange Democratic Movement

[73] Interview PDVA consultant.
[74] Interviews PDVA consultant, GVRC.
[75] Hansard 27 April 2005.
[76] Hansard 30 May 2006.

(ODM), which had developed out of the 'no' campaign during the 2005 referendum, and nominated Odinga as their presidential candidate.

After the polls closed, delays and irregularities in the counting of votes led to rumours of rigging. Protests erupted while Kabki was hastily declared the winner and sworn in. In response, members of ethnic groups supportive of ODM and Odinga targeted ethnic communities broadly following Kibaki and PNU, while rival militias and state police retaliated. Others took advantage of the crisis to loot, rape and riot. At least 1,113 people were killed during these events, with 600 000 more displaced. [77]

While the close elections acted as a trigger, this violence also resulted from the longer-term politicization of ethnicity fuelled by the introduction of multi-party elections and the 2005 referendum.[78] The failure to agree on a new constitution further raised the stakes involved for both sides by maintaining Executive dominance and reducing trust in the neutrality of state institutions.[79]

It was only following these events that Kenya ultimately concluded the protracted constitutional review initiated ten years prior. The African Union-sponsored negotiations that brought an end to the violence thus revived this process as they "forced an examination of long-standing problems in the institutional performance of the Kenyan state"[80], which were linked to the violence, including the need for constitutional reform. In February 2008, Kibaki and Odinga agreed on a power-sharing agreement, which ended the violence and political deadlock, and envisaged constitutional reform as a critical step towards preventing

[77] Human Rights Watch, *Ballots to Bullets*, 20:1, 2008.
[78] Mueller, 'Kenya's Crisis'.
[79] E.g. Mueller, 'Kenya's Crisis'.
[80] Karuti Kanyinga and James D. Long, 'The Political Economy of Reforms in Kenya: The Post-2007 Election Violence and a New Constitution', *African Studies Review,* 55:1, 2012.

further violence. The legislation underpinning the agreement also set out a process that would lead to a new constitution for Kenya.

Accordingly, in December 2008, parliament set up a Committee of Experts (CoE) tasked with developing a 'harmonized' draft constitution building on the various drafts developed during the earlier stages of Kenya's protracted constitutional review. With all of these integrating significant gender equality provisions (as highlighted above), the CoE 'harmonized' draft maintained significant advances in women's rights. Following conscious efforts to overcome the divisions among women intensified by the 2005 referendum and 2007/2008 electoral violence, women's groups helped secure these gains by lobbying the CoE, including through the submission of 107 written memoranda.[81] As a result, amongst other advances, the CoE draft included affirmative action provisions for women to take up at least one third of all elected and appointed positions[82], 47 special seats in the National Assembly[83] and 18 in the Senate[84] - the newly-established upper house of parliament.

The CoE draft and a list of 'contentious issues' were then submitted to a Parliamentary Select Committee (PSC), which was to reach consensus on these contentious issues, make changes to the document and send it back to CoE which could approve or reject the revisions. The PSC was split between the PNU and the ODM. Much like Kibaki's faction previously, the PNU aimed for a centralized presidency and limited devolution while ODM advocated the opposite.

[81] E.g. Maingi, 'Kenyan Constitutional Reform'.Tripp, 'Women's Mobilization'.
[82] Constitution of Kenya 27 (8) (Article 27 (8)).
[83] Article 97b.
[84] Article 98b-d.

However, the experience of electoral violence changed elite incentives to support the CoE draft despite these divisions.[85] The violence tarnished Kibaki's reputation - and constitutional reform became a means to rescue his political legacy.[86] The relatively inclusive nature of the government and power sharing agreement - that is, institutional features coming out of the post-violence mediation process - also facilitated progress on the draft: Due to their joint role in government, the ODM and PNU would now both be held accountable for a failed initiative at constitutional reform. This would risk undermining Odinga's political support and popularity ahead of a presidential run envisaged for 2012. The electoral violence also added urgency to constitutional reforms by raising the stakes involved: the possibility of a return to violence.[87]

Heading into the January 2010 PSC retreat the ODM was therefore more willing to compromise than previously and the revised draft ultimately omitted the position of Prime Minister.[88] In April 2010, parliament approved the draft. Kibaki and Odinga both mobilized their constituencies in favour of the new constitution. On 4th August 2010, Kenyan voters overwhelmingly approved it in a referendum. In this way, a constitutional revision process that had been fought over for over a decade was finalised within two years after the electoral violence of 2007/2008. As in Rwanda and Uganda constitutional provisions on gender equality secured as a result would in turn provide the basis for strengthened responses to women's security concerns.

[85] Kanyinga and Long, 'The Political Economy of Reforms'; Robert Maxon, 'Constitution-Making in Contemporary Kenya: Lessons from the Twentieth Century', *Kenya Studies Review,* 1:1, 2009. Stephen Brown and Chandra Lekha Sriram, 'The big fish won't fry themselves: Criminal accountability for post-election violence in Kenya', *African Affairs,* 111:443, 2012.
[86] Kanyinga and Long, 'Political Economy of Reforms'.
[87] Kanyinga and Long, 'Political Economy of Reforms'.
[88] Kanyinga and Long, 'Political Economy of Reforms'.

However, cases of rape (and other crimes) perpetrated during the electoral violence were largely met with impunity. This was in large part because, in contrast to Rwanda and Uganda, electoral violence was not followed by a political transition. Those in charge of developing accountability measures for the electoral violence in Kenya were among those involved in this violence and at risk of being prosecuted for related crimes themselves. There were therefore few incentives to ensure those responsible were brought to justice, including for the perpetration of sexual violence.[89]

5. The Protection Against Domestic Violence Act

Nevertheless, the new constitution propelled by the crisis enabled the passage of domestic violence legislation, which had been lingering in parliament for several years. Groups such as FIDA and Women's Empowerment Link (WEL) had long noted the need for legal responses to the high levels of domestic violence they saw coming out of their work with communities.[90] In 1998, such legal measures were also recommended by a Task Force appointed by the Attorney General and including several women's civil society representatives. FIDA subsequently developed draft legislation. This was first tabled before parliament in 2000. However, following a second reading in 2002 and further revisions, the bill stalled and remained pending.

[89] See e.g. Brown and Sriram, 'The big fish won't fry themselves'.
[90] Interviews PDVA consultant, WEL.

It was only in 2012, following further redrafting by FIDA, that the bill was reintroduced and finally passed as the Protection Against Domestic Violence Act (PDVA) in 2015. [91] Asked why passage of the PDVA was possible in 2015, interviewees consistently emphasized that "It is because of the constitution."[92] This was true in several ways.

First, the bill was required to realize several constitutional articles: The right to freedom and security, including from any form of violence from public of private sources (Article 29 c), the protection of the family (Article 45 (1)), and the call for legislation providing for the protection of victims of offenses. (Article 50 (9)). Schedule five of the constitution specifically instructed parliament to pass legislation to protect the family. Consequently, as FIDA explained, "if they wouldn't have passed it within five years that's a violation of the constitution."[93] These articles were certainly insufficient to ensure legislation on domestic violence: legislation to protect the family would not necessarily prioritise domestic violence and other constitutional provisions subsequently failed to be implemented. However, they helped add urgency to the initiative in parliament.[94]

The new constitution also enabled progress by increasing the number of women entering parliament in the 2013 elections:[95] Women took up 65 seats in the National Assembly (18, 6 %) and 18 seats (26, 5%) in the Senate. With the number of women gaining open seats remaining similar to previous elections, this unprecedented level of female representation was due almost exclusively to constitutional affirmative action provisions.

[91] Interview PDVA consultant. Jane Godla, 'Protecting the Family Through Law', *Kenyan Woman,* 12, 2011.
[92] E.g. Interviews FIDA, GVRC, PDVA consultant.
[93] Interview FIDA.
[94] E.g. Hansard, 27 August 2015.
[95] Interview Joyce.

However, affirmative action did not increase women's parliamentary representation as much as expected: The constitution failed to specify how the Article 27 (8) provision that "no more than two-thirds of elective or appointive bodies shall be of the same gender" [96] would be implemented in the National Assembly. This left significant room for interpretation and resistance. Ahead of the 2013 elections, following a petition by the Attorney General, the Supreme Court thus ruled that Article 27 (8) should not be considered immediate and only be implemented progressively after the 2013 elections, by 27 August 2015. However this date lapsed as MPs continued to fight over specific formulas for arriving at this level of representation.[97]

These challenges have been attributed to "continuing male anxieties about women's representation", including in the male-dominated parliament.[98] In view of these attitudes, affirmative action provisions were even used to further undermine women's representation, with some male parliamentarians consequently discouraging women from running for open seats and suggesting to the public that supporting women was a waste of their votes as women were already guaranteed seats in parliament.[99]

However, women did take up those 47 special seats in the National Assembly and 16 seats in the Senate whose implementation process was detailed in the constitution.[100] Even this

[96] Constitution of Kenya, 27 (8).
[97] Wanjiku Mukabi Kabira and Patricia Kameri-Mbote, 'Gender Issues in Electoral Politics in Kenya: The Unrealized Constitutional Promise' in Collins Odote and Linda Musumba, eds., *Balancing the Scales of Electoral Justice – Resolving Disputes from the 2013 Elections in Kenya and the Emerging Jurisprudence* (Rome: International Law Development Organization, 2016).
[98] Effie Owuor, 'Women and political inclusion in Kenya: A historical overview, 1963-2016', in Japhet Biegon, ed., *Gender Equality and Political Processes in Kenya* (Strathmore University Press, International Commission of Jurists, and National Gender and Equality Commission, 2016), 37. Patricia Kameri-Mbote, 'The quest for equal gender representation in Kenya's Parliament: Past and present challenges', in Odote and Musumba, *Balancing the Scales.*
[99] Pilar Domingo et al., *Shaping the development of Kenya's 2010 Constitution,* ODI Report, 2016, 10.
[100] Article 97 (b), Article 98.

limited representation of women significantly increased access to parliament for women's civil society advocacy on domestic violence legislation. As the lead consultant for the initiative recalled, in previous, more male-dominated parliaments, legislative initiatives on gender equality and domestic violence "were not [addressed with the] seriousness that they deserved. So it was only when the women came into parliament that they started talking about this."[101] Female parliamentarians not only supported the bill themselves, but also helped gain a larger number of male allies in parliament – who took their female colleagues more seriously than they did women in civil society. [102]

Strong ties between female MPs and civil society enhanced these efforts. Many women who joined parliament in 2013 had previously worked in or received training from civil society. As WEL noted, "NGOs actually groom the parliamentarians […] which has really worked to our advantage."[103] In particular, this helped ensure that female MPs were already aware of the need for responses to domestic violence and responsive to civil society advocacy.[104] Civil society also "empowered the women parliamentarians"[105] with resources during the legislative processes, including support with drafting and organization of lobbying meetings.

Close cooperation in turn provided civil society with information on progress of the initiative in parliament and the most effective lobbying strategies.[106] This proved vital for the passage of the bill: Ahead of the second reading it appeared as though opposition was

[101] Interview PDVA consultant.
[102] Interview WEL.
[103] Interview WEL.
[104] Interview WEL.
[105] Interview WEL.
[106] Interview WEL.

so fierce that the initiative risked being dropped. Therefore, "one of the women members of parliament who was in the Legal Affairs committee, called the members of civil society and said: 'Look the bill is going to be dropped […] what are you doing about it? So that was the call to Women's Empowerment Link. And Women's Empowerment Link took it up and quickly convened a civil society meeting and quickly convened a meeting with the Legal Affairs Committee and quickly convened a meeting with women members of parliament and also demonstrated and organized a huge demonstration to parliament."[107]

Finally, a change in advocacy strategy ensured success of the initiative in 2015 as opposed to earlier periods. Previous initiatives had partly failed because domestic violence legislation was seen as a 'woman's bill', which would unduly intervene in the private sphere.[108]

Parliamentarians had voiced particular concerns that the bill would undermine men's authority in the household, thereby "create lawlessness" in the private sphere, posing a "threat to the family unit"[109] and ultimately the stability of the entire country. [110] As one MP explained, "The State is a family on a large scale [….] [all] states have an army, navy, police force, and GSU and we do not condemn them for that. We do not say that they are exercising violence. In order to keep law and order, you must have recourse to using some limited force. How do you exercise your authority as head of a family without any threat to the use of force? [...] I oppose this Bill because I want the family to be stable."[111]

[107] Interview PDVA consultant.
[108] E.g. Alphonce Shiundu, 'Male Members of Parliament shock their women colleagues over Domestic Violence Bill' *Standard Digital,* August 21, 2014.
[109] Shiundu, 'Male Members of Parliament shock their women colleagues'.
[110] Hansard 24 April 2002.
[111] Hansard 02 May 2002.

In both the media and in parliament, the proposal to re-order family relations in this way was considered to undermine Kenyan culture, "to copy foreign ideologies and way of life which is not conducive in this country."[112] Under applause from the chamber, MPs urged that "we cannot afford to ape the white people. They have so many broken homes and we cannot copy their way of life."[113]

Opponents stressed that the initiative not only undermined Kenyan culture in general but also failed to respect the cultural diversity and autonomy of its distinct communities and was therefore "not fit for the multi-cultural Kenyan society."[114] MPs thus noted that "too many legislations that are out to restrict people to a certain way of life will not help in any way."[115] Therefore the PDVA was "not fair" to the country, would 'infringe on the human rights' of its various cultural groups by interfering with their 'way of life' and would only increase crime by outlawing cultural practices of specific communities. Others added that customary practices of distinct cultural communities already offered adequate responses to domestic violence and intervention by the state was therefore unnecessary.[116]

As in Uganda and Rwanda and during advocacy for the Sexual Offences Act, efforts to criminalize marital rape through the PDVA sparked particular controversy in this context, serving as "one of the reasons for the delays in the enactment of the bill."[117] Most legislators continued to hold that rape within marriage could not exist in general and within

[112] Hansard 24 April 2002,
[113] Hansard 24 April 2002.
[114] Hansard, 24 April 2002.
[115] Hansard 24 April 2002.
[116] Hansard 02 May 2002. Hansard 24 April 2002.
[117] Francesca Restifo et al., 'Situation of Violence against Women and Children in Kenya: Implementation of the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment', Organisation Mondiale Contre la Torture/Human rights in Indonesia, 2008.

specific cultural communities in particular. [118] As one MP noted: “Where I come from, in the Kamba culture, there's nothing like sexual harassment between a husband and a wife. When you pay the three goats, you are given 100 per cent authority to engage in that act without any question."[119] During earlier advocacy campaigns, opponents further portrayed the initiative as a ‘woman’s bill’ insensitive to Kenyan culture by arguing that it failed to address or involve men. Therefore the bill was “partisan”[120], “discriminatory”[121] and hence ‘unconstitutional’.[122]

A change in advocacy strategy was vital in overcoming these objections and ensuring success in 2015: As in Uganda and Rwanda, advocates successfully framed domestic violence as a wider social issue affecting both men and women and relevant legislation as a means of protecting, rather than undermining, the family.

To this end, while previous attempts to pass the legislation were led by women, parliamentarians and civil society increasingly engaged men. As WEL recalled, “at this point we involved the men in the drafting of the bill, during the reading, everything. I mean the process was actually spearheaded by male parliamentarians, supported by the female parliamentarians.”[123] This was “what *really* helped us.”[124] A particularly successful strategy was the decision to let KEPHRA (the Kenya Parliamentary Human Rights Association, rather than the women’s caucus KEWOPA) drive the process in parliament, so that the bill

[118] Restifo et al., ‘Violence against Women’.
[119] Shiundu, ‘Male Members of Parliament shock their women colleagues’.
[120] Hansard 02 May 2002
[121] Hansard 24 April 2002.
[122] Hansard 24 April 2002.
[123] Interview WEL.
[124] Interview WEL.

would cease being seen as a 'women's issue'.[125] To bring male parliamentarians on board advocates used survivor stories "and (we would say): as a man, would you want your daughter to go through this?"[126] The record of the third reading of the bill points to the influence of these strategies, with male and female parliamentarians highlighting that "we are looking at a law which protects all families within the country without discrimination against any gender."[127] MPs added that this would in turn contribute to the stability of the country because "When a family is protected, the nation is protected […]. I am very proud to be a Member of the Eleventh Parliament which will be associated with this wonderful Bill whose purpose is protection of the entire country."[128]

Compromise on the most contentious issues in view of the public-private divide – and especially marital rape – also enabled the passage of the bill in 2015. According to Action Aid, "even the very members of the [human rights] caucus, not all of them, were in agreement that this is an issue that requires prosecution."[129] Marital rape was therefore not emphasized in the final bill. [130]

Nevertheless the PDVA marked a significant achievement for state responses to women's security concerns in Kenya, explicitly criminalizing a main form of violence against women – domestic violence – for the first time. As in Rwanda and Uganda, constitutional reforms enabled by large-scale violence provided the foundation for this achievement. The

[125] E.g. Interview PDVA consultant.
[126] Interview WEL.
[127] Hansard, 19 March 2015.
[128] Hansard, 19 March 2015.
[129] Interview Action Aid.
[130] Interviews FIDA, WEL.

significance of the larger number female parliamentarians for progress on the PDVA also highlights that repeated failures to achieve affirmative action provisions in the 1990s and early 2000s – due to ethnic divisions between women and a lack of supportive leadership as compared to post-conflict regimes in Uganda and Rwanda - help explain why Kenya introduced legislation on domestic violence significantly later than both of these countries.

6. Implementation of state responses to violence against women

However, implementation of these formal provisions remained a challenge, lagging behind Uganda and Rwanda: Although the PDVA has "helped at some level" to raise awareness of the need for responses among national institutions, most communities remained unaware of its existence.[131] While this may be expected given the short timeline since its enactment, even with regard to the Sexual Offences Act, passed in 2006, "the implementation is a bit slow."[132]

Limited state capacity

These implementation gaps partly reflected general limitations in resources available to state institutions. As a result of resource constraints in the justice system, for example, "the judiciary takes forever to get through cases […]. I think 'fast' [for a rape case] is three years."[133]

[131] Interview Action Aid.
[132] Interview FIDA.
[133] Interviews CREAW, GVRC.

The limited geographical reach of the security and justice sectors also mean that survivors have to travel long distances to claim a response. For example, "we don't have enough judges or courts at the county level. Some don't even have courts, they (survivors) have to go to the neighbouring counties."[134] As a result of the consequent delays and costs involved in seeking justice, many survivors withdraw cases before the court reaches a conclusion.[135]

Elite association of women with the private sphere

However, as in Uganda, lacking resources not only reflect general constraints but also the low priority attached to women's concerns as public issues.

FIDA explained that "maybe they have some few resources for other things, but not sexual offences, protection against domestic violence, issues to do with women. They think that they are non-issues."[136]

Therefore civil society representatives found that in implementation of legislation in this area "political will to me is one of the biggest challenges that we have. Whether we're looking at the president [or] whether we're looking at the county leadership […]"[137] The existence of such political will at the highest level in Rwanda helps explain why implementation of formal measures has gone further in this context despite more limited resources.

[134] Interviews CREAW, Action Aid.
[135] Interviews CREAW, Action Aid.
[136] Interviews FIDA, Action Aid.
[137] Interview Action Aid.

Political liberalization

In addition, wider political incentives linked to the democratization process have provided less incentives to use state resources for responses to violence against women.

Democratization has been accompanied by spiraling theft of public funds: Faced with a real possibility of electoral defeat, senior figures have increasingly accumulated resources to secure their retirement and diverted state resources to fund costly electoral campaigns, while weakening institutions of oversight and accountability to conceal these practices.[138] In these ways, democratization has set political incentives that shape – and often serve to reduce - the extent to which formally available resources translate into state capacity.

In addition, given the low priority attached to women's specific concerns, the high-level priority attached to elections due to the risk of loss of power has at times simply diverted attention from domestic violence policies. With regard to having a special anti-SGBV unit in the police, for example, the women's NGO CREAW explained that "there are discussions but they're watered down by other political agendas. For example right now election is at the top of the agenda. That takes precedence over anything else. So whatever it is, [whatever] particular advocacy initiative [on SGBV you are proposing], then you're

[138] Daniel Branch and Nic Cheeseman, 'Democratization, Sequencing, and State Failure in Africa: Lessons from Kenya,' *African Affairs,* 108/430, 2008.

more or less held on hold because everyone is focused on elections, elections [...] [they will say]: 'and you're looking for what? A gender policy?"[139]

Relative stability and state capacity

In addition, relative stability in Kenya has provided fewer incentives for police reform than post-conflict processes in Rwanda and Uganda. Relationships between the security sector and the population remain poor, aggravating barriers to reporting. In a study conduced by Transparency International in 2013, 95 % of participants saw the police as corrupt. [140] Partly as a result, especially as compared to Rwanda, "the general public lacks confidence in the police and has limited inclination to report to them or provide them with information."[141]

In light of the abuses perpetrated by the security forces, the 2007/2008 electoral violence did lead to initiatives for police reform launched in 2009 and designed to develop "effective, efficient, professional and accountable security agencies (sic) that Kenyans can trust for their safety and security."[142] However these reforms have had very limited impact on policing practice and are "on the verge of stagnation due to a lack of guidance, direction and political commitment."[143] Elite commitment to the process has been extremely limited, with observers noting that leaders are likely to have acceded to reform in part as a public

[139] Interview CREAW.
[140] Louise Skilling, 'Community policing in Kenya: The application of democratic policing principles, *Police Jounral: Theory, Practice and Principles,* 89:1, 2016.
[141] Citing i.a. Commission of Inquiry into Post Election Violence, 2008, Anneke Osse, 'Police reform in Kenya: a process of 'meddling through', *Policing and Society,* 26:8, 2015, 908.
[142] Osse, 'Police reform'.
[143] Police Reforms Implementation Committee 2011, 5, in Osse 'Police reform', 908.

relations exercise, rather than a real commitment to reform, designed to improve perceptions of the regime within the ICC.[144]

Societal association of women with the private sphere

Finally, the continued association of women's security concerns with the private sphere among service providers and the general population constrain the extent to which even those resources formally allocated for gender-based violence response are effectively used in practice.

As FIDA explained, if a victim of domestic violence were to report to the police stations, in most cases "she'll be told to go back to the family […, that] those are family issues, which should be sorted at home."[145] Otherwise she may be told to "go back to the church" rather than relying on state institutions.[146]

In addition, the public-private divide means that women have more limited access to the resources required to seek a formal response from the justice sector. [147] In these ways, "culture will really go against implementation of the law."[148]

7. Conclusion

In conclusion, Kenya became less successful in providing security for women than Uganda and Rwanda because its history of relative stability, higher levels of capacity and

[144] Osse, 'Police Reform'.
[145] Interviews FIDA, UN Women. See also Chapter IV.
[146] Interview FIDA.
[147] Interviews GVRC, WEL.
[148] Interview FIDA.

democratization process provided fewer opportunities to re-define the public-private divide and thereby establish violence against women as a public priority. The effects of these factors largely run counter to what dominant trends in literature on post-conflict statebuilding would lead us to expect – confirming that these fail to 'work' for men and women equally.

Legacies of conflict

First, the case of Kenya confirms the significance of conflict in increasing opportunities for enhancing women's status in Rwanda and Uganda by providing opportunities to re-define the public-private divide through changes in formal institutions and informal norms and practices.

While conflict in Rwanda and Uganda in the 1980s and 1990s propelled into power rebel leaders who were more favourable to women's rights than their predecessors, in part as a result of conflict-induced shifts in the public-private division of roles between men and women, Kenya through the 1990s remained under the control of a regime whose opposition to women's public participation repeatedly stifled women's initiatives to access the public sphere through affirmative action. While Museveni played a key role in ensuring women's special representation in post-conflict governance, KANU and Moi personally blocked such initiatives in 1997 and 2000. Once women's political participation in Kenya finally increased (due to a change of leadership in 2002 and provisions of the 2010 constitution), state responses to women's security concerns did begin to develop as a result (through the 2006 Sexual Offences Act and 2015 PDVA). This highlights the significance of Moi's

opposition and hold on power in the 1990s in explaining why Kenya did not make the same progress as Rwanda and Uganda under post-conflict leaders during the same period.

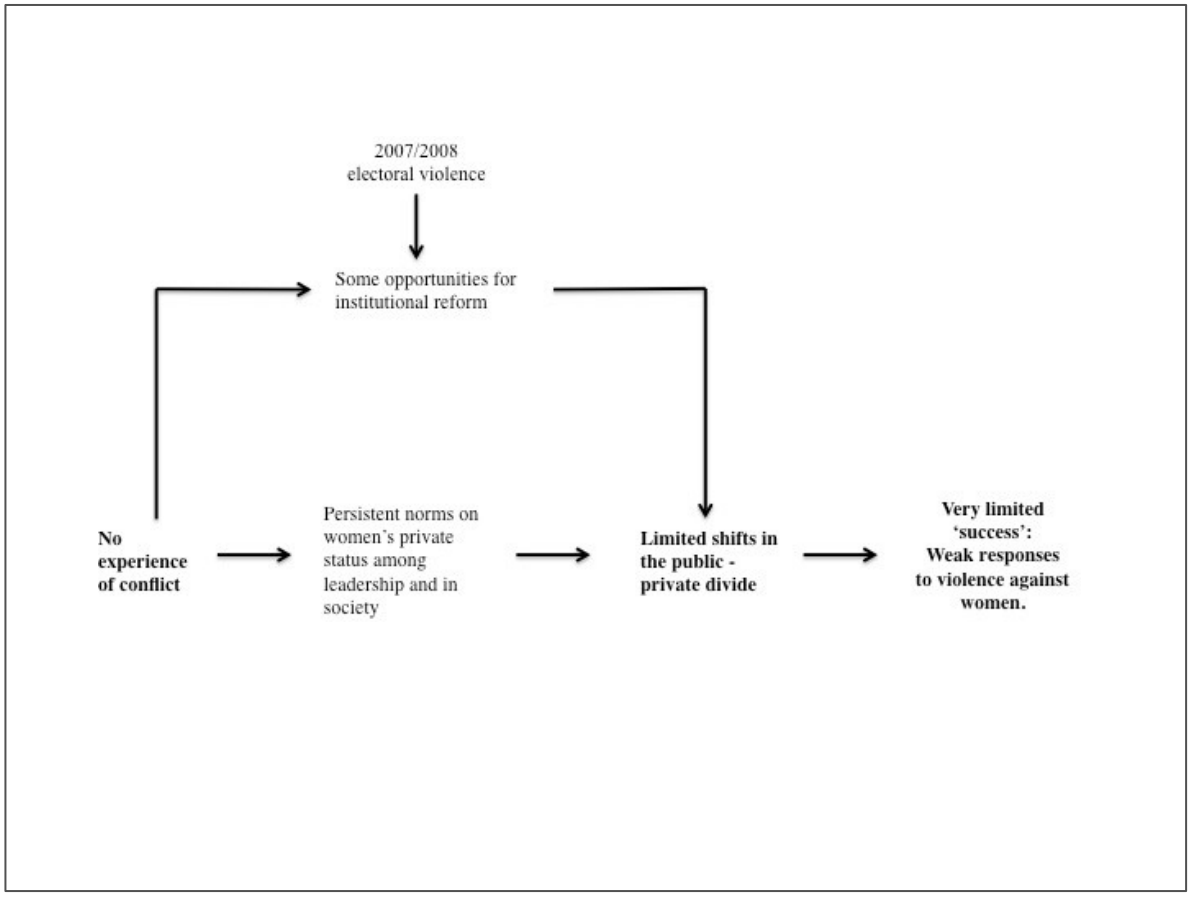
The case of Kenya also adds weight to the importance of opportunities for institutional reform provided by conflicts in Rwanda and Uganda in explaining these countries' relative progress in responding to women's security concerns. As we have seen, the democratization process in Kenya did lead to the initiation of a constitutional review. As in Rwanda and Uganda, this process provided a key opportunity for the women's movement to advocate for women's increased status. However, the process in Kenya stalled in 2005 and women's gains in the draft constitutions consequently seemed lost. It was only following the 2007/2008 electoral violence, and the new incentives it provided for institutional reform, that the constitutional review and its gains for women's rights could be realized. As we have seen, these constitutional revisions in turn enabled women to successfully advocate for the passage of the 2015 PDVA. In this way, even an instance of less extensive violence provided a turning point for women's rights in Kenya by facilitating institutional reform. This adds weight to the significance of this causal mechanism in post- conflict countries.

However, the effects of electoral violence were not as strong as those of all-out war in Rwanda and Uganda. In particular, it did not lead to the profound institutional reforms, changes in leadership and views of women's public roles witnessed as a result of large- scale conflict in Rwanda and Uganda. As opposed to the extreme scale of violence and post-conflict political transition in Rwanda, the electoral violence in Kenya did not provide incentives to provide accountability for rape perpetrated as part of this public armed

violence. While police reforms were formally initiated following the 2007/2008 electoral violence, these stalled in the absence of the incentives for reform provided by conflict in Uganda and especially Rwanda. Societal trust in the police therefore remained extremely low, reducing police capacity to respond to women's specific concerns and other crimes. This helps explain why the more conflict-affected cases of Uganda and especially Rwanda have made greater progress in responding to women's security concerns than Kenya. These findings call into question the emphasis on civil war as a risk factor – rather than also as an opportunity – for successful statebuilding.

Figure VII.1 below highlights these connections.

Figure VII. 1. Relative stability and lack of responsiveness to women's security in Kenya.



Democratic institutions and processes

As in Rwanda and Uganda, the democratization process beginning in Kenya in the early 1990s played a key role in generating new calls for women's enhanced status and responses to their security concerns. In particular, political liberalization opened space for women's rights mobilization through civil society, which in turn proved critical in the emergence of demands for affirmative action, gender-sensitive constitutional change and state responses to women's security (through the 2006 Sexual Offences Act and the 2015 PDVA).

Democratization also provided some opportunities to realize these demands by leading to multi-party elections which proved a key rallying point for the women's movement, splits in the political elite which meant new political actors could be lobbied on women's concerns, and a constitutional review process which - once finalized - proved key in enhancing Kenyan women's formal status. The significance of democratization - and women's autonomous civil society mobilization in particular - in generating initiatives to advance state responses to women's security concerns confirms expectations of many studies on feminist policy formation.

However, the democratization process was also insufficient in realizing these demands and state responses to women's concerns. As we have seen, women obtained few gains for their formal status during this process before the 2010 constitutional reforms: Their parliamentary representation barely increased during the 1992, 1997 and 2002 multi-party elections and initiatives to pass legislation on affirmative action and violence against women failed repeatedly.

This was partly due to the resilience of informal practices and norms associating women with the private sphere. During elections, while formally able to participate, women faced particular, gender-based discrimination in seeking office and were less likely to present themselves as candidates in the first place. When civil society groups consequently called for affirmative action for women, the political leadership repeatedly blocked these reforms. When quota provisions were formally agreed, they not only failed to be implemented but were in fact used to discourage voters from supporting female candidates.

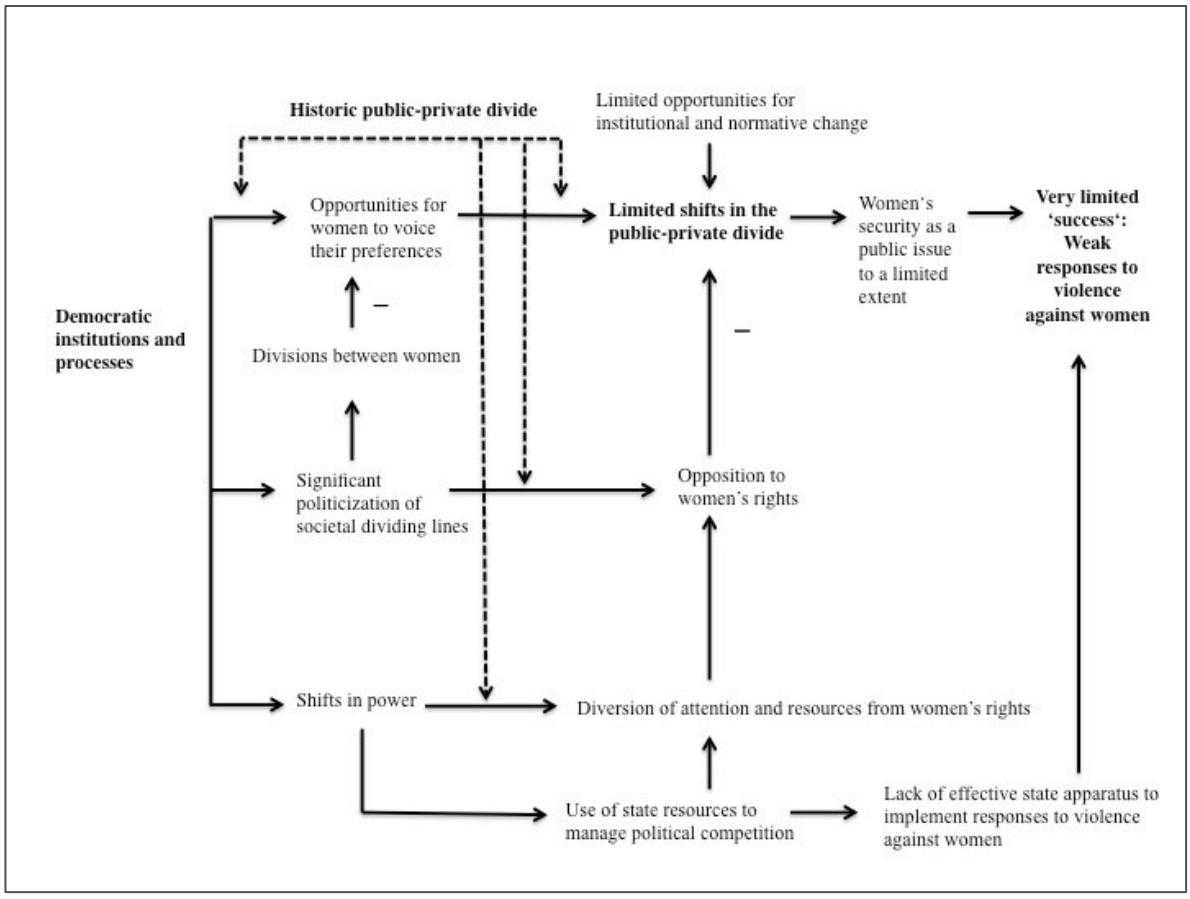
In part, lack of progress was also due to missing opportunity structures which conflict had by contrast provided in Rwanda and Uganda, including by disrupting such informal rules associating women with the private sphere: A lack of supportive political leadership (which repeatedly blocked efforts to pass affirmative action legislation emerging from the increasingly vibrant civil society); voters willing to support women's public participation (which made affirmative action necessary in the first place); and opportunities for institutional reform (with draft provisions on women's rights achieved through women's mobilization failing to materialize in light of a stalled constitutional process). This highlights that the *combination* of democratic processes and post-conflict shifts in institutions, norms and leadership, that is precisely democratization after *conflict* can enable particular statebuilding 'successes' for women. What is more, the democratization process itself fuelled several trends that simultaneously undermined women's ability to seize democratic processes to articulate their shared preferences. Democratization thus fuelled the politicization of ethnicity, which divided the women's

movement and thereby repeatedly undermined their efforts to enhance women's status, including through gains in women's political representation during the 2002 elections and constitutional provisions on women's rights. The fact that a new constitution and women's increased parliamentary participation, once they were realized, did play a key role in securing state responses to women's security concerns (the 2006 Sexual Offences Act and the 2015 PDVA) highlights the significance of the politicization of ethnicity in stalling earlier progress in Kenya. These observations add weight to the significance of a lower politicization of ethnicity in Uganda – partly as a result of one-party rule - in facilitating united advocacy for women's security concerns. Emphasized by many statebuilding scholars as a key risk posed by democratization after conflict, the politicization of societal divisions can then certainly also affect opportunities for 'success' in securing state responses to women's concerns. However, it does so in distinct ways.

The Kenyan case moreover confirms that, as seen in Uganda, shifts in power associated with democratization can exercise negative – if distinct – effects on efforts to enhance state responses to women's concerns. In particular, it highlights that the imperatives of managing these shifts can divert attention and resources from women's specific concerns, often considered a relatively lower 'public' priority. In these ways, Kenya has made limited progress in this area not only despite, but because of its democratization process.

Figure VII. 2 summarizes connections between democratic institutions and processes and weak state responses to violence against women in Kenya.

Figure VII. 2. Democratic institutions and state responses to violence against women in Kenya.

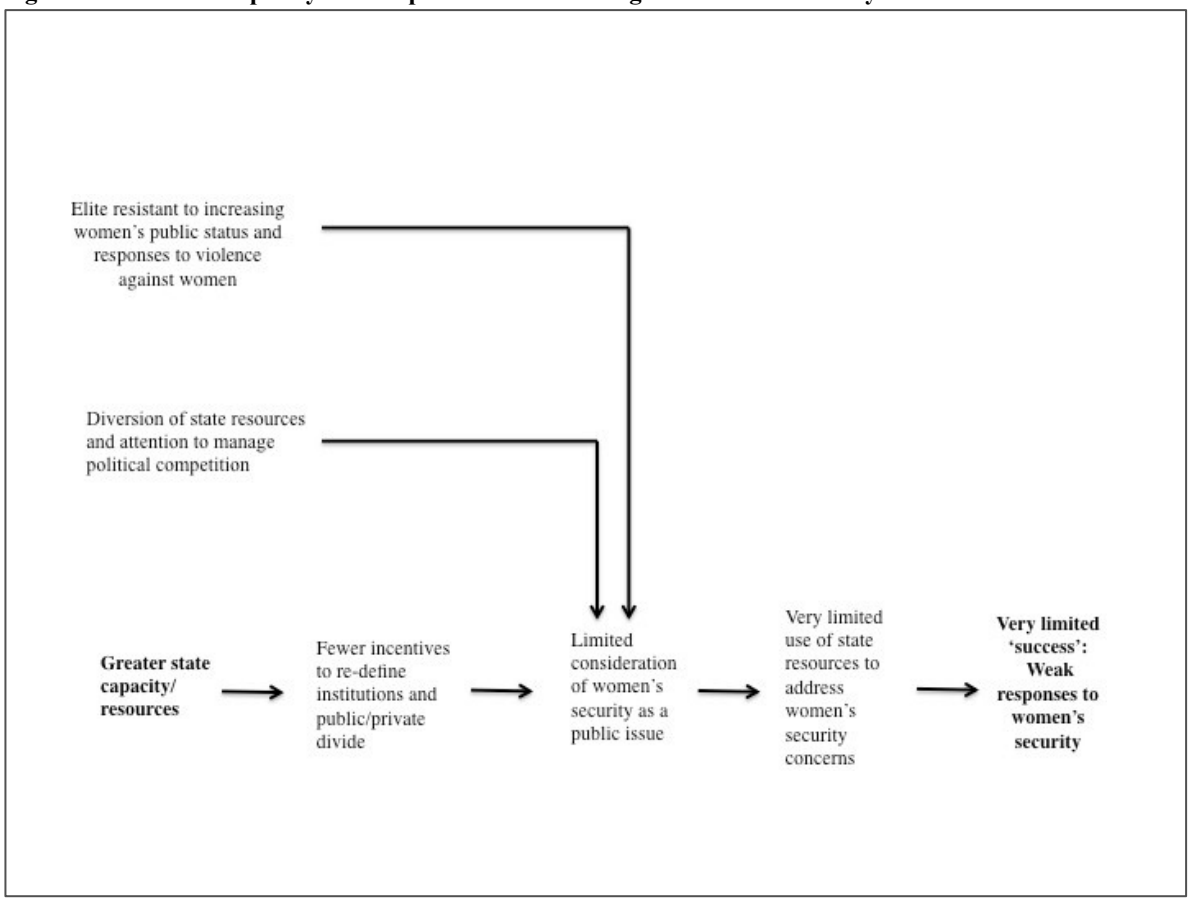


State capacity

Kenya also highlights that state 'capacity' as understood in much of the statebuilding literature does not necessarily translate into states that successfully provide security for women. While Kenya could theoretically draw on more resources to respond to women's specific concerns, these issues were a lower public priority and state elites therefore less willing to use existing resources to implement formal commitments to women's security concerns than counterparts in Rwanda and Uganda. In addition, increased political competition strengthened incentives to use available resources for patronage and corruption and undermine the effectiveness of state institutions.

To the extent that higher levels of capacity provided fewer incentives to reform institutions – including the police – than low post-conflict capacity in Uganda and especially Rwanda, higher capacity in Kenya itself helps explain why it was less successful in providing security for women. Figure VII. 3 highlights these connections between state capacity and responses to violence against women in Kenya.

Figure VII. 3. State capacity and responses to violence against women in Kenya.



‘The informal’

As highlighted throughout, informal practices and norms - and especially the relative association of women’s concerns with the private sphere, in turn shaped by the politicization of ethnic diversity - played a central role in mediating the effects of democratization and state capacity on the (limited) extent to which Kenya ‘succeeded’ in providing security for women.

The limited consideration of women’s rights as a public concern among the Kenyan leadership is thus key in explaining why the country developed weaker responses to women’s security than Uganda and Rwanda. Persistent difficulties and perverse effects in translating women’s formal rights – including affirmative action provisions – into real change confirm the immense power of norms associating women with the private sphere and their interaction with formal institutions in shaping the effects of institutional change. As opposed to Rwanda and Uganda, Kenya’s history of relative stability provided few opportunities to disrupt these views among leadership and society.

International norms, which increasingly constructed women’s rights as a public international issue, also played a central role in advancing state responses to women’s concerns in Kenya, as in Rwanda and Uganda. The 1995 Beijing conferences thus shaped the nature of demands made by the local women’s movement. However, a lack of support among the top political leadership (in 1995 and 2000), stalling opportunities for wider institutional reforms (the drawn-out constitutional review process) and divisions within the women’s movement constrained the impact of these norms. As a result they only translated

into state responses with significant delay. This helps explain why the same global normative shifts exercised significantly stronger impacts in Rwanda and Uganda, where conflict had facilitated the emergence of supportive leadership and profound institutional reforms, into which new global norms could be integrated. In other words, global norms shape outcomes in interaction with local contexts and, in view of post-conflict opportunity structures, can be particularly influential in post-conflict societies. This suggests that in order to account for women's specific experiences in particular more consistent, central attention to the causal impact of changing global norms may be required in research of ingredients for post-conflict statebuilding 'success'.

The Kenyan case further highlights the significance of ethnic and religious divisions in shaping outcomes for women. However, it also confirms that it is not primarily the *diversity* of ethnic groups as such that most strongly influences these outcomes: It was the increasing *politicization* of ethnicity from the early 1990s that posed a key stumbling bloc in advancing state responses to women's concerns and helps explain why Kenya developed more limited responses to women's security concerns than Rwanda and Uganda.

Finally, the case of Kenya confirms that local culture - and specifically the extent to which areas of women's rights are considered 'cultural' and hence private issues - is central in shaping the chances of statebuilding 'success' for women, as 'critical' statebuilding scholars might tend to anticipate. However it also highlights that 'culture' is in turn socially constructed and shaped by local power relations, rather than constituting a fixed, homogenous 'Other'. Advocacy around the Sexual Offences and PDVA thus featured multiple and dynamic interpretations of culture, with opponents and supporters of women's

rights advancing differing portrayals of ‘the local’. What is more, during the process of democratization, cultural identities themselves were consciously shaped and re-shaped by elite actors to secure access to state power.

VIII. Conclusions

This concluding chapter brings together findings from the three case studies and highlights implications for academic literatures. Overall, the comparison shows that statebuilding was more successful for women in Rwanda than in Uganda and especially Kenya because Rwanda's legacies of intense conflict, low post-conflict state 'capacity' and informal institutions and processes provided greater opportunities to establish violence against women as a public priority.

As demonstrated throughout, these factors impacted the development of state responses to women's security through their effects on the public-private division which marks women's relationships with the state. However, dominant trends in literature on post-conflict statebuilding make this divide invisible through a high-degree of state centrism. They therefore fail to anticipate the effects of key statebuilding 'success' factors on statebuilding 'success' for women across the cases.

1. Implications for statebuilding 'success' factors

Legacies of conflict

While studies of post-conflict statebuilding tend to emphasize risks for statebuilding 'success' posed by legacies of conflict, and *'intense' conflict* in particular[1], the case studies show that conflict can also provide significant opportunities to build states that 'succeed'

[1] See Chapter II, section 1.

for women in the longer term. In Rwanda and Uganda state responses to women's specific security concerns thus increased significantly following and as a result of conflict.

This was because conflict provided two sets of opportunities (normative and institutional) to re-define the public-private divide and thereby establish women's security concerns as public issues. First, conflict altered the association of women and their concerns with the private sphere and, in this way, strengthened claims for enhancing women's public status in the post-conflict period. These normative shifts were propelled by the fact that men and women experienced conflict differently, due to the historic public-private division of roles between them.

In both Rwanda and Uganda, as the majority of those fighting and killed in conflict were men, the 'intensity' of civil war forced women to take on new tasks beyond the private sphere, which were previously performed by male relatives. The wider economic pressures and security risks experienced during and after conflict further undermined this division of roles, compelling women to take on new economic activities and to mobilize for peace, while undermining men's authority in households as they failed to live up to 'male' responsibilities to protect and provide for families. These shifts strengthened 1) arguments for enhancing women's public status after conflict, 2) receptiveness towards such demands among the post-conflict political leadership, and, 3) a key advocate for realizing these demands – women's civil society.

Given the extreme 'intensity' of the Rwandan civil war and genocide, these shifts were particularly extensive and powerful in this country. Due to the immense number of people

killed and displaced, the population continued to be 70 % female in the post-conflict period. Women therefore played a particularly critical role in reconstruction. This contributed to the considerable support for action to enhance women's status, including access to property, among the post-conflict political leadership. As we have seen, this level of elite support in turn proved critical for Rwanda's exceptional success in providing security for women. In Uganda, by contrast, women's access to land remained a private concern, stifling efforts to pass the Marriage and Divorce Bill (and hence criminalize marital rape) and to implement legislation on domestic violence.

Yet the extremely 'intense' conflict in Rwanda also transformed the public-private divide beyond a mere re-assignment of tasks between men and women. The extreme scale of violence committed during the civil war propelled the establishment of extensive accountability mechanisms, including for conflict-related sexual violence. Widespread 'public' sexual violence perpetrated by state actors as part of the civil war subsequently also helped re-define violence against women in general from a 'private' into a public issue. In Rwanda, civil society thus first called for legislation against all forms of violence against women during discussions of conflict-related sexual violence six years before Ugandan civil society began to advocate for such measures.

Moreover, the experience of extreme public violence during the Rwandan civil war led to an increasingly positive view of norms and behaviours associated with the 'private' realm.

As a result, it was precisely women's historic association with the 'private' realm that helped generate widespread support for increasing their public influence in the post-conflict period. This wider support contributed to the immense increase in women's representation in Rwanda's post-conflict parliament, beyond levels of female parliamentary representation achieved in Uganda and Kenya. As we have seen, the exceptional number of female MPs in turn provided women's civil society in Rwanda with increased access to parliament in their advocacy on women's security. It also increased the level of resources available to female parliamentarians in translating these calls into action.

Finally, the extreme violence of the Rwandan conflict led to a new emphasis on ending discrimination against societal groups, perceived as a root cause of this suffering. This allowed advocates to leverage wider political discourse to 'frame' discrimination against women as a public issue, including during the post-conflict constitution-making process.

Several of these extensive shifts in Rwanda, then resulted from the ways in which conflict changed public discourse, a factor neglected in statebuilding scholarship but identified by scholars of feminist institutionalism[2], and thereby increased opportunities for women to generate support for their specific concerns. This was partly enabled by a combination of the intensity of conflict with the *nature* of the war and genocide, driven by discrimination against societal groups and marked by high levels of sexual violence – a 'variable' neglected in existing research on post-conflict statebuilding and scholarship discussing opportunity structures for women's rights after war.[3]

[2] E.g. Waylen, *Engendering transitions*.
[3] Such as Tripp in *Women and Power*.

However, in both Rwanda and Uganda, conflict not only helped re-define the public-private divide by changing norms associating women with the 'private sphere' but also by leading to profound transformations in governance and state institutions. These institutional changes provided windows of opportunity to re-negotiate the social contract and institutionalize women's new public status in this context. In other words, conflict provided 'critical junctures' of institutional change, which feminist institutionalists have highlighted as facilitating particular advances in women's rights.[4]

In particular, the development of new constitutions in post-conflict Rwanda and Uganda offered openings to integrate demands for enhancing women's status into existing reform processes. In both countries, post-conflict constitutions consequently proved watersheds for women's formal rights. These constitutional gains subsequently served as critical stepping stones in the development of responses to domestic and sexual violence.

While conflict led to profound institutional reforms in both cases, the extreme intensity of conflict in Rwanda meant that many state institutions, including in the security sector, had to be re-built essentially from scratch. As we have seen, this provided Rwanda with distinct opportunities to build a disciplined police force and transform the relationship between the security sector and the population. Uganda, by contrast, continued to struggle with the institutional 'hangover' of a corrupt police inherited from previous regimes.

[4] Waylen, Paper on Gender and Institutional Change.

Rwanda's RPF seized this opening to build a police force "respected by the population for its discipline and lack of bribe taking to a degree that is very unusual in Africa"[5], including as compared to Uganda and Kenya. This has facilitated reporting of violence against women and other crimes. In addition, the level of destruction experienced in Rwanda contributed to the extensive mobilization of society in support of the state security sector so as to compensate for a lack of state capacity. As we have seen, this level of 'community policing' helped increase Rwanda's effectiveness in responding to women's specific security concerns by blurring the distinction between 'public' and 'private'.

While legacies of conflict advanced state responses to women's security in Rwanda and Uganda, relative stability in neighbouring Kenya - and the consequent lack of comparable transformations in institutions, governance and attitudes towards women's public status – helps explain why responses to women's security developed more slowly and partially in this case. While conflict in Rwanda and Uganda propelled into power new regimes that actively supported women's public roles – in part as a result of conflict-related shifts in women's association with the private sphere – Kenya remained in control of a post-colonial regime that actively undermined efforts to increase women's public participation. While post-conflict constitutions agreed in Uganda and Rwanda proved turning points in enhancing women's public status, constitutional reforms stalled in Kenya in the absence of the catalysing effect of conflict, along with the gains these reforms had promised for women's rights.

[5] Baker, 'African Policing Culture', 12.

It was only following the 2007/2008 electoral violence that constitutional gains in women's public status could be realized in Kenya - and subsequently enabled the development of state responses to women's security. The fact that even more limited electoral violence facilitated these developments confirms the significance of this causal mechanism in post-conflict countries. However, in Kenya, constitutional revisions following electoral violence were not accompanied by the profound institutional, regime and societal transformations – and accompanying opportunity structures for women's rights – which conflicts provided in Rwanda and Uganda. For example, while police reforms were formally initiated following the 2007/2008 electoral violence, these stalled in the absence of the incentives for reform provided by conflict in Uganda and especially Rwanda. In the absence of such reforms, relationships between the Kenyan security sector and society remained extremely poor, reducing police capacity to respond to women's specific concerns and other crimes.

However, in both Rwanda and Uganda, the scope of post-conflict institutional and governance reforms and the opportunities these provided for enhancing women's public status were partly a function of the outcome of conflict: Military victory by rebel groups ideologically open to advancing women's public status. While statebuilding scholars tend to emphasize the positive impact of military victory as such, for women it was the *nature* of the victor that ensured statebuilding 'successes'. Victory by rebel groups thus led to more profound transformations of the state and its relations with society than could be expected following government victory. This outcome therefore provided particular opportunities to renegotiate the public-private divide and enhance women's public status. In Rwanda, combined with the extreme scale of the crimes, complete RPF victory also enabled high

levels of accountability for crimes committed during the civil war, including sexual violence.

Moreover, in contrast to government forces, rebel groups in Rwanda and Uganda depended on mass mobilization for their military success. Enabled by their ideological orientation, this included the mobilization of women. Rebel groups were consequently more open to women's leadership and their victory helped put in place governments, which were relatively receptive to calls to increase women's status in the post-conflict period. In Rwanda, victory of a rebel group raised in exile in Uganda – where women had already attained significant public roles – reinforced these trends, allowing for diffusion of gender norms through elite learning between the cases. Finally, in both countries, rebel experience of mobilization of the local population contributed to the emergence of community involvement in post-conflict governance, which, as we have seen, facilitated the emergence of effective responses to women's security concerns. The case studies therefore suggest that positive relationships between conflict and post-conflict responses to women's concerns are conditional on conflict outcome.

Taken together the impacts of conflict on the public-private divide through both normative and institutional change help explain why, within and across the cases, the experience of conflict maps onto statebuilding 'success' for women in a pattern that is inverse from what dominant trends in statebuilding scholarship would lead us to anticipate: State responses to women's security concerns increased significantly after conflict (or electoral violence) in each case; cases affected by all-out war were more successful in responding to women's

security concerns than non-conflict cases; and the case experiencing the most severe insecurity would become most successful in providing security for women.

Figure VIII.1 highlights the effects of legacies of conflict as commonly highlighted in literature on post-conflict statebuilding, while Figure VIII. 2 contrasts these with causal mechanisms identified in the case studies.

Figure VIII. 1. Effects of conflict expected based on literature on post-conflict statebuilding.

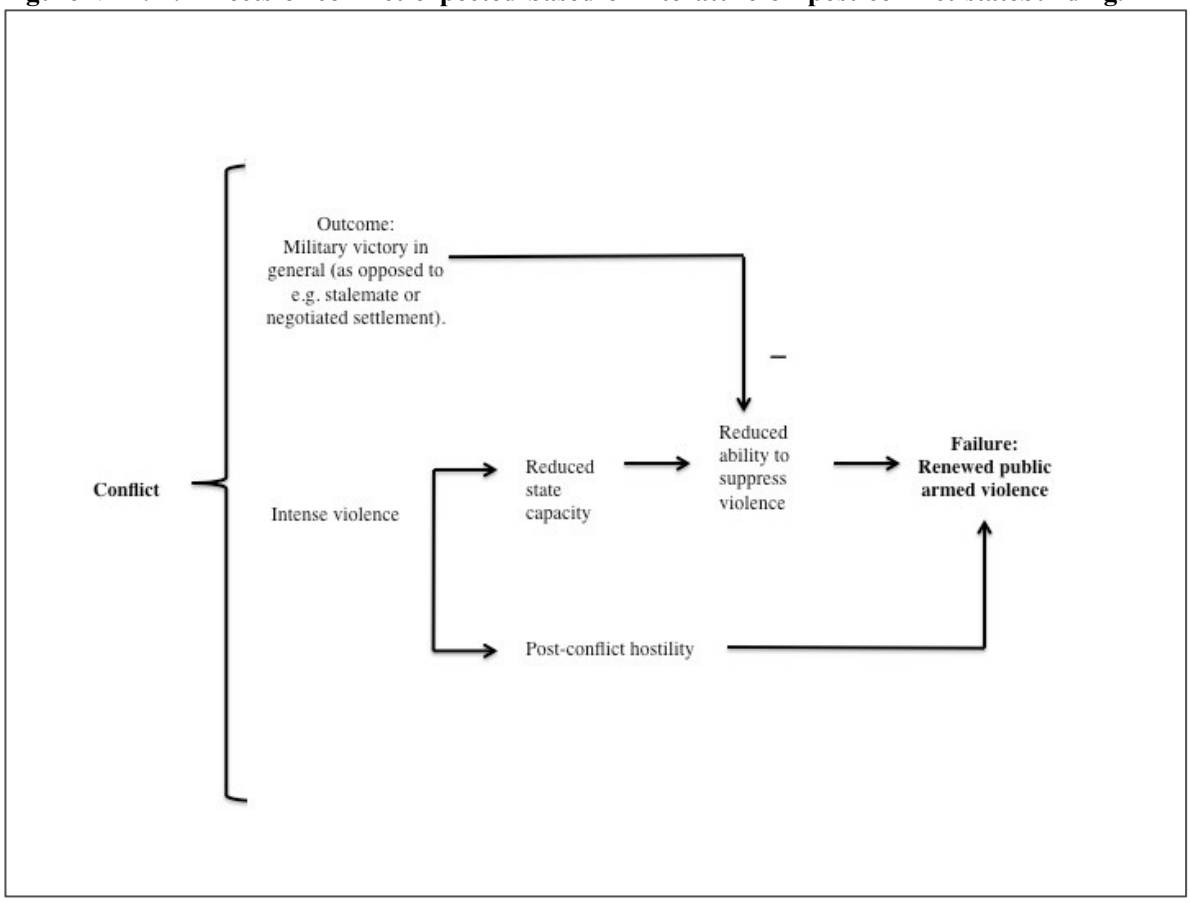
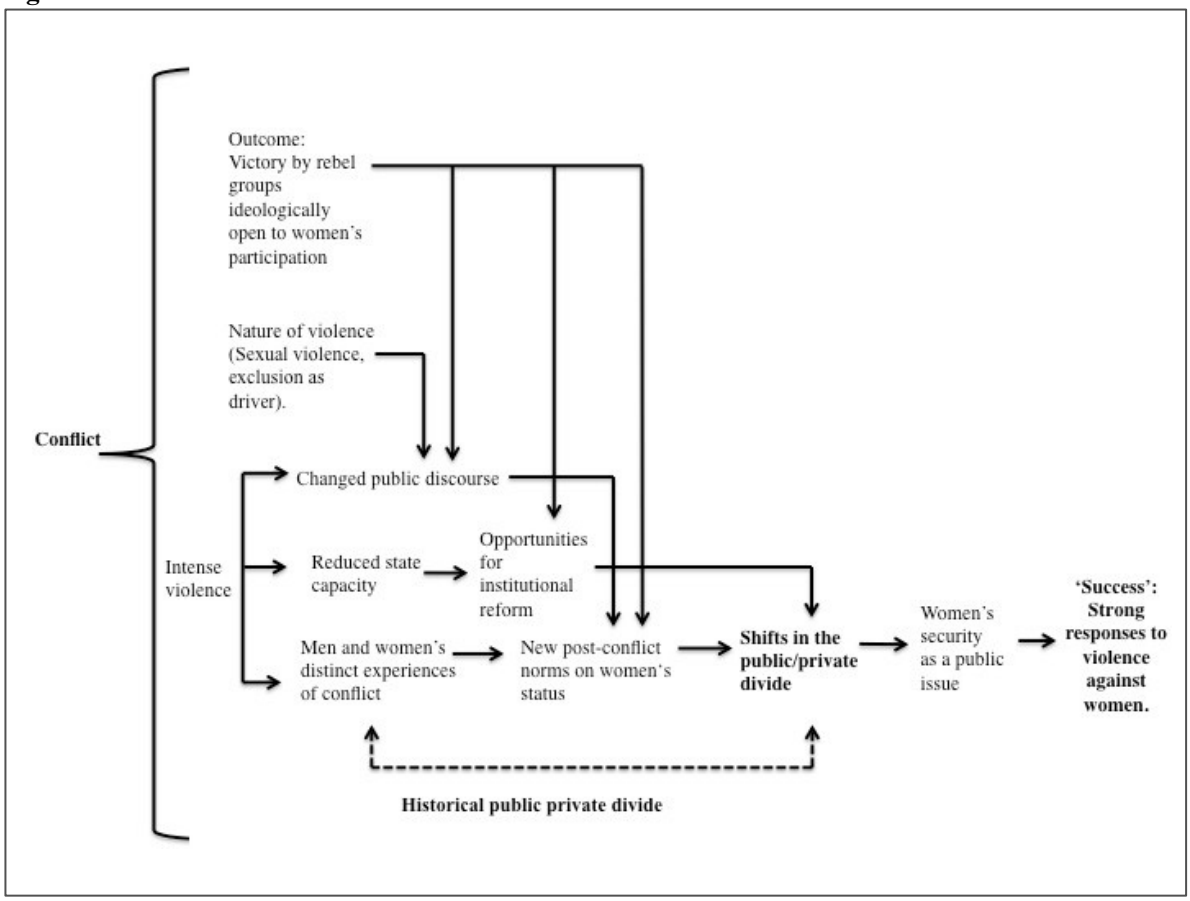


Figure VIII. 2. Effects of conflict identified in the case studies.



Democratic processes and institutions

While statebuilding scholarship emphasizes security risks posed by post-conflict democratization[6], the case studies show that elements of democratization can also provide critical opportunities to ensure post-conflict shifts in norms and institutions are used to enhance responses to women's specific security concerns.

[6] See Chapter II, section 2.

Given women's historic exclusion from the public sphere across the cases, they were not equally represented among elites directing formal state institutions. Therefore opportunities for popular participation were required to ensure women could voice their concerns during statebuilding and seize the 'critical junctures' this process provided to increase women's rights.

Civil society activism offered particular opportunities for women's participation due to its location between the private and public spheres: It allowed women to initially build groups around issues related to their private roles (including women's domestic activities) and to operate with less obstructions from hierarchies of power and norms of behaviour marking formal political institutions. Across the cases, women's civil society mobilisation enabled by political liberalization therefore played a critical role in generating demands for women's public status and state responses to their security concerns. This confirms a main finding of research on feminist policy formation and institutionalism.

Opportunities for citizens to voice their preferences during the statebuilding process, including through elections, referenda, participatory constitution - and law-making, in turn helped ensure these demands would be heard by providing women's civil society with access to policy-making and institutional reform processes. This echoes feminist research on transitions to democracy in non-conflict contexts, which finds that transitions that are more "open, transparent and accountable" provide space for women advocating their needs and are therefore more likely to deliver positive outcomes for women.[7]

[7] Waylen, *Engendering Transition*, 203. Waylen, 'Gendered Institutionalist Analysis'.

In all cases women's civil society activism subsequently helped enable women's increased representation in formal political institutions: Women's organizations not only played a key role in securing parliamentary quota provisions but also provided a training ground for future female politicians. In view of women's historic exclusion from the public sphere, parliaments proved more accessible to women than the Executive, with cabinet positions tending to require greater political experiences and personal networks. [8] *The relative independence of the legislature* was therefore significant in empowering women to take the initiative on legislation against violence against women and thereby help translate civil society demands into action. Conversely, Executive control of the legislature in Uganda repeatedly undermined initiatives to criminalize marital rape. In these ways, the cases highlight that democratization after conflict may not only be "intrinsically desirable"[9] but central to ensuring physical security for large parts of the population.

Importantly, while statebuilding scholars often argue that security and hence statebuilding 'success' requires 'Institutionalization before Liberalization'[10], emphasizing the risks of "unleash(ing) societal demands before the state has developed the institutional capacity to channel, organize and respond to those demands"[11], it was precisely the active engagement of autonomous civil society *during* key moments of institutional flux (including the creation of transitional institutions and new constitutions) that proved key in seizing post-conflict opportunities to increase women's status in Rwanda and Uganda. The lack of such post-conflict institutional reforms in Kenya in turn helps explain why higher levels of

[8] For further analysis see e.g. Silvia Claveria, 'Explaining Women's Presence in Executive Office', *West European Politics*, 37:5, 2014.
[9] Collier et al. 'Post-Conflict Risks', 15.
[10] See Chapter II, section 3.
[11] Barnett, 'a Republican Peace', 89.

democratization failed to translate into extensive state responses to women's security concerns. In these ways, precisely *democratization after conflict and elements of 'Liberalization before Institutionalization'* were critical in advancing women's rights and responses to their security concerns.

However, these positive connections between political liberalization and state responsiveness to women's concerns were mediated by, and dependent on, the nature of several *informal practices, norms and tranditional sources of authority* characterizing local societies: The extent to which women and their concerns continued to be considered as 'private', which was in turn shaped by the role of ethnic, religious and other divisions in society. Depending on the nature of these informal rules fully democratic processes were at times insufficient, not necessary or even detrimental in advancing state responses to women's concerns.

Democratic processes were often *insufficient* for advances in women's rights because women's association with the private sphere proved 'sticky' across the cases: Local norms associating 'proper' female roles and behaviours with the private sphere continued to hinder women's influence in the public sphere even where opportunities for participation formally existed – and often despite conflict-related disruptions. This occurred in several ways. First, women's socialization into 'private' roles meant that they were not equally accustomed to forms of behaviour expected for effective participation in the male- dominated public sphere. During constitution-making processes in Uganda and Kenya, for example, women were initially often unable to seize formal opportunities for public participation because they were not raised to speak up in front of men or in highly public,

formal settings. Deliberate efforts were required to counteract these trends and translate women's presence into influence, including through civic education and adjustments to the nature of deliberative fora. Women's groups also had to develop additional skills for effective participation every time political space opened further. As a result, women's civil society could not immediately enhance their advocacy activities following further steps towards political liberalization in Uganda and Kenya.

Second, women's association with the private sphere meant that they often viewed their 'public' identities as primarily determined by the (ethnic, religious or other) groups, which traditionally mediated women's access to the state. Women were likely to continue to identify first with these 'public' group identities in the public sphere, rather than with their shared 'private' identities as women, even where they directly participated in public processes. This reduced women's ability to seize opportunities for citizens to voice their preferences to articulate shared preferences as women across these divides. In Kenya, women's primary association with their ethnic groups thus repeatedly undermined the women's movement and their ability to seize opportunities such as the 2002 elections and the 2005 national referendum to advance a common women's agenda. In Uganda, some Muslim women used democratic freedoms to join their communities in mobilizing against the Marriage and Divorce Bill.

Finally, women's historic association with the private sphere meant that wider societal groups were likely to continue to oppose or actively obstruct women's participation in the public sphere even where opportunities for political participation formally increased. Democratization in Kenya thus failed to enhance women's parliamentary representation.

When civil society groups consequently seized democratic processes to call for affirmative action for women, elite opposition repeatedly blocked these changes. When quota provisions were eventually formally agreed, they not only failed to be fully implemented but were also used to disincentivise voters from supporting female candidates. These developments highlight the importance of feminist institutionalists' insights regarding the role of informal institutions as mechanisms of resistance to formal gender equality reforms.

The cases also highlight that, depending on the nature of women's association with the private sphere, democratic processes may not only be insufficient but can also exercise *detrimental effects* in efforts to enhance women's status: While democratization was critical in opening channels for the articulation of demands for state responses to women's concerns, it could simultaneously enhance obstacles advocates faced in seizing these channels.

First, where views of women's status were more conservative among key societal groups than in the political leadership, increasing opportunities for citizens to voice their preferences and elite accountability to these voices could also amplify opposition to women's rights. In Uganda, the political elite's dependence on the support of influential religious groups, which opposed the Marriage and Divorce Bill, thus helped undermine efforts to criminalize marital rape. Space for independent civil society mobilization had in turn enabled these groups to make their opposition heard. In fact, given widespread opposition, the tool used to undermine the initiative was a formally democratic process: Opportunities for citizens to voice their preferences during community consultations.

However, democratization not only increased the *influence* of societal opposition to enhancing women's status but also helped generate such opposition. This occurred through two main mechanisms: The politicization of societal divisions and dramatic shifts in power involved in processes of democratization. While statebuilding scholars have identified these processes, they have overlooked their distinct impacts on the likelihood of statebuilding 'success' for women.

As statebuilding scholars have noted, and seen in Kenya and Uganda, democratization in divided societies can fuel the politicization of ethnicity, religion and other divisions. This led to increased struggles over ethnic and other groups' cultural autonomy vis-à-vis the state, which included autonomy over key issues affecting women's lives and security, such as rules of marriage and divorce. Therefore the politicization of ethnic, religious and other societal divisions also intensified opposition to considering these areas public issues in which women have formal rights that the state should uphold. In this way, Uganda's increasingly politicised Muslim community opposed the Marriage and Divorce Bill (and hence helped undermine efforts to criminalize marital rape) partly on the basis that it unduly infringed on the autonomy of this community in relation to the state. In Kenya, parliamentarians similarly opposed the Sexual Offences Act and PDVA by arguing that

these initiatives undermined the cultural autonomy of the ethnic groups they primarily represented.

The increased politicization of societal dividing lines as a result of democratization also deepened divisions between women who were likely to identify primarily with these group identities in the public sphere, rather than through their shared experiences as women. These divisions reduced women's ability to jointly mobilize for women's rights. In Kenya, ethnic conflicts fuelled by democratization thus undermined women's joint efforts to achieve several steps which later proved critical for the development of state responses to women's security, including constitutional gains for women's rights (during the 2005 referendum) and women's increased representation in parliament (during the 2002 elections). Similarly, in Uganda, the re-introduction of multi-party politics in 2005/2006, reduced chances for the criminalization of marital rape by introducing new divisions in the women's movement. Earlier women's advocacy in Uganda had partly benefitted from the suspension of multi-party politics. However, this was facilitated by the dominant party's relative openness to women's rights.

The shifts in power involved in democratization posed several further challenges for women's rights. The imperatives of managing such shifts in power diverted attention from

responses to women's security concerns in both Uganda and Kenya. The degree of patronage used to maintain power in view of political competition in Uganda and Kenya also undermined the effectiveness of state institutions charged with responding to violence against women. It moreover contributed to the 'commercialization of politics' in Uganda following the re-introduction of multi-party politics, with parliamentarians feeling compelled to spend enormous amounts of resources on electoral campaigns. This reduced the accessibility of parliamentarians for women's civil society advocacy, which often worked with limited resources, and therefore opportunities for legislation against gender-based violence. The case of Uganda shows that, depending on societal divisions and the nature of the issue at hand, women's rights can also themselves become a bargaining chip in politics designed to counter increasing threats to elite power. President Museveni thus repeatedly withdrew the Marriage and Divorce Bill to ensure continued support from the Muslim community in view of real threats of removal from power.

Figure VIII. 3 shows the effects of post-conflict democratization commonly highlighted in literature on post-conflict statebuilding while Figure 4 contrasts these with causal mechanisms identified in the case studies.

Figure VIII. 3. Effects of post-conflict democratization expected based on literature on post-conflict statebuilding.

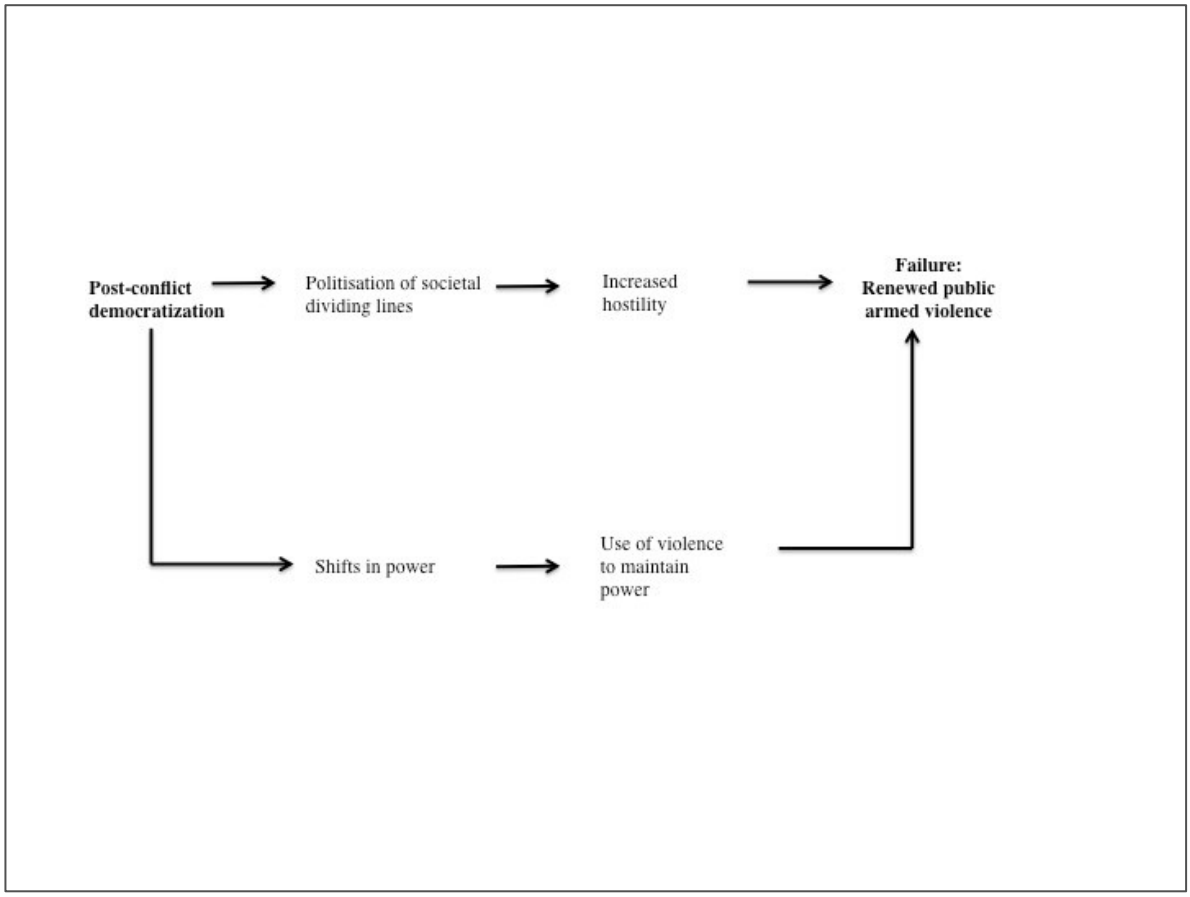
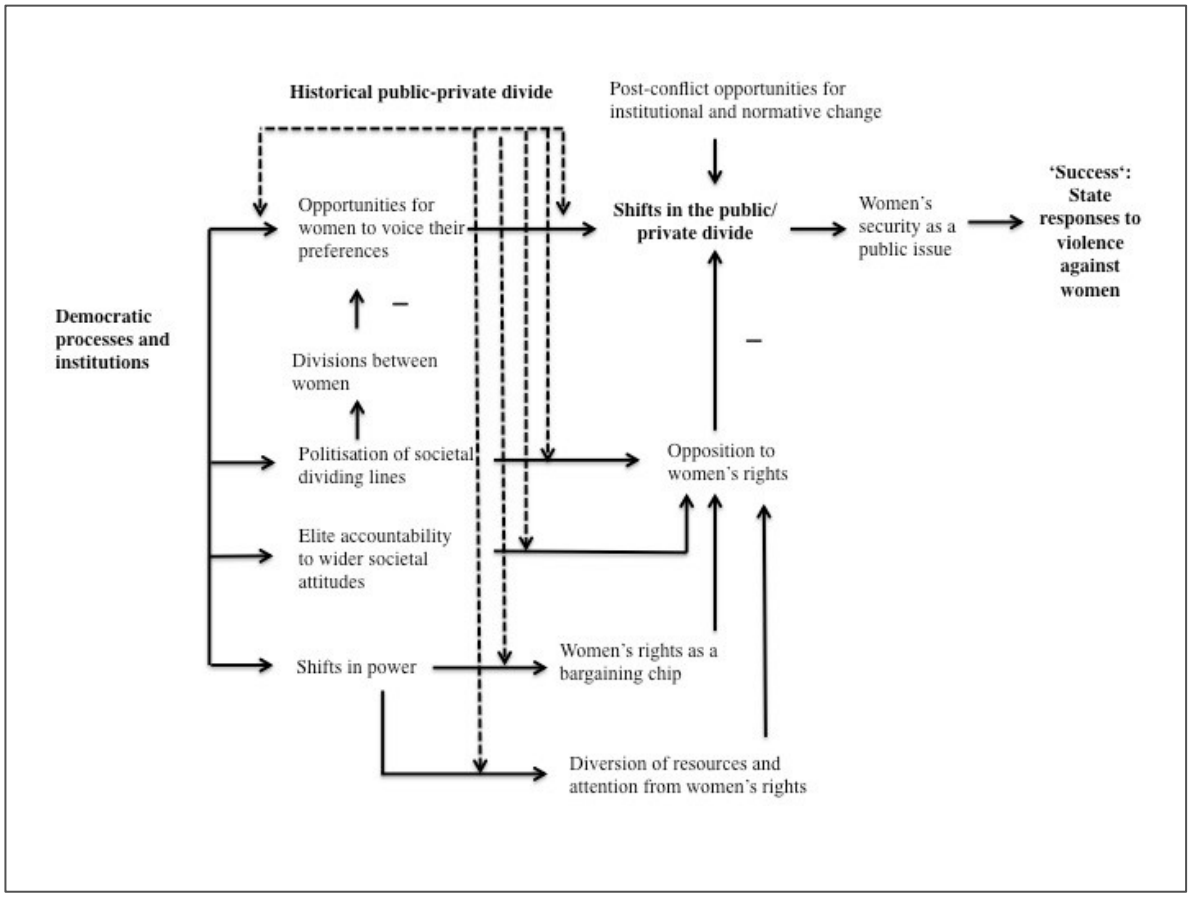


Figure VIII. 4. Effects of democratization identified in the case studies.



State capacity

While statebuilding scholars emphasize the significance of state 'capacity' for the likelihood of statebuilding 'success'[13], the case studies highlight that states which are considered more 'capable' are not necessarily more successful for women because such 'capacity' is only used to respond to those issues considered 'public' priorities.

[13] See Chapter II, section 3.

In Uganda and Kenya, elite actors' views of women's security as a non-priority for public action thus meant that greater *amounts of resources* theoretically available were not used for this purpose and therefore translated into less extensive responses to women's security concerns. In Rwanda, by contrast, the priority placed on domestic and sexual violence as a public concern by the political leadership enabled exceptional success in this area despite very limited resources. Across the cases, even when violence against women was formally recognised as a public issue through the enactment of relevant legislation, perceptions of women's security concerns as 'private' among both service providers and women themselves continued to hinder implementation.

In fact, the relative weakness, rather than strength, of post-conflict state capacity in Uganda and Rwanda proved an opportunity for the development of state responses to women's security by facilitating a re-definition of this public-private divide: The weakness of formal institutions after conflict and the consequent need to re-build them provided openings to transform the political priorities governing how resources available to these institutions would be used, including to respond to women's specific concerns. In this way, Rwanda partly became more successful than its neighbours not only despite but also *because* of its extremely limited resources after conflict. As we have seen, this encouraged community policing and proved an opportunity to re-build formal institutions, which would be more responsive to women's concerns.

Beyond the public-private divide, wider political priorities and historical legacies shaped the extent to which available resources translated into state capacity, including capacity to respond to women's security. In both Uganda and Kenya, increased levels of political

competition set incentives for political leaders to use state resources for patronage and corruption and thereby undermine the effectiveness of the institutional apparatus designed to respond, inter alia, to violence against women.

In this way, a focus on outcomes for women challenges the dominant focus on technical 'capacity' in the literature on post-conflict statebuilding: "a tendency of analysts and practitioners to approach statebuilding as a technical exercise"[14] and to "dehistoricise and depoliticise" this process. [15] Rather than purely technical, state 'capacity' emerges as path-dependent, highly political and social – shaped by social norms and state-society relations. Feminist scholars' focus on the role of political ideologies, societal norms and path dependency can therefore add significant insights to the literature on post-conflict statebuilding.

The significance of political priorities and historical legacies, including those reflecting the public-private divide, helps explain why measures of state capacity map onto statebuilding 'success' for women across the cases in a pattern that is inverse from what trends in scholarship on post-conflict statebuilding would lead us to anticipate: The least 'capable'

[14] Call 'Conclusion' in Call and Wyeth, 380.
[15] Berdal, *Building Peace*, 20.

state Rwanda has been most successful in providing security for women, while the most 'capable' Kenya has made the least progress in this area.

Figure VIII.5 illustrates the effects of post-conflict capacity as highlighted in literature on post-conflict statebuilding while Figure VIII.6 contrasts these with causal mechanisms identified in the case studies.

Figure VIII. 5. Effects of post-conflict capacity as expected based on literature on post-conflict statebuilding.

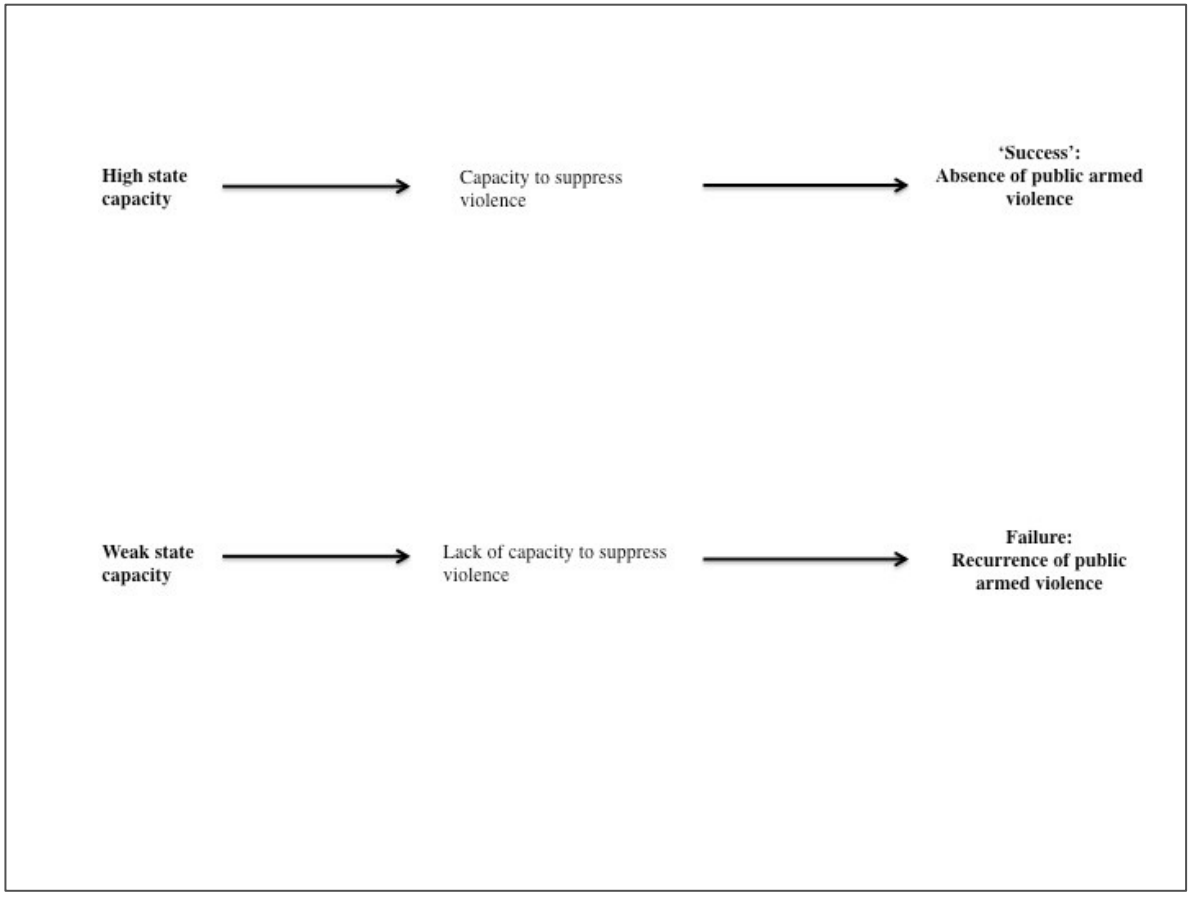
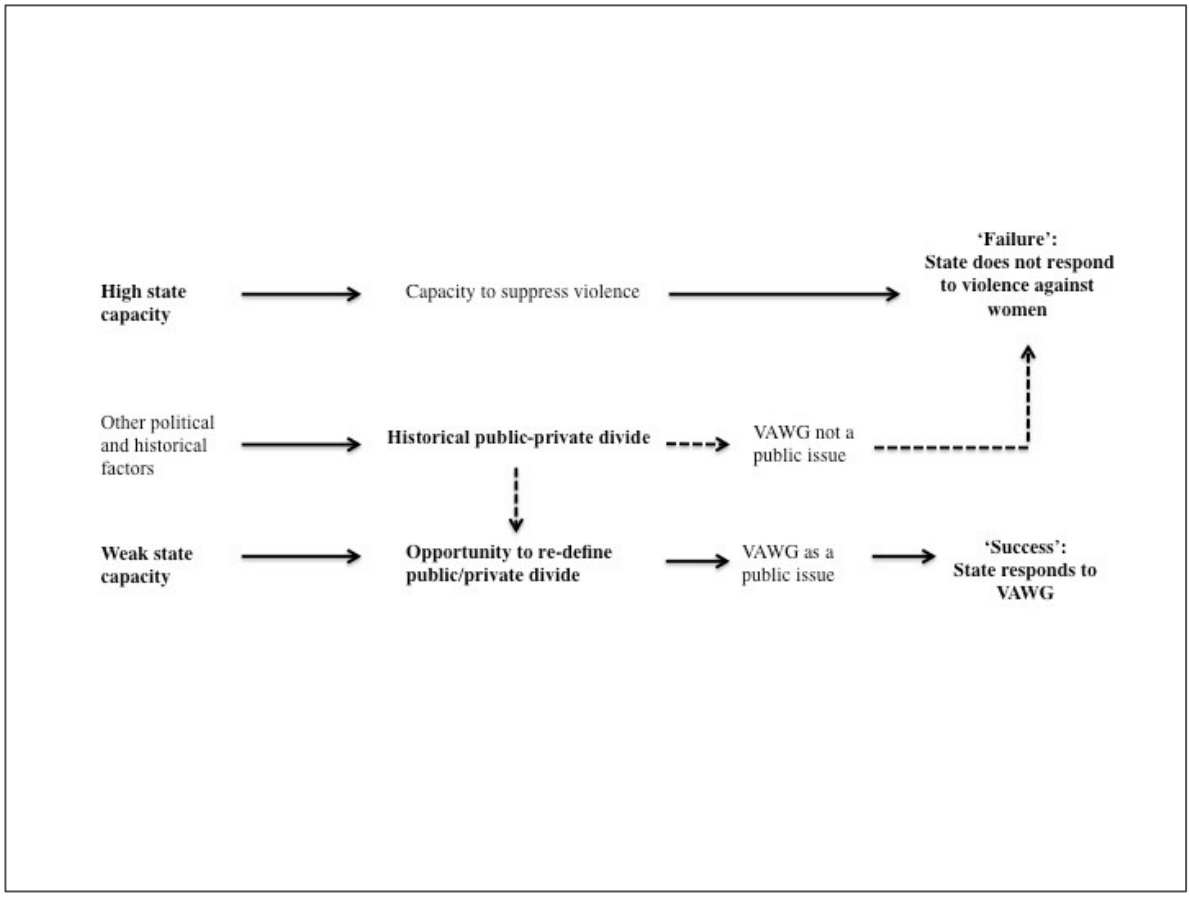


Figure VIII. 6. Effects of post-conflict capacity as identified in the case studies.



'The informal'

As highlighted throughout, while studies explaining statebuilding 'success' and failure tend to draw less attention to 'the informal' than other variables, informal practices and norms played a key role in mediating the effects of legacies of conflict, democratization and state 'capacity' on statebuilding 'success' for women. In particular, the impacts of these characteristics can not be explained without taking into account *the relative association of women with the private sphere* among international, elite and societal actors, including

women themselves. The *nature of ethnic, religious and other societal divisions* in turn shaped these attitudes.

Elite actors' views of women's public status are thus significant in accounting for differing statebuilding 'success' for women across the cases. While openness of the NRM and particularly the RPF leadership to women's participation in public life enabled progress in Rwanda and Uganda, KANU opposition repeatedly blocked advances in women's status in Kenya. Elite support for efforts to criminalize marital rape in Rwanda, as opposed to Uganda, in turn helps explain why this initiative succeeded only in the latter case. Higher levels of elite support in Rwanda also help explain why implementation of formal responses was subsequently more effective here than elsewhere in the region.

However, views of women's status among post-conflict elites were also insufficient in accounting for state responses to women's security because these were in turn shaped by several factors discussed above. In particular, most specific initiatives to support women's public participation and security were first proposed by women's civil society and female legislators. While a certain openness among the new leadership in post-conflict Uganda and Rwanda provided an entry point for such advocacy, women's mobilization shaped the extent and the way in which elite openness would translate into concrete measures to advance women's status.

In addition, relative leadership support resulted partly from conflict-related shifts in the public-private divide. Rwanda's distinct legacies of conflict thus help explain why its leadership pursued gender equality policies with greater urgency than their Ugandan counterparts. Overall the cases highlight that beyond (party political) ideology practical political incentives in conflict-affected contexts can significantly shape elite attitudes to women's status. These include the need to mobilize all available human resources for reconstruction.

In all three cases, *societal views of women's specific concerns as 'private'*, while shifted by conflict to some degree, remained a key obstacle to the development of effective responses to domestic and sexual violence. The weight of societal perceptions of the public-private divide helps explain why marital rape and other issues that were considered more fundamental to marriage and male power in the home faced greater opposition than others across the cases. These could only be addressed in Rwanda.

While statebuilding scholars continue to debate the significance of *ethnic and religious divisions* for statebuilding 'success', these played a critical role in shaping opportunities for statebuilding 'success' for women by influencing societal perceptions of the public-private divide. However, the way religious and ethnic variables are commonly understood and operationalized in statebuilding scholarship may be insufficient in accounting for women's

experiences across the cases. While the sheer number of ethnic and religious groups complicated the achievement of common advances in women's status, it was these groups' relationship to the public sphere (the *politicization* of their diverse identities and their search of autonomy vis-à-vis the state, increased by democratization), on the one hand, and the private sphere (the extent to which women's status in different areas was intertwined with cultural values and practices of these groups), on the other, that most strongly influenced the likelihood of statebuilding 'success' for women.

These findings also call into question analyses of feminist policy formation which argue that responses to violence against women do not challenge codified traditions of religious and other cultural groups, should therefore be relatively uncontroversial and independent of the power of religious actors.[16] These findings may underestimate the extent to which even violence against women consists of a plurality of issues, some of which may challenge customs and autonomy of certain cultural communities; how the *politicization* of ethnic and religious divisions can undermine women's joint mobilization on any issues in highly divided societies; the significance of whether responses violence against women are 'packaged' with other issues that challenge the authority of religious actors, such as in the Marriage and Divorce Bill, or threaten men's control of power and resources.

Finally, the *extent to which women's rights were no longer considered 'cultural' or 'private' issues internationally* played a significant role in accelerating changes underway in the case study countries. This may call for further attention to the causal impact of shifting global norms in 'problem-solving' analyses of statebuilding and especially

[16] Htun and Weldon, 'Progressive policy change'. Htun and Weldon, *Gender justice.*

quantitative work comparing post-conflict processes across decades.[17] International gender equality conferences and treaties provided inspiration for women's movements, including on specific measures. They also set incentives for elites to support such measures to increase their standing in the international community. Moreover, new global norms helped raise wider awareness of the public nature of violence against women. However, regional diffusion through elite learning played the most significant role in enabling Rwanda's exceptional success for women: The leadership's origins in Uganda helped shape their views on women's roles in public life and thereby contributed to the high-level political support that enabled their comprehensive responses to violence against women.

While these findings add weight to the emphasis on global norms in studies of feminist policy formation, including those with a specific focus on violence against women, they also suggest that the effects of these norms may be distinct in conflict-affected contexts. The cases suggest that these environments can be extremely 'vulnerable' to the influence of international norms due to aid dependency and on-going changes in governance and institutions. In the absence of the latter opportunities, global norms exercised a much weaker effect in Kenya than in Rwanda and Uganda.

[17] E.g. Mason et al. 'When Civil Wars Recur'. Quinn et al. 'Sustaining the peace'. Collier et al., 'Post-conflict risks'.

Overall, by drawing attention to the significance of elite, societal and cultural norms and practices and the private realm of family and household, a focus on women's lives challenges the "marked tendency to abstract the tasks of peacebuilding from their political, cultural and historical context" in parts of the literature on post-conflict statebuilding based on a view of post-conflict environments as a "'clean slate' on which the future can be written."[18] From the perspective of women's experiences, statebuilding is highly political because responses to their security concerns depend on a re-definition of power relations, of what the state is expected to deliver and for whom. It is also shaped by historical and cultural legacies: While conflict provided an opportunity for change in social norms, societal perceptions of women's appropriate roles often proved resilient and central in shaping opportunities for statebuilding 'success' for women.

While critical peacebuilding scholars often focus on the top-down imposition or dominance of 'global'/Western norms – leaving room for local 'resistance' at most – the case studies highlight the importance of interactions of global norms with local factors in shaping statebuilding outcomes. As noted above, the nature of political leadership and institutional reform processes in particular mediated the extent to which global norms shaped local contexts. As highlighted in previous feminist research of policy formation, women's civil

[18] Berdal, *Building Peace,* 19, 177.

society mobilization played a critical, active role in strategically translating international norms into local situations. What is more, advocates for women's security concerns as well as ruling elites consciously used global norms to advance their agendas.

2. Limitations, external validity and avenues for further research

As discussed in Chapters I and III, this thesis does not refute the conclusions of statebuilding scholarship. Instead it helps balance and complete them by assessing how they do (or do not) work for different parts of the population. Further work is needed to examine possible trade-offs between outcomes for different elements of 'society' and, on this basis, to reconstruct a literature (and practice) that delivers equitable outcomes.

What is more, as noted in Chapter III, to reduce the number of variables, this study has focused on cases in a single region marked by similarities in social norms, pre-conflict political regimes and, partly as a result, histories of women's relationship with the state; conflict outcomes and characteristics of (post-conflict) leadership and institutions; time periods, and hence a specific status of international norms; levels of income and international involvement in post-conflict statebuilding.

Process-tracing revealed that these shared background conditions shaped outcomes and further research is needed to assess how variation in these variables may influence causal processes, nuance findings of the literature on post-conflict statebuilding, and allow for findings to be generalised across other post-conflict contexts. In addition, further work is

required to assess the extent to which conclusions hold for different groups of women and girls (the role of intersectionality).

However, the current selection of cases is sufficient to conclude that literature on post-conflict statebuilding does not consistently account for women's specific experiences. Moreover, while confirming the influence of the above 'background conditions', theoretical analysis and existing empirical evidence (in academic and 'grey' literatures) point to mechanisms identified in this research also being at work in other contexts.

In particular, wider observations suggest that conflict has provided opportunities to enhance women's public status beyond the case study countries. For example, while almost half of post-conflict countries in Africa (seven out of sixteen) have developed full legal protections from domestic and sexual violence, *none* of the twenty-seven non-conflict countries have done so.[19] Post-conflict countries in Africa are also more likely to feature quotas for women's political participation [20] and extensive constitutional provisions on gender equality.[21]

A particularly prevalent mechanism, which may help explain these correlations, is the extent to which conflict forces women to assume new responsibilities. This mechanism theoretically depends on the historical public-private division of labour between men and women. However this condition is common. It is therefore not surprising that shifts in the gendered division of labour have been reported from other conflict-affected countries in

[19] OECD, Social Institutions and Gender Index (SIGI), 2014.
[20] SIGI.
[21] Tripp, *Women and Power.*

Africa[22], Asia[23], contemporary South Eastern[24] as well as post-World War Central Europe and North America. However, evidence is scarce on how these changes in turn do or do not propel longer-term gender equality outcomes.

Conflicts and public violence beyond the case studies have also helped generate new public discourse, which provided new opportunities for women's rights. Cases such as Nepal and South Africa confirm that perceptions of exclusion as a key driver of violence can help activists frame women's inclusion as public issues in the post-conflict period.[25] Again as in Rwanda, conflicts in the Central African Republic and Liberia in turn helped convince societies that women should take on public leadership positions because of their private roles as mothers.[26] In a range of contexts, conflicts have also provided windows of opportunity for women's rights by leading to profound institutional reforms, including through peace processes and constitutional reviews.[27]

However, these openings depend on women's historical relationships with the state, the nature and outcome of conflict. Depending on these factors, conflict has also propelled public discourse that relies on women's association with the private sphere (such as revivals of nationalisms and a yearning towards a pre-conflict 'golden age' of tradition), as

[22] Clare Castillejo, *Building a state that works for women: Integrating gender into post-conflict state building* (FRIDE, 2012). Mark Chingono, 'Women, war and peace in Mozambique: The case of Manica Province', ACCORD, 25:9, 2015. Gretchen Bauer, ''The Hand That Stirs the Pot Can Also Run the Country': electing women to parliament in Namibia', *Journal of Modern African Studies,* 42:2, 2004. Patricia Justino, *Women Working for Recovery: The Impact of Female Employment on Family and Community Welfare after Conflict* (UN Women, 2012). Tripp, *Women and Power.*
[23] Justino, *Women Working.*
[24] Justino, *Women Working.*
[25] OECD-DAC, 'Gender Equality and Women's Empowerment in Fragile and Conflict-affected situations: A review of donor support', OECD Development Policy Paper Series, 8, 2017. Waylen, *Engendering transitions*.
[26] E.g. *The Guardian*, 'Central African Republic's 'Mother Courage' fights to bring peace where the men have failed', 25 Jan 2014. Helene Cooper, 'How Liberian Women Delivered Africa's First Female President', *The New York Times,* March 5 2017. Tripp, *Women and Power*.
[27] E.g. Castillejo, *Building States.*

reported from Sri Lanka, for example.[28] Women's new roles during conflict may also be met with backlash in the post-conflict period. Conscious efforts are required to sustain them.

The nature of the victor is likely to shape opportunities for such efforts. Government victory may lead to fewer institutional reforms and hence openings for women's rights, as observations in Angola also suggest.[29] Victories by rebel groups with gender-conservative ideologies may further undermine women's rights, as seen in Afghanistan. While negotiated settlements have offered more opportunities for statebuilding 'success' for women than statebuilding literature would suggest, as Waylen highlights, the extent to which these are seized depends on distinct processes, power relations and sets of actors not covered in this research.[30] Although power-sharing is often recommended in the general literature, these arrangements are expected to pose distinct long-term challenges for women's rights not analysed in this thesis.[31]

Evidence beyond the case study countries also suggests that a minimum of space for civil society mobilization and participation is likely to be significant in determining whether varying post-conflict opportunity structures can be seized because it allows women to voice their preferences. While the importance of this mechanism is theoretically dependent on the extent to which women are under-represented among post-conflict elites governing state institutions, this condition is highly prevalent. It is therefore not surprising that academic

[28] C Orjuela, S. Bastian, S. Kottegoda and J. Uyangoda, eds., *Power and politics in the shadow of Sri Lanka's armed conflict*, Sida Study No. 25 (Stockholm: Sida, 2010).
[29] Tripp, *Women and Power.*
[30] Waylen, 'A Seat at the Table'.
[31] Christine Bell, 'Power-Sharing, Conflict Resolution, and Women: A Global Reappraisal', *Nationalism and Ethnic Politics*, 24:1, 2018.

and 'grey' literatures highlight the important role of women's mobilization in calling public attention to gender-based violence in post-conflict contexts, such as Sudan, Guatemala and Liberia,[32] and seizing windows of opportunity for gender-sensitive institutional reforms, including in Burundi, South Africa, South and North Sudan.[33] Conversely, Tripp has argued that a lack of space for women's rights mobilization helps explain limited progress in Angola.[34] Calls for consolidating state institutions before providing space for such mobilization and popular inputs thus risks disadvantaging women more generally.

However, given women's widespread association with the private sphere, democratization is also likely to be insufficient and to provide new obstacles for the realisation of women's rights across a wide range of contexts. In particular, deep societal divisions are a common feature of post-civil war contexts and have posed challenges for women's rights activism, including in Nepal and Sudan.[35] Increased politicization of these divisions (fuelled by democratization) is therefore likely to intensify challenges for women's mobilization in other post-conflict contexts. Conversely, Goetz has understood the (temporary) suppression of such divisions in South Africa, for example, as a success factor in the longer-term development of responses to women's concerns.[36]

Several negative effects of increased political competition identified in this thesis could occur because they combined with remaining un-democratic features, including Executive

[32] Castillejo, *Building States.* Peace A. Medie, 'Fighting Gender-Based Violence: The Women's Movement and the Enforcement of Rape Law in Liberia', *African Affairs,* 112/448, 2013.
[33] E.g. Castillejo, *Building States.* Pilar Domingo et al., *Assessment of the evidence of links between gender equality, peacebuilding and statebuilding,* (Overseas Development Institute, 2013). Thania Paffenholz et al., *Making Women Count – Not Just Counting Women: Assessing Women's Inclusion and Influence on Peace Negotiations* (IPTI, UN Women, 2016).
[34] Tripp, *Women and Power.*
[35] OECD-DAC, *Gender and Statebuilding in Fragile and Conflict-Affected States* (Paris: OECD-DAC Publishing, 2013). Castillejo, *Building States.*
[36] Goetz, 'Women in politics'.

control of parliament and weak oversight institutions. The extent of these effects may therefore depend on the hybrid nature of regimes. Indeed, wider research finds that the use of public resources for patronage and corruption initially increases with democratization while declining at higher levels of democracy. [37] However, many post-conflict countries have not reached these levels, with 60 per cent of those in Africa, for example, classified as anocracies and 37 % as 'partly free'.[38]

Yet the overall effects of democratic processes and democratization are unlikely to be uniform. In particular, they depend on the nature of public and elite views of women's status, and whether opening up political space will therefore increase or reduce overall elite incentives to act on women's concerns. While these views are likely to be shaped by conflict, they are also the result of the historical relationship of women with the state, influenced by pre-conflict regimes and cultural or religious rules and divisions.

Indeed, the resilience of societal norms on women's status even in post-conflict situations has been noted in a range of contexts.[39] Cases marked by distinct histories of women's relationships with the state, including due to diverging pre-conflict regimes, religious, customary and cultural norms, practices and institutions, may thus face specific obstacles and opportunities. In Sudan and Somalia, for example, the significance of Islamic law has posed distinct challenges in developing responses to women's security concerns.[40] Analysis

[37] Green, 'Patronage as Institutional Choice'. Anandi Mani and Sharun Mukand, 'Democracy, Visibility and Public Good Provision,' *Journal of Development Economics*, 83, 2007. Hung-En Sung, 'Democracy and political corruption: A cross-national comparison', *Crime, Law & Social Change* 41, 2004.
[38] Polity Project, 2014. Freedom House, *Freedom in the World 2014.*
[39] Domingo et al., *An assessment of the evidence base.*
[40] Informal conversations with Ministry of Gender and Human Rights Development, Somalia. Castillejo, *Building States.* Liv Tønnessen, 'Beyond Numbers? Women's 25 % Parliamentary Quota in Post-Conflict Sudan', *Journal of Peace, Conflict and Development,* 17, 2011.

of these norms, practices and historical legacies is critical in understanding statebuilding 'success' for women. This helps explain why existing data does not suggest a direct correlation between levels of state responses to women's security concerns and levels of democratization across post-conflict countries in Africa.[41]

Similarly, available resources (state 'capacity') appear to more widely serve as an insufficient predictor of the extent to which states respond to women's specific concerns. Across post-conflict states in Africa, for example, several middle income countries are among those with the most inadequate legal protections against violence against women, meaning that resources will fail to translate into effective responses, while some low income countries are among those reported to be most active in this area.[42]

Low post-conflict capacity has also served as an opportunity to (re-)build institutions that provide more security for women beyond the case study countries. In Liberia, for example, conflict provided an opening for gender-sensitive police reform as the police service started "nearly from scratch."[43] Sierra Leone partly responded to post-conflict depletion of security sector resources by developing community policing, which reportedly strengthened responses to gender-based violence.[44] However, the extent to which these opportunities were seized again depended on political priorities.

[41] OECD SIGI.
[42] OECD SIGI, the former including Algeria, Morocco, Sudan, the latter including Mozambique and Rwanda.
[43] Laura Bacon, 'Liberia's Gender-Sensitive Police Reform: Improving Representation and Responsiveness in a Post-Conflict Setting', *International Peacekeeping,* 22:4, 2015, 375.
[44] Baker, 'How Civil War Altered Policing'. Aisha Fofana Ibrahim, *The integration of a Gender Perspective in the Sierra Leone Police force* (Geneva, DCAF: 2012).

Lower income countries are also likely to be more 'vulnerable' to international norms incentivising progress on gender equality – as may be cases with higher levels of international involvement in statebuilding through peace processes, peace operations or transitional administration. Wider evidence adds weight to the importance of these norms in shaping statebuilding outcomes for women. This helps explain, for example, why post-conflict countries in Africa were not more successful in achieving women's legislative representation prior to 1985 - and hence the establishment of a wide range of international agreements on women's status.[45] Conversely, analysis of peace agreements suggests that the adoption of UN Security Council resolution 1325 in 2000 has further strengthened opportunities for women's rights after conflict.[46]

In sum, while Rwanda may be unique in the extent and combination of different opportunities for women's rights after conflict, wider observations suggest that causal processes identified in the case studies may also be at work and provide opportunities for women's rights in other contexts. Available evidence (including on negotiated settlements and power-sharing) also suggests that gendered limitations in scholarship on statebuilding may be even more wide-ranging than those covered in this thesis. However, as noted throughout, several conditions are likely to shape the effects of factors discussed in this thesis and research of a wider set of contexts varying in these conditions is therefore needed. Nevertheless, as highlighted above, the cases covered in this thesis are sufficient to point to several underlying weakness in the literature on post-conflict statebuilding.

[45] Tripp, *Women and Power.*
[46] For an overview see e.g. Laura McLeod, 'Gender and Peace Settlements from a Quantitative Perspective: A global survey', *Working Paper in Gender and Institutional Change, 2,* University of Manchester, 2014.

3. Wider implications for the literature on post-conflict statebuilding

Overall, findings suggest that simply 'adding' women to pre-existing statebuilding templates is unlikely to lead to states that 'work' for women. Women's exclusion from the basic concepts on which the statebuilding literature is built means that basic assumptions of this scholarship do not hold for women in the same way. Therefore more fundamental re-thinking is required to ensure post-conflict statebuilding serves their needs.

The limited extent to which scholarship on post-conflict statebuilding explains specific outcomes for women across the cases ultimately results from studies' neglect of women's distinct relationships with the state: As we have seen, women's specific concerns, including their specific security concerns, have traditionally been constructed as lying beyond the legitimate 'public' concerns of the state. They have tended to be understood as belonging to a 'private' sphere where rules are determined not by the state but by heads of household, ethnic or religious and other cultural or societal groups.

Developing state responses to women's specific concerns therefore involves re-defining what is considered public and private. Across the cases, key variables commonly considered in literature on post-conflict statebuilding impacted the likelihood of statebuilding 'success' for women through their interactions with and effects on this public-

private division. However, the literature makes this divide invisible and therefore fails to see these effects.

The oversight of the public-private divide in scholarship on post-conflict statebuilding in turn results from the level of state-centrism prevalent in this area of scholarship. The referent category of this literature's dominant understanding of 'security' and 'success' (the absence of civil wars) is primarily the state: By focusing on civil wars, studies only consider those security threats that pose a threat to the survival of the state.

Therefore variables - and statebuilding interventions - are considered and prioritised based on their relationship to the state, rather than different groups of individuals living in its territory. Improved outcomes from the perspective of the state are then largely assumed to deliver improved, homogenous outcomes for 'society' in general. In other words, studies do not interrogate whether 'public' priorities reflect priorities of all citizens to the same extent. In this way trends in the literature on post-conflict statebuilding replicate the division of the world into public and private spheres criticized by feminist scholars.

This starting point and consequent neglect of the public-private divide help explain why dominant predictions in statebuilding literature regarding the effects of conflict, democratization, state 'capacity' and 'the informal' do not explain the extent to which statebuilding provided security for women across the cases: From the perspective of the state, conflict is a threat to its defining feature - the monopoly on the legitimate use of force. From the perspective of marginalized individuals, including women, it can be an

opportunity to renegotiate the social contract that defines their concerns as beyond the 'proper' affairs of the state.

From the perspective of the state, political liberalization can be a threat to survival by empowering societal forces that can undermine its power and monopoly on the use of force. From the perspective of marginalized individuals it is a necessary condition for ensuring their voices are heard by the elites in charge of re-defining the state after conflict.

Similarly, increasing resources available to the state (state 'capacity') is self-evidently a key element of 'successful' statebuilding if 'success' means securing the state and its monopoly on the use of force. Viewed from the perspective of marginalized individuals whose concerns are not priorities for the state, state capacity can be irrelevant at best, and a threat, at worst.

Finally, from the perspective of the state, informal practices and norms beyond the formal rules of the state are marginal. For those whose lives are defined as outside the realm of concern of formal state institutions, the 'informal' is central in governing lives.

In these ways, the state-centrism of the literature leads to a degree of conservatism: It is likely to favour a maintenance of existing power relations and the privileged groups benefiting from this distribution of power, rather than the transformations and re- negotiations of social relations required to ensure statebuilding 'works' for marginalized groups, including women.

This degree of state-centrism - and consequent neglect of women's distinct relationships with the state - in turn results from at least six wider characteristics of the literature, rather than only the neglect of 'gender' as such:

First, this area of scholarship is largely directed at an international audience of scholars and policy-makers interested in how the 'international community' can contribute to post-conflict statebuilding.[47] This leads to a focus on variables that international actors are confident they can, do and 'should' influence: Formal institutions and elites, rather than cultural, ethnic or religious characteristics. It also means that the literature tends to define 'success' from the outside, rather than based on the experiences of local populations, including women.[48] This leads to a focus on the stability of the state because it is key to addressing priority concerns for international actors, including externalities such as refugees or terrorism.[49] This focus on externalities and public security has been reinforced by a second characteristic of the literature: Its origins, propelled in part by the events surrounding 9/11 and subsequent discussions of state failure.[50]

Third, and not surprisingly given that a predominantly Western 'international' community has driven the debate, scholars (and practitioners) of contemporary post-conflict experiences have often drawn on theories of statebuilding first developed in, or based on, 17th century Western Europe.[51] As highlighted in Chapter II, scholars have made particular

[47] See e.g. Wolff, 'Post-Conflict State Building'. Tansey: 'Evaluating the Legacies of State-Building'.
[48] Oliver P. Richmond, 'The Globalization of Responses to Conflict and the Peacebuilding Consensus', *Cooperation and Conflict* 39:2, 2004, 139. Chesterman et al. 'Conclusion: The future of statebuilding', in Chesterman et al. *Making States Work,* 377.
[49] Newman, ''Liberal' peacebuilding debates', 26, 27.
[50] See e.g. Call 'Knowing Peace when you see it'. Sisk, *Statebuilding*. Call, *Why Peace Fails*. Sabaratnam, ''The Liberal Peace': An Intellectual History'.
[51] For examples of this see e.g. Sisk, *Statebuilding.* Call and Wyeth, eds., *Building States*. Also reflected in statebuilding practice, as highlighted by Roland Paris, 'International Peacebuilding and the 'Mission Civilisatrice', *Review of*

links to Hobbes' work on the social contract. This leads to statist and institutionalist perspectives. It also means that statebuilding scholarship and practice is grounded in accounts that normalize women's exclusion from the state. As a result, contemporary statebuilding scholars (and policy-makers) are likely to replicate a European history of statebuilding marked by women's marginalization, regarding this as the 'natural' path towards 'success'.

Fourth, the dominance of International Relations scholars in the statebuilding debate – linked to its 'outside-in' perspective - reinforces the focus on international or national-level variables, rather than the local factors that disproportionately influence women's lives.[52] The prevalence of quantitative methods, a fifth factor, further strengthens this emphasis because it leads to an emphasis on variables that can be measured. These are most likely to cover the national level, are often unavailable in gender-disaggregated form and tend to provide less information on 'the informal', such as social and cultural norms.[53]

Finally, the positivist assumptions underlying much of the literature also make it difficult to grasp these variables. More broadly, such positivism has meant that statebuilding scholarship is largely 'problem-solving': It does not tend to investigate its starting assumptions, including the implications of its focus on the state and the extent to which this 'works' for different groups of individuals.[54]

International Studies 28:4, 2002. Roger McGinty, 'Where is the local? Critical localism and peacebuilding', *Third World Quarterly,* 36:5, 2015.

[52] See e.g. criticism by Roger Mac Ginty, 'Indigenous Peace-Making Versus the Liberal Peace,' *Cooperation and Conflict* 43:2, 2008. Birgit Bräuchler, 'The cultural turn in peace research: prospects and challenges', *Peacebuilding,* 6:1, 2018. On the predominant focus on the national level see also Séverine Autesserre, 'International Peacebuilding and Local Success: Assumptions and Effectiveness', *International Studies Review,* 19:1, 2017.

[53] See e.g. Berdal noting this as one of the reasons for the literature's "tendency dehistoricise and depoliticise the subject of peacebuilding": Berdal, *Building Peace.* See also Bräuchler, 'The cultural turn'.

[54] See e.g. Paris, 'International Peacebuilding', 656. Edward Newman, ''Liberal' peacebuilding debates'.

In short, building a literature that works for both men and women would require more than taking 'women' or 'gender' seriously as a variable. It would require changes in underlying assumptions, methodologies and objectives of research on post-conflict statebuilding. A first step would be to shift the referent of 'security', 'success' and outcomes from the state to the well-being of individuals embedded in specific social, cultural and political contexts. The dominant positivism of this area of scholarship would need to give way to a social constructivism that recognizes the role of power in shaping realities, the significance of social norms and narratives, historical legacies and power relations at all levels of society. This would require greater emphasis on qualitative and inter-disciplinary research. Importantly, it would also allow for more critical, explicit reflection on whom and what this literature is designed to serve.

Several of these conclusions echo calls from 'critical' peacebuilding scholars.[55] However, as highlighted above, a feminist perspective adds important insights. In particular, it calls for increased attention to the ways in which both international and local norms are subject to multiple interpretations, reflective of power relations, and consciously manipulated by strategic actors. By suggesting that a singular, distinctly 'illiberal' 'local' ought to be privileged over the liberal 'international', critical peacebuilding scholars risk replicating the status quo orientation of mainstream peacebuilding scholarship, which negates the transformations required to achieve states that 'succeed' for women.[56] Feminist

[55] See chapter III, section 4.
[56] For a critique of this status quo orientation see also Finkenbusch, ''Post-liberal' peacebuilding'.

perspectives highlight the need for further research focusing on the diversity of local actors and those most marginalized and a more sophisticated concept of 'culture' and 'the local'.[57]

4. Wider implications for feminist literatures

Several existing feminist literatures provide a useful starting point to address these gaps in statebuilding scholarship. However, observations provided by scholars in these areas are also insufficient - and can themselves benefit from engagement with research on post- conflict statebuilding. While the case studies confirm a number of key insights of literatures on feminist policy formation and institutionalism, some findings emerging from these broad areas of scholarship, including the effects of democratic processes, may require further investigation to apply in contemporary post-conflict contexts.

This is because several common characteristics of post-conflict environments shape the effects of processes examined by scholars in these areas of research. These include the significance of societal divisions, the relative weakness of institutions and the importance of patronage politics, extreme vulnerability to international influences, distinct public narratives as well as normative and institutional shifts arising from conflict. Further research focusing on post-conflict contexts is therefore needed. By drawing attention to several of these factors, statebuilding scholarship can add to feminist studies of policy formation and institutionalism, including on the effects of democratic processes after conflict.

[57] For a critique of the concept of 'culture' used in much critical peacebuilding scholarship see e.g. Bräuchler. 'The cultural turn'.

The case studies also highlight the significance of work on gender and politics going beyond a focus on women's descriptive representation (numbers of women in parliaments) to assess effects on women's substantive representation (gender equality outcomes).

In addition, the focus of this study on implementation of policies added important insights. It emphasized that the creation of gender equality policies can provide extremely diverging outcomes for women depending on context. Importantly, while scholars focusing on policy formation have highlighted the separations between different gender equality issues – noting that "Gender policy involves not one issue but many and each involves different actors and conflicts"[59]- moving further to implementation reminds us of their important interconnections. As seen in Uganda, in the absence of policies ensuring women's access to property, for example, women are unlikely to be in a position to access formal responses to their security concerns – rendering these rather meaningless for many women. This suggests that increased attention to *implementation* of policies may add useful insights to feminist research focusing on policy formation.

[59] Htun and Weldon, 'When Do Governments Promote Women's Rights?', 208.

Self-fulfilling prophecies identified in the case studies also highlight the importance of complementing further quantitative research in this area with in-depth case studies. These are required to identify the complex causal connections, which often mark post-conflict societies, due to large numbers of actors, the influence of international factors, and the scope and speed of societal and institutional changes.

However, the extent to which findings from existing feminist scholarship do question and enrich debates on post-conflict statebuilding highlights the importance of scholars from both areas strengthening their engagement with one another. While providing significant insights, feminist scholarship in the fields discussed often does not yet take the next step of spelling out implications for mainstream debates, including on democratization and statebuilding.[60] Further work is therefore required to translate existing findings of feminist research into wider debates on post-conflict peacebuilding and statebuilding.

5. Concluding reflections

The conclusions of this thesis are of academic and practical relevance. In particular, they suggest that meeting increased international commitments to women's empowerment in

[60] See e.g. Tripp, *Women and Power.* Waylen, *Engendering Transitions*.

post-conflict contexts requires going beyond efforts to 'add' activities dedicated to women's rights to existing statebuilding strategies. Building states that 'work' for women may challenge us to re-think our basic understanding of statebuilding.

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