

## African Women Leaders and the Advancement of Peacebuilding in International Law

Anna Spain

### INTRODUCTION

The twenty-first century is bearing witness to critical shifts in international law, as the preferences of civil society and local peoples are reshaping global values.<sup>1</sup> One area in which local practices have advanced such international understanding is in efforts to promote peace in postconflict societies in Africa.<sup>2</sup> As the site of numerous wars, genocides, and humanitarian crises over the past two decades, Africa has become the nexus for advancements in peace promotion.<sup>3</sup> Such efforts have contributed to the development of international law in the areas of international criminal law, international humanitarian law, and

Anna Spain, Associate Professor, University of Colorado Law School. The author expresses her gratitude for the opportunity to contribute this chapter in honor of Judge Gabrielle K. McDonald, whom she appeared before at the Iran-U.S. Claims Tribunal during the B/61 hearings.

<sup>1</sup> For discourses on the changing nature of international law *see generally* James Crawford, *INTERNATIONAL LAW AS AN OPEN SYSTEM* (2004) (discussing the rise of new actors and responsibilities); Rafael Domingo, *THE NEW GLOBAL LAW* 173–94 (2010) (discussing the principles of solidarity, subsidiarity, and democratization in a global legal framework); Gareth Evans, *THE RESPONSIBILITY TO PROTECT* (2008) (discussing the development of the Responsibility to Protect doctrine and its nature as an emerging legal norm); Thomas Franck, *THE EMPOWERED SELF: LAW AND SOCIETY IN THE AGE OF INDIVIDUALISM* 21 (1999) (arguing that people are asserting their individual rights in ways that bring “about the disintegration of multinational civil societies and established states”); and Charles Beitz & Robert Goodin, *GLOBAL BASIC RIGHTS* (2009) (considering the role of rights in addressing myriad moral challenges including human rights, security, and economic development).

<sup>2</sup> *See generally* *DURABLE PEACE: CHALLENGES FOR PEACEBUILDING IN AFRICA* (Taisier Mohamed Ahmed Ali & Robert O. Matthews eds., 2004); *PEACEBUILDING, POWER, AND POLITICS IN AFRICA* (Devon Curtis & Gwinyayi A. Dzinesa eds., 2012).

<sup>3</sup> Jeremy Levitt, *ILLEGAL PEACE IN AFRICA* 1 (2012) (arguing that “[s]ince the end of the Cold War, Africa has become the testing ground for Western conflict-resolution experiments intended to forestall deadly conflict, secure peace, and build democracy”); Lise Morjé Howard, *UN PEACEKEEPING IN CIVIL WARS* 1 (2008) (“Civil war is the most important and troubling problem in international life today”).

human rights.<sup>4</sup> However, although the contributions made by actors at the international level are well known,<sup>5</sup> scant attention has been directed toward the ways that local actors have advanced the theory and practice of peace promotion in international law.

Predicated upon the idea that local action advances developments in international law, this chapter explores the contributions that women operating in postconflict societies in Africa have made to the development of peacebuilding. Furthermore, it suggests that understanding these contributions is essential to understanding the evolution of the normative purpose of peacebuilding in international law. The chapter tells the stories of several women-led peacebuilding efforts in postconflict African communities and describes how such efforts embody five principles of right action for peacebuilding: reconciliation, reintegration, protection of women, subsidiarity, and sustainability. This chapter posits that these contributions are reshaping the ways in which the international community conceptualizes peacebuilding and its effectiveness, given the complexities of armed conflict today. Thoroughly understanding such women-led innovations and how they are advancing a broader normative agenda for the peacebuilding field can help us better understand both the foundations and the evolution of peace as a first principle of international law.

### *The Development of Peacebuilding in International Law*

Promoting global peace and security is a fundamental aim of international law.<sup>6</sup> Before the development of peacebuilding per se, law has long sought to advance the cause of peace. In Ancient Egyptian and Roman law, for example,

<sup>4</sup> See, e.g., Jennifer Moore, *HUMANITARIAN LAW IN ACTION WITHIN AFRICA 2* (2012) (arguing that Africa has been a testing ground for humanitarian law); *THE CHANGING FACE OF CONFLICT AND THE EFFICACY OF INTERNATIONAL HUMANITARIAN LAW* (Helen Durham & Timothy McCormack eds., 1999) (arguing that the changing nature of armed conflict, as witnessed in Africa in addition to other locations, demands reconsidering how international humanitarian law seeks to protect vulnerable groups); Ruti Teitel, *HUMANITY'S LAW 8–11* (2011) (discussing the how developments in international criminal law, including the tribunals in Rwanda and Sierra Leone, are a part of a broader normative paradigm shift in international human rights toward the prioritization of human security).

<sup>5</sup> See, e.g., Howard, *supra* note 3; Thorsten Benner, Stephan Mergenthaler, & Philipp Rotmann, *THE NEW WORLD OF UN PEACE OPERATIONS: LEARNING TO BUILD PEACE?* (2011); *JUS POST BELLUM: TOWARDS A LAW OF TRANSITION FROM CONFLICT TO PEACE* (C. Stahn & J. K. Kleffner eds., 2008).

<sup>6</sup> See, e.g., U.N. Preamble (“We the peoples of the United Nations, determined to save succeeding generations from the scourge of war . . . unite our strength to maintain international peace and security.”), available at <http://www.un.org/en/documents/charter/preamble.shtml>.

restrictions existed on the use of force.<sup>7</sup> During the Middle Ages in Europe, Hugo Grotius introduced the concept of *jus ad bellum* and *jus in bello* as bodies of law that could temper the human tendency to engage in war.<sup>8</sup> During the Hague Peace Conferences of 1899 and 1907, the international community of states sought to strengthen the collective capacity to promote peace and prevent war by adopting the Convention for the Pacific Settlement of International Disputes and establishing the Permanent Court of Arbitration.<sup>9</sup> After World War II, the United Nations was established to “maintain international peace and security.”<sup>10</sup> In pursuit of this aim, the second half of the twentieth century has witnessed the proliferation of international courts and tribunals and the normalization of adjudication as nations continue to promote peaceful mechanisms for the resolution of disputes as a means of discouraging war.<sup>11</sup>

This historical narrative of peace promotion efforts in international law continues with the introduction of peacebuilding as a means for bringing about sustainable peace in postconflict societies after the end of the

<sup>7</sup> See, e.g., the “Treaty of Kadesh” in S. Langdon & Alan Gardiner, *The treaty of alliance between Hattusili, King of the Hittites, and the Pharaoh Ramesses II of Egypt*, 6 J. EGYPTIAN ARCHAEOLOGY 179 (1920); J. G. Manning, *The representation of justice in ancient Egypt*, 24 YALE J. L. & HUMAN. 111 (2012); Adolf Berger, *Encyclopedic Dictionary of Roman Law*, 43 TRANS. AM. PHILOSOPH. ASS’C. 333–808 (1953). (In Roman law *humanitas* means “the human tendency as an ethical commandment, benevolent consideration for others.”)

<sup>8</sup> Hugo Grotius, *ON THE LAW OF WAR AND PEACE* (1625) (Francis W. Kelsey trans., 1925); Hersch Lauterpacht, *The Grotian tradition in international law*, 23 BRITISH YEARBOOK INT’L L. 1 (1946); Derek Croxton, *The peace of Westphalia of 1648 and the origins of sovereignty*, 21 INT’L HIST. REV. 569, 570 (1999).

<sup>9</sup> THE HAGUE CONVENTIONS AND DECLARATIONS OF 1899 AND 1907 (James Brown Scott ed., 1918); Convention for the Pacific Settlement of International Disputes, art. 1, July 29, 1899, 32 Stat. 1779, available at [http://avalon.law.yale.edu/19th\\_century/hague01.asp](http://avalon.law.yale.edu/19th_century/hague01.asp); Ruth Mackenzie et al., *THE MANUAL ON INTERNATIONAL COURTS AND TRIBUNALS* (2010) at ix (noting that the Convention “marked a turning point in favour of international adjudication before standing bodies” and describing the formation of the PCA as the first standing body for international adjudication).

<sup>10</sup> U.N. Charter art. 1, para. 1. See also U.N. Charter art. 2, para. 4 (calling for nations to refrain from the threat or use of force); art. 33, paras. 1–2 (“[t]he parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice”); art. 40 and art. 51, available at <http://www.un.org/en/documents/charter/>; Ruth Russell & Jeannette Muther, *A HISTORY OF THE UNITED NATIONS CHARTER* 210 (1954); and Bernard Boxill, *The duty to seek peace*, 27 SOC. PHILOSOPH. POL’Y. (2010).

<sup>11</sup> Jacob Bercovitch & Richard Jackson, *CONFLICT RESOLUTION IN THE TWENTY-FIRST CENTURY: PRINCIPLES, METHODS AND APPROACHES* 8–14 (2009); Oliver Richmond, *MAINTAINING ORDER, MAKING PEACE* (2002).

Cold War.<sup>12</sup> In 1989, the UN Transitional Assistance Group (UNTAG) was created to assist in building the democratic sovereign nation of Namibia.<sup>13</sup> UNTAG's operations have been recognized as an early demonstration of peacebuilding; through governance creation, election reform, and confidence-building measures, it sought to establish long-term peace.<sup>14</sup> A few years later, in 1992, UN Secretary-General Boutros Boutros-Ghali identified and defined peacebuilding as the fourth tenet of his *Agenda for Peace* (in addition to preventive diplomacy, peacemaking, and peacekeeping).<sup>15</sup>

Thus, peacebuilding can be understood as a conceptual framework for the emerging range of activities taking place in postconflict environments that help end war and bring about long-term peace. It is a "holistic concept aimed at no less than the complete transformation of the political, economic, and social structures within a nation that can lead to violent conflict."<sup>16</sup> The International Peace Academy defines peacebuilding as "action to identify and support structures which tend to strengthen and solidify peace to avoid a relapse into conflict."<sup>17</sup> The Canadian Peacebuilding Coordinating Committee states that peacebuilding is "the effort to promote human security in societies marked by conflict. The overarching goal of peacebuilding is to strengthen the capacity of societies to manage conflict without violence, as a means to achieving sustainable human security."<sup>18</sup> A critical addition to the definition of peacebuilding was added by the African Union (AU), which highlighted the importance of gender.<sup>19</sup>

<sup>12</sup> Bercovitch, *supra* note 11, at 8–9. See, e.g., United Nations, Report of the Panel on United Nations Peace Operations, A/55/305-S/2000/809 (2000) (describing the peacebuilding as a hybrid of political and development activities targeted at the sources of conflict); John Burton, *RESOLVING DEEP-ROOTED CONFLICT: A HANDBOOK* (1987); Necla Tschirgi, *PEACEBUILDING AS THE LINK BETWEEN SECURITY AND DEVELOPMENT: IS THE WINDOW OF OPPORTUNITY CLOSING?* (2003).

<sup>13</sup> United Nations Transitional Assistance Group (UNTAG), available at <http://www.un.org/en/peacekeeping/missions/past/untag.htm>. See also Richard Ponzio, *DEMOCRATIC PEACEBUILDING: AIDING AFGHANISTAN AND OTHER FRAGILE STATES* 71 (2011); Virginia Page Fortna, *United Nations transition assistance group in Namibia* in *THE EVOLUTION OF UN PEACEKEEPING* 362 (W. J. Durch, ed., 1994).

<sup>14</sup> Ponzio, *supra* note 13, at 71.

<sup>15</sup> Report of the U.N. Secretary-General Boutros Boutros-Ghali, *An Agenda for Peace*, UN A/47/277 – S/24111 (June 17, 1992), available at <http://www.un.org/docs/SG/agpeace.html>

<sup>16</sup> Bercovitch, *supra* note 11, at 168.

<sup>17</sup> International Peace Academy, *Towards comprehensive peacebuilding*, 2 (2001), available at <http://www.ipacademy.org/publication/meeting-notes/detail/203-towards-comprehensive-peacebuilding.html>.

<sup>18</sup> David Last, *Organizing for effective peacebuilding*, 7 *INT'L. PEACEKEEPING* 80 (2000).

<sup>19</sup> African Union, *Post-Conflict Reconstruction and Development Framework* (2006) (identifying 'women and gender' as one of six elements of its Post-Conflict Reconstruction and Development Policy), available at <http://www.africa-union.org/root/AU/AUC/Departments/PSC/>

Drawing from the fields of international relations, peace and conflict studies, and international development, scholars have further defined peacebuilding in the following ways. Bush conceptualizes peacebuilding as initiatives that promote sustainable infrastructure for peaceful coexistence and deter armed conflict.<sup>20</sup> Adelman and Masciulli define peacebuilding as a decentralized political process capable of addressing the causes of conflict and peace in postconflict societies.<sup>21</sup> Tripp, Casimiro, Kwesiga, and Mungwa emphasize the importance of maintaining a “localized focus” when engaging in peacebuilding.<sup>22</sup> Cousens argues that peacebuilding’s defining priority is its ability to provide means by which a nation can resolve internal conflict without violence.<sup>23</sup> A survey of governments and intergovernmental organizations revealed that most understand peacebuilding as the creation of a positive peace through the elimination of root causes of conflict.<sup>24</sup> There have also been a number of empirical studies on peacebuilding, such as the report by Doyle and Sambanis, which provides an extensive dataset of peacebuilding outcomes in civil wars since 1944.<sup>25</sup> Thus, although there is no one definition or dimension that encompasses the meaning and practice of peacebuilding, it can be understood as a comprehensive process with overlapping spheres of engagement in social, economic, political, and legal realms.<sup>26</sup>

Peacebuilding takes place in relationship to armed conflict. Political scientists traditionally define “armed conflict” as ongoing violent conflict between two or more groups that results in a certain threshold of death and/or casualties.<sup>27</sup>

PCRD/PCRD%20Main%20Web%20Source/index.html, including gender), <http://www.africa-union.org/root/au/Conferences/2007/july/PCRD/pcrd.htm>.

<sup>20</sup> Kenneth Bush, *Toward a balanced approach to rebuilding war-torn societies*, 3 (3) CAN. FOR. POL’Y. 49 (1996).

<sup>21</sup> Howard Adelman, *Cultures of violence*, in BUILDING SUSTAINABLE PEACE 303–330 (Tom Keating & Andy W. Knight eds., 2004); Joseph Masciulli, *From a culture of violence to a culture of peace: Evolving cosmopolitan politics and ethics*, in BUILDING SUSTAINABLE PEACE 331–354.

<sup>22</sup> Aili Mari Tripp, Isabel Casimiro, Joy Kwesiga, & Alice Mungwa, AFRICAN WOMEN’S MOVEMENTS: TRANSFORMING POLITICAL LANDSCAPES 66 (2009).

<sup>23</sup> Elizabeth Cousens, *Introduction*, in PEACEBUILDING AS POLITICS: CULTIVATING PEACE IN FRAGILE SOCIETIES 4 (Elizabeth Cousens & Chetan Kumar eds., 2001).

<sup>24</sup> Michael Barnett et al., *Peacebuilding: What is in a name?* 13 GLOBAL GOVERNANCE 44 (2007).

<sup>25</sup> Michael Doyle & Nicholas Sambanis, MAKING WAR & BUILDING PEACE: UNITED NATIONS PEACE OPERATIONS (2006).

<sup>26</sup> See Michael Lund & Andreas Mehler, PEACE-BUILDING & CONFLICT PREVENTION IN DEVELOPING COUNTRIES: A PRACTICAL GUIDE (1999); FROM WAR TO DEMOCRACY: DILEMMAS OF PEACEBUILDING (Anna K. Jarstad & Timothy D. Sisk eds., 2008).

<sup>27</sup> Meredith Reid Sarkees & Frank Whelon Wayman, RESORT TO WAR 1816–2007 9 (2010) (categorizing armed conflict as events that reached a threshold of at least 1,000 deaths directly resulting from battle).

Conflict is further defined by the context in which it occurs, as interstate, intrastate (civil or internal), or nonstate.<sup>28</sup> Several empirical studies have confirmed that intrastate conflict has outpaced interstate war in recent decades.<sup>29</sup> For example, the University of Maryland's Peace and Conflict report found that, in 2008, all 26 active armed conflicts in the world occurred in the intrastate context.<sup>30</sup> A study of 121 conflicts occurring between 1989 and 2005 identified 90 as intrastate and seven as interstate and noted that, in 2005, all 31 ongoing conflicts were intrastate.<sup>31</sup> Legal scholars, focusing on the changing nature of war as it moves from militarized battles between nations into new contexts, have distinguished between international armed conflicts (involving two or more states) and noninternational armed conflicts (between governmental and nongovernmental armed forces or between two or more nongovernmental armed groups).<sup>32</sup> Noninternational armed conflicts involve different actors, interests, and priorities, and they are on the rise.<sup>33</sup> They are characterized by asymmetrical warfare methods that pit weaker combatants against stronger ones; the stronger combatant is usually a state's military.<sup>34</sup>

<sup>28</sup> *Id.* at 6 (defining the types of war as interstate conflict, occurring between "[s]tates or members of the interstate system"; extrastate conflict, occurring between a state and a nonstate entity outside of the state's borders; intrastate conflict, occurring between the state and nonstate entities (civil) or entirely between nonstate armed groups (internal) within a state's boundaries; and nonstate conflict, occurring between nonstate armed groups in nonstate territory or across state borders).

<sup>29</sup> *Id.* at 45–70, 562 (The COW dataset included 655 wars between 1816 and 2007 and defines intrastate war as "sustained combat between or among organized armed force taking place within the territorial boundaries of a state system member and leading to 1000 battle-related deaths per year" recognizing three subcategories: civil war, regional internal war, and intercommunal war).

<sup>30</sup> See J. Joseph Hewitt, *Trends in global conflict, 1946–2007*, in PEACE AND CONFLICT 2010 27, 27 (J. Joseph Hewitt et al. eds., 2010) (graphically demonstrating the negative correlation between extrastate and intrastate war onsets and finding that "[a]t the beginning of 2008 . . . [all armed conflicts worldwide] were civil conflicts between the government of a state, on the one hand, and at least one internal group on the other").

<sup>31</sup> Lotta Harbom et al., *Armed conflict and peace agreements*, 43 J. PEACE RES. 617, 618 table 2 (2006).

<sup>32</sup> International Committee of the Red Cross, Opinion Paper (March, 2008), available at <http://www.icrc.org/eng/assets/files/other/opinion-paper-armed-conflict.pdf>.

<sup>33</sup> See Mary Kaldor, NEW AND OLD WARS: ORGANIZED VIOLENCE IN A GLOBAL ERA (1999); Nicolas Lamp, *The "new war" challenge to international humanitarian law*, 16 J. CONFLICT & SECURITY L. 225, 227 (2011); Sarkees, & Wayman, *supra* note 27, at 562 (stating that intrastate wars began to rise by the mid-1960s); Monty G. Marshall & Ted Robert Gurr, CIDCM, Peace and Conflict 2003: A Global Survey of Armed Conflicts, Self-Determination Movements, and Democracy 1 (2003), available at [www.systemicpeace.org/PC2003.pdf](http://www.systemicpeace.org/PC2003.pdf); N. P. Gleditsch et al., *Armed conflict 1946–2001: A new dataset*, 39 J. PEACE RES. 615 (2002).

<sup>34</sup> Daniel Thürer, *International humanitarian law: Theory, practice, Context*, in RECUEIL DES COURS, COLLECTED COURSES OF THE HAGUE ACADEMY OF INTERNATIONAL LAW 2008 199–201 (2011).

Changes in the nature of armed conflict have driven changes in the practice of peacebuilding in the twenty-first century.<sup>35</sup> Intrastate conflicts are difficult to prevent and to resolve. They are characterized by identity and ethnic disputes, cyclical violence, the lack of clear victors, and a high probability of recurrence.<sup>36</sup> Such conflicts are most common in countries with poor economies, insufficient political freedom, and dysfunctional public institutions.<sup>37</sup> To address these new conflicts, the concept of peace has been redefined. During World War II and the Cold War, peace was understood as the absence of war.<sup>38</sup> Today, it is marked by the positive progression toward societal reconciliation and state-building.<sup>39</sup>

Another important change has been the identification of women as an essential component of peacebuilding. On October 31, 2000, the UN Security Council adopted Resolution 1325, “reaffirming the importance of women in the prevention and resolution of conflicts and in peacebuilding.”<sup>40</sup> The resolution calls upon member states to increase the representation of women in key roles, to support training for women, and to adopt a gendered perspective in the negotiation of peace agreements, among other things. In 2007, the Secretary-General published a Report on Women, Peace, and Security that provides a seven-point plan for implementing these obligations.<sup>41</sup>

<sup>35</sup> See CHANGING FACE OF CONFLICT, *supra* note 4; Stahl, *supra* note 5; Noah Weisbord, *Conceptualizing aggression*, 20 DUKE J. COMP. & INT’L. L. 1, 7–11 (2009) (discussing future scenarios of aggression and noting the rise of intrastate conflicts); Eric De Brabandere, *The responsibility for post-conflict reforms: A critical assessment of jus post bellum as a legal concept*, 43 VAND. J. TRANSN’L. L. 119 (2010); Council on Foreign Relations, *State Department needs “clear guidelines” on engaging with nonstate armed groups* (Council on Foreign Relations, Working Paper, 2011), available at [www.cfr.org/nonstate\\_armed\\_groups\\_paper](http://www.cfr.org/nonstate_armed_groups_paper).

<sup>36</sup> Charles Call, *WHY PEACE FAILS: THE CAUSES AND PREVENTION OF CIVIL WAR RECURRENCE* 9–15 (2012).

<sup>37</sup> *Id.* at 6.

<sup>38</sup> See Hans Kelsen, *PEACE THROUGH LAW* 1 (1944) (“Peace is a state characterized by the absence of force”); *TURBULENT PEACE: THE CHALLENGES OF MANAGING INTERNATIONAL CONFLICT* (Chester Crocker, Fen Osler Hampson & Pamela Aall eds., 1996); *PEACEMAKING IN INTERNATIONAL CONFLICT: METHODS AND TECHNIQUES* (I. William Zartman & J. Lewis Rasmussen eds., 1997) (providing examples of conflict management approaches during this era).

<sup>39</sup> Richmond, *supra* note 11, at 79 (“negative peace is characterized by the absence of direct violence and preventing war, while positive peace encompasses the broader issues relating to human security”).

<sup>40</sup> S.C. Res. 4213th Sess. U.N. Doc. S/Res/1325 (October 31, 2000), available at [http://www.un.org/events/res\\_1325e.pdf](http://www.un.org/events/res_1325e.pdf).

<sup>41</sup> Report by the Secretary-General on Women and Peace and Security U.N. Doc. S/2007/567 (September 19, 2007), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/503/69/PDF/N0750369.pdf?OpenElement>; Report by the Secretary-General on Women and Peace and Security U.N. Doc. S/2010/498 (September 19, 2007), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/540/24/PDF/N1054024.pdf?OpenElement>; See also, Kofi Annan, *Causes of conflict and the promotion of durable peace and sustainable development in Africa*,

## WOMEN'S APPROACHES TO PEACEBUILDING IN AFRICA

Women living in postconflict African countries have led advancements in the practice of peacebuilding in the twenty-first century. Due to the prevalence of armed conflict in Africa since the end of World War II, they have had many opportunities to do so. According to one study, of the 343 armed conflicts that took place between 1945 and 2003, more (28.3 percent) occurred in Africa than in any other geopolitical region.<sup>42</sup> The following chart documents the instances of armed conflict (defined as civil wars and recurrence events) that have occurred in Africa between 1946 and 2007:<sup>43</sup>

---



---

**Nonrecurrent Civil Wars**

Angola 1975–2002

Mozambique 1976–95

Sierra Leone 1991–2000

South Africa 1983–94

**New Civil War, Same Country or Territory**

Algeria 1962–63, 1992–present

Chad 1965–2002, 2005–present

Democratic Republic of Congo 1960–65, 1977–78, 1996–2001, 2006–present

Ethiopia 1974–92, 1997–present

Kenya 1963–67, 1991–93

Nigeria 1967–70, 1980–85

**Civil War (and Internal Armed Conflict Recurrences)**

Burundi 1972, 1988, 1993–2006

Central African Republic 1996–97, 2001–02

Liberia 1989–96, 1999–2003

Mali 1989–94, 2007

Rwanda 1962–65, 1990–2002

Senegal 1971, 1983–2002, 2003–present

Somalia 1981–2002, 2006–present

Sudan 1963–72, 1983–present

Zimbabwe 1972–79, 1983–87

---



---

Secretary-General's Report to the UN Security Council (Apr. 16, 1998); *Beyond victimhood: women's peacebuilding in Sudan, Congo and Uganda*, International Crisis Group, Africa Report No. 112 (June 28, 2006), available at <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/112-beyond-victimhood-womens-peacebuilding-in-sudan-congo-and-uganda.aspx>.

<sup>42</sup> Jacob Bercovitich, REGIONAL GUIDE TO INTERNATIONAL CONFLICT AND MANAGEMENT FROM 1945–2003 (2004) at 9, table 2: *Incidence of conflict by geopolitical region* (Africa 28.3%, Americas 13.1%, East Asia & Pacific 19%, SW Asia 11.4%, Europe 8.7%, Middle East 19.5%).

<sup>43</sup> Call *supra* note 36, at 14–15 (table I.1, All civil wars and recurrences 1946–1999, plus recurrences as internal armed conflict 1999–2007).



Between 2007 and 2011, armed conflict in Africa spiked, with civil wars raging in the Central Africa Republic (2012–13), Cote d'Ivoire (2002–07, 2010–11), Guinea (2013), Libya (2011–present), Mali (2012–present), and Sudan (2009). Taken together, these armed conflicts have placed peacebuilding practice and doctrine center stage in international relations since World War II and consequently at the forefront of international peace promotion activities.<sup>44</sup>

The UN, AU, North Atlantic Treaty Organization (NATO), and other inter-governmental and regional organizations have often led such efforts. In addition, subregional organizations such as the Economic Community of West African States (ECOWAS) have also been instrumental in promoting peace in Africa.<sup>45</sup> These organizations are recognized as leaders in advancing the normative framework for peacebuilding. The AU, for example, has adopted innovative mechanisms for early warning, preventive diplomacy, mediation, peace support operations, intervention, humanitarian action, and peacebuilding.<sup>46</sup> The West African Network for Peacebuilding (WANEP) is an example of a regional peacebuilding entity that has emphasized the practice of empowering local participants.<sup>47</sup>

International and regional institutions are not the only purveyors or innovators of peacebuilding. Indeed, it is often the case that the survivors of armed conflicts, working in their individual capacity or together in civil society groups, are leading the way as peacebuilders. This chapter posits that African women, as survivors and peacebuilders, are also contributing to the development of international law by advancing a novel normative framework for peacebuilding. This section shares the stories of how several African women peacebuilders have contributed to and advanced new visions and

<sup>44</sup> International Crisis Group Report, *available at* <http://www.crisisgroupblogs.org/africanpeacebuilding/> (describing the variety of peacebuilding efforts taking place in post-conflict countries in Africa).

<sup>45</sup> Ponzio, *supra* note 13, at 95–97.

<sup>46</sup> African Union, Peace and Security Council Protocol, art 6, paras (a)–(f) (July 9 2002); African Union, Constitutive Act, art. 4(h) (“the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity”); See Jeremy Levitt, *The Peace and Security Council of the African Union and the United Nations Security Council: The case of Darfur Sudan*, in *THE SECURITY COUNCIL AND THE USE OF FORCE* 213–252 (N. M. Blokker & N. J. Schriver eds., 2005).

<sup>47</sup> West African Network for Peacebuilding (WANEP), *Operating principles*, *available at* <http://www.wanep.org/wanep/about-us-our-story/operating-principles/19-operating-principles.html>. (“Local ownership of peacebuilding processes. Those who directly or indirectly are involved in a conflict situation are critical to peacebuilding efforts. Third party must ensure that they are empowered to make decisions and not making decisions for them. WANEP’s strategy is to locate, empower, support and accompany local actors as they respond to conflicts of their communities.”)

methods for building peace in postconflict societies. Although these examples do not provide a comprehensive study of African women engaged in peacebuilding activities after conflict, they do illustrate the emergence of five guiding principles of peacebuilding: reconciliation, reintegration, protection of women, subsidiarity, and sustainability. This chapter identifies these contributions as a necessary first step to describing their normative impact.

### Reconciliation

African women peacebuilders have advanced understandings about the importance of reconciliation as a component of effective peacebuilding. Reconciliation is the act of “restoring friendship or harmony,”<sup>48</sup> which, in the peacebuilding context, may aim to reestablish relations between disputing ethnic groups.<sup>49</sup> This aim is achieved through processes that promote truth-telling, forgiveness, and healing. Reconciliation is essential to establishing sustainable peace because it facilitates conflict resolution and social rehabilitation. The Truth and Reconciliation Commissions (TRCs) popularized in South Africa,<sup>50</sup> Liberia, and Sierra Leone<sup>51</sup> and the use of Gacaca courts in Rwanda are well-known examples of reconciliation models.<sup>52</sup>

Two notable African women proponents of reconciliation as a principle of effective peacebuilding were the joint recipients of the 2011 Nobel Peace Prize, Ellen Johnson Sirleaf and Leymah Gbowee (along with the Yemeni activist Tawakkol Karman).<sup>53</sup> The award was given to them “for their

<sup>48</sup> WEBSTER’S DICTIONARY (2012). See also BUILDING PEACE: SUSTAINABLE RECONCILIATION IN DIVIDED SOCIETIES (John Paul Lederach ed., 1997).

<sup>49</sup> Donna Pankhurst, *Issues of justice and reconciliation in complex political emergencies: Conceptualising reconciliation, justice and peace* 20 (1) THIRD WORLD Q. 239, 240 (1999).

<sup>50</sup> Government of South Africa, Promotion of National Unity and Reconciliation Act 34 (July 19, 1995), available at <http://www.justice.gov.za/legislation/acts/1995-034.pdf>.

<sup>51</sup> Lomé Peace Accord, art. 26, available at <http://www.sierra-leone.org/lomeaccord.html>; Republic of Liberia Truth and Reconciliation Commission, Volume II: Consolidated Final Report (June 30, 2009), available at [http://trcofliberia.org/resources/reports/final/volume-two\\_layout-1.pdf](http://trcofliberia.org/resources/reports/final/volume-two_layout-1.pdf); Priscilla Haynor, *The Sierra Leone Truth and Reconciliation Commission: Reviewing the first year*, International Center for Transnational Justice Case Study Series (2004), available at <http://ictj.org/sites/default/files/ICTJ-SierraLeone-Justice-Review-2004-English.pdf>; William A. Schabas, *Conjoined twins of transitional justice? The Sierra Leone Truth and Reconciliation Commission and the Special Court*, 2 J. INT’L. CRIM. J. 1082 (2004).

<sup>52</sup> See Roelof H. Haveman, *Gacaca in Rwanda: Customary law in case of genocide*, in THE FUTURE OF AFRICAN CUSTOMARY LAW 387–422 (Jeanmarie Fenrich, Paolo Galizzi, & Tracy Higgins eds., 2011); Geetanjali Mukherjee, *Achieving reconciliation through prosecution in the courts: Lessons from Rwanda*, 28 CONFLICT RESOL. Q. 331 (2001).

<sup>53</sup> The Nobel Foundation, *2011 Nobel Peace Prize Winners*, available at [http://www.nobelprize.org/nobel\\_prizes/peace/laureates/2011/](http://www.nobelprize.org/nobel_prizes/peace/laureates/2011/).

non-violent struggle for the safety of women and for women's rights to full participation in peace-building work."<sup>54</sup> Leymah Gbowee is a Liberian mother who became the coordinator of the Liberian Women's Network. During the Second Liberian Civil War in 2003, she was the spokesperson for the peace movement, known as the Women of Liberia Mass Action for Peace, which brought Christian and Muslim women together for nonviolent demonstrations to protest the presidency of Charles Taylor. After the war, she helped draw attention to the long-term impacts and the need for healing, saying:

A war of fourteen years doesn't just go away. In the moments we were calm enough to look around, we had to confront the magnitude of what had happened in Liberia. . . . A whole generation of young men had no idea who they were without a gun in their hands. Several generations of women were widowed, had been raped, seen their daughters and mothers raped, and their children kill and be killed. Neighbors had turned against neighbors; young people had lost hope, and old people, everything they had painstakingly earned. To a person, we were traumatized.<sup>55</sup>

Gbowee was instrumental in bringing about trauma healing for women in Liberia who had been affected by the war. She is credited with introducing a "peace-church" philosophical orientation developed from the Eastern Mennonite tradition.<sup>56</sup> Her contributions promoted understanding about the long-term consequences of war and the necessity of reconciliation through healing for long-term peace.

Working with Gbowee and other women in Liberia, Ellen Johnson Sirleaf has been instrumental in raising awareness about the importance of reconciliation in peacebuilding. In 2005, she was elected president of Liberia, becoming the first female president of an African nation.<sup>57</sup> Her political success has provided an important platform for raising awareness about the centrality of women leadership in peacebuilding, as well as for other social and economic initiatives.

Alongside Gbowee and Sirleaf, many other women were instrumental in building peace and security in Liberia in 2003 after the country had been ravaged by the First and Second Liberian Civil Wars. Women leaders helped bring about an end to the armed conflict by working to establish the initial ceasefire. Written by women leaders, the Golden Tulip Declaration, for example, provided terms for peace that were guided by the principles of

<sup>54</sup> *Id.*

<sup>55</sup> Leymah Gbowee (with Carol Mithers), *MIGHTY BE OUR POWERS*, 168, 171 (2011).

<sup>56</sup> *Id.* at 171.

<sup>57</sup> Tripp et al., *supra* note 22, at 196 (describing the impact of Johnson-Sirleaf's election for peace movements in Africa).

gender equality.<sup>58</sup> These were later incorporated into the Comprehensive Peace Agreement, which, among other initiatives, established the TRC.<sup>59</sup> After the war, women held important decision-making positions, through which they had a direct influence on peacebuilding.<sup>60</sup> They raised awareness about the unique impacts of the conflict on women, the long-term nature of traumas endured, and the need for protection and security.<sup>61</sup> As one survivor, Naomi Saydee of the Liberian Women's Media Action Committee, remarked, "So if the TRC can give women preference when it comes to the process there would be genuine reconciliation. Because if the women all come up to talk about the things that happened to them, and the things that they did during the conflict [there would be genuine reconciliation]."<sup>62</sup>

An effort by African women to integrate reconciliation as a component of peacebuilding has proved important in other postconflict contexts as well. In Eritrea, for example, author Abeba Tesfagiorgis wrote about the importance of empathy and forgiveness as tools for reconciliation in peacebuilding.<sup>63</sup> In her novels *Woi Ane Dekai (My Poor Children, 1969)* and *Nemenye Zenegro (Who Am I Going to Tell, 1974)*, Tesfagiorgis described the violence and injustices occurring in Eritrea and the need for societal healing. She then went on to found an organization that aimed to promote reconciliation, The Relief and Rehabilitation Association of Eritrea, which spread the message that forgiveness was essential to the future of Eritrea because it would allow adversaries to work together to find solutions to political difficulties. These activities, which were deemed political, led to her arrest by the Eritrean authorities and a subsequent six-month imprisonment. Confronted with threats to her personal safety, as well as to the safety of her husband and children, she fostered her vision for building peace. Modeling this behavior in her work, she represents an early pioneer of the purpose of empathy and forgiveness as essential components of reconciliation and peacebuilding. In her words, "It would be

<sup>58</sup> *Golden Tulip Declaration*, 30 Peacewomen E-news 1325 (September 5, 2003), available at [http://www.peacewomen.org/portal\\_resources\\_resource.php?id=749749](http://www.peacewomen.org/portal_resources_resource.php?id=749749).

<sup>59</sup> Comprehensive Peace Agreement between the Government of Liberia, the Liberians United for Reconciliation and Democracy and the Movement for Democracy in Liberia and Political Parties (August 18, 2003), U.S. Institute of Peace, Comprehensive Peace Agreement, available at [http://www.usip.org/sites/default/files/file/resources/collections/peace\\_agreements/liberia\\_08182003.pdf](http://www.usip.org/sites/default/files/file/resources/collections/peace_agreements/liberia_08182003.pdf).

<sup>60</sup> Republic of Liberia TRC Volume II, Consolidated Final Report, *supra* note 51.

<sup>61</sup> Karen Campbell-Nelson, *Liberia is not just a man thing: Transitional justice lessons for women, peace and security*, International Center for Transnational Justice 20–22 (2008), available at <http://www.ictj.org/sites/default/files/ICTJ-IFP-Liberia-Gender-Cluster-2008-English.pdf>.

<sup>62</sup> *Id.*; See also Naomi Saydee, Statement, Monrovia, Liberia (June 9, 2008).

<sup>63</sup> Michael Henderson, ALL HER PATHS ARE PEACE: WOMEN PIONEERS IN PEACEMAKING 43–53 (1994).

a disservice to our heroic *tegadelti* who fall in battle, to the mothers who suffer in silence the loss of their husbands and children, to our children who die pot-bellied due to malnutrition, to our pregnant women whose stomachs were slit . . . to all those who lives are a constant nightmare – it would be a disservice to all – if we did not forgive and love one another.”<sup>64</sup>

African women peacebuilders advanced a similar paradigm of reconciliation as a component of peacebuilding in postconflict Burundi, the site of a civil war that lasted more than a decade. Working at the local level in their villages and communities, these women advocated the use of *ubushingantahe*, a village-level conciliation process led by a local council of elders.<sup>65</sup> They, alongside their male counterparts, also spoke out in favor of providing amnesty for former combatants, which became a component of the Uganda Amnesty Act.<sup>66</sup> The issue of amnesty is controversial, with the UN and the AU taking the formal position that amnesty should not be granted for those who have committed international war crimes.<sup>67</sup> However, these women countered this international view with their local view: that reintegrating and accepting former combatants into their communities is essential to maintaining long-term peace. Such a position underscores the local benefits of amnesty when coupled with reconciliation.

### Reintegration

A second principle of effective peacebuilding advanced by African women is the concept of reintegration, which seeks to promote social rehabilitation by offering a process through which former combatants can reenter society. As the Burundi example illustrates, reintegration often requires a reconciliation process of some kind that offers individuals an opportunity to admit their prior acts and offer apologies and compensation to the communities they seek to reenter. The importance of reintegration is a practical one as well as a moral one. The lived experience of many survivors of war is that victims must often reside alongside their perpetrators.<sup>68</sup> The process of having former combatants lay down their arms and publicly commit to living peaceably in a community creates public accountability. This is vitally important to the survivors of wars where

<sup>64</sup> *Id.* at 46.

<sup>65</sup> Moore, *supra* note 4, at 199–200.

<sup>66</sup> The Amnesty Act 2000, Ch. 294 (2000), available at <http://www.ulii.org/ug/legislation/consolidated-act/294>; UN Position on Uganda’s Amnesty Act 2000, <http://www.jlos.go.ug/uploads/UN%20Position%20on%20Uganda%20Amnesty%20Law%20.pdf>.

<sup>67</sup> United Nations Secretary-General Report on the Establishment of the Special Court for Sierra Leone, U.N. Doc S/2000/915, para. 22–23 (October 4, 2000) (“the United Nations has consistently maintained the position that amnesty cannot be granted in respect of international crimes”).

<sup>68</sup> Moore, *supra* note 4, at 199.

community-enforced security is often the only security mechanism because formal policing institutions do not exist. Reintegrating people back into a community has become an essential component of peacebuilding.<sup>69</sup> In Sierra Leone, for example, there was an unexpectedly high turnout of former combatants who sought to disarm, demobilize, and reintegrate through the UN's Disarmament, Demobilization, and Reintegration (DDR) program.<sup>70</sup>

Betty Bigombe, a native of Gulu, Uganda, raised awareness about the importance of reintegration in building sustainable peace.<sup>71</sup> A Harvard graduate and former government minister for the pacification of the North in Uganda, Bigombe initiated negotiations with Joseph Kony, the leader of the Lord's Resistance Army (LRA), that sought the demilitarization of his army.<sup>72</sup> Though these efforts were ultimately not successful, she was able to negotiate the release of some child soldiers, which she argued was essential for long-term peace in the region. Her vision for the negotiations was inspired by her belief that child soldiers were not the enemy; they were children who had been terrorized and had become refugees.<sup>73</sup> Bigombe explained that because of her identity as a local resident of the region where the violence was taking place and as a woman, she viewed the child soldiers of the LRA as victims who were conscripted into war against their will.<sup>74</sup>

Some reintegration efforts have been the product of former combatants themselves. Jacinta Jorge, a combatant turned peace activist in Mozambique, has advanced important new perspectives about how to conduct reintegration efforts in a manner that contributes to long-term peace. Jorge established Propaz (ProPeace) whose mission is to promote the effective reintegration of former combatants, in part by recognizing the different needs of women and men.<sup>75</sup>

<sup>69</sup> Tripp et al., *supra* note 22, at 199–200.

<sup>70</sup> Benner et al., *supra* note 5, at 7; United Nations, *DDR in Peace operations: A retrospective* (September 2010), available at [http://www.un.org/en/peacekeeping/documents/DDR\\_retrospective.pdf](http://www.un.org/en/peacekeeping/documents/DDR_retrospective.pdf).

<sup>71</sup> *Africa's peace seekers: Betty Bigombe*, Christian Science Monitor (September 13, 2005), available at [http://www.csmonitor.com/2005/0913/p01s04-woaf.html/\(page\)/5](http://www.csmonitor.com/2005/0913/p01s04-woaf.html/(page)/5).

<sup>72</sup> Kasajja Phillip Apuuli, *Amnesty and international law: The case of the Lord's Resistance Army insurgents in Northern Uganda*, 5 AFRICAN J. CONFLICT RESOL. 35 (2005); Billie O'Kadameri, *LRA/government negotiations 1993–94*, in PROTRACTED CONFLICT, ELUSIVE PEACE: INITIATIVES TO END THE VIOLENCE IN NORTHERN UGANDA 35–41 (Okello Lucima ed., 2002).

<sup>73</sup> See generally Mark Drumbl, *REIMAGINING CHILD SOLDIERS* (2012) (discussing the humanity of those children who are armed combatants).

<sup>74</sup> Daniel Fischlin & Martha Nandorfy, *THE CONCISE GUIDE TO GLOBAL HUMAN RIGHTS* 127–28 (2007).

<sup>75</sup> Tripp et al., *supra* note 22, at 200 (based on January 12, 2005 interviews with Jacinta Jorge in Maputo, Mozambique); Helen Scanlon & Benilde Nhalevilo, "*Many truths were not revealed*":

By emphasizing the centrality of reintegration to long-term peace, these leaders, among numerous others, have contributed both to their local peacebuilding efforts and to the broader project of considering how the international community conceptualizes peacebuilding. Their voices and actions have a vital role to play in how the UN conceives of reintegration as a formal element of its peace operations.<sup>76</sup> Furthermore, scholars must not ignore the ways in which the experiences of African women peacebuilders give explanatory power to important research questions, such as when and why reintegration helps prevent conflict from recurring.<sup>77</sup>

### Protection of Women

A third component of effective peacebuilding advanced by African women peacebuilders is the protection of women during and after armed conflict. Recent decades have witnessed important advancements in international law with regard to the protection of women.<sup>78</sup> For example, the women who bravely provided testimony during the International Criminal Tribunal for Rwanda (ICTR) in the *Akayesu* case were instrumental in bringing about the development of international laws that protect women and girls from sexual violence during armed conflict. Women are uniquely targeted during wartime through the use of sexual violence and rape as means of aggression. As Van Schaack explains, “[w]omen experience armed conflict and repression in ways that are different from men” because they are victims of the unique weapon of rape during war.<sup>79</sup> Such sexual violence can lead to death by rape, torture,

*the case of Mozambique*, in *WOMEN AND SECURITY GOVERNANCE IN AFRICA*, 116 (Funmi Olonisakin & Awino Okech eds., 2011). (For example, Jorge criticized the disarmament, demobilization, and reintegration efforts led by the UN Operations in Mozambique for only providing men’s clothes, shoes, and underwear in their reintegration kits.)

<sup>76</sup> United Nations Department of Peacekeeping Operations, *DDR in peace operations: A retrospective* (September 2010), available at [http://www.un.org/en/peacekeeping/documents/DDR\\_retrospective.pdf](http://www.un.org/en/peacekeeping/documents/DDR_retrospective.pdf); [http://www.un.org/en/peacekeeping/documents/DDR\\_retrospective.pdf](http://www.un.org/en/peacekeeping/documents/DDR_retrospective.pdf).

<sup>77</sup> See, e.g., Michael Wessells, *Psychosocial issues in reintegrating child soldiers*, 37 *CORN. INT’L. L. J.* 513 (2004); Macartan Humphreys & Jeremy Weinstein, *Demobilization and reintegration*, 41 *J. CONFLICT RESOL.* 531 (2007); Save the Children, *When children affected by war go home: Lessons learned from Liberia* (2003), available at [http://www.essex.ac.uk/armedcon/story\\_id/000169.pdf](http://www.essex.ac.uk/armedcon/story_id/000169.pdf).

<sup>78</sup> Christine Chinkin, *Women: The forgotten victims of armed conflict*, in *CHANGING FACE OF CONFLICT*, *supra* note 4, at 36–44 (discussing recent advancements in international law – i.e., *Aydin v. Turkey* – as “strong evidence of a changed understanding of human rights violations that incorporate the violence experienced by women,” at 40).

<sup>79</sup> Beth Van Schaack, *Endangering genocide: The Akayesu case before the International Criminal Tribunal for Rwanda*, in *HUMAN RIGHTS ADVOCACY STORIES* 193–227, at 208 (Deena Hurwitz, Margaret Satterthwaite, & Doug Ford eds., 2009). *But see* Jelena Batinić, *Feminism*,

mutilation, and unwanted pregnancies or *enfants de mauvais souvenir* (children of bad memories).<sup>80</sup>

During the *Akayesu* trial, the unnamed Witness J testified about her escape from death during the violence committed against the Tutsi population in Taba Commons. She shared with the Tribunal the fact that her six-year-old daughter had been raped and that, during the course of the investigation and trial, no judge or lawyer had ever asked about rape.<sup>81</sup> Rape – of women or girls – was not at that time among the possible acts included in the definition of genocide.<sup>82</sup> Witness J's testimony before the panel of predominantly male judges (with the exception of female Judge Navi Pillay) led the court to question later witnesses about acts of sexual violence.<sup>83</sup> As the trial proceeded, the testimony of a large number of acts of sexual violence against women and girls came to light. As a result, the ICTR amended the indictment against Akayesu to include rape and acts of sexual violence.<sup>84</sup>

Although rules against rape during wartime existed – for example, the 1863 Lieber Code includes rape as a war crime<sup>85</sup> – sexual violence had not been actively prosecuted prior to *Akayesu*. *Akayesu*, along with *Prosecutor v. Kunarac*,<sup>86</sup> which was the first international indictment focused exclusively on sexual violence (rape, sexual slavery, crimes against humanity), established the groundwork for including substantive law as well as procedural rules that were inclusive of sexual crimes in the Rome Statute.<sup>87</sup> Articles 8(2)(b)(xxii) and (e)(vi) enumerate the crimes of rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization,

*nationalism, and war: The 'Yugoslav case' in feminist texts*, 3 J. INT'L. WOMEN'S STUD. 2 (2001) (identifying the struggle between unity based on gender vs. nationality for rape victims of war).

<sup>80</sup> *Id.*

<sup>81</sup> *Akayesu*, Case No. ICTR-96-4-T, Testimony by Witness J (January 27, 1997). See also Van Schaack, *supra* note 79, at 199 (describing the testimony).

<sup>82</sup> *Id.*

<sup>83</sup> Van Schaack, *supra* note 79, 199–200. (In March 1997, two months after Witness J's testimony, Witness H testified that she was raped, and Judges Pillay and Aspegren asked the witness about the attack.)

<sup>84</sup> Van Schaack, *supra* note 79, 217. ("It was not until *Akayesu* that the idea was first litigated and ultimately grounded in the jurisprudence of international criminal law.")

<sup>85</sup> Francis Lieber, INSTRUCTIONS FOR THE GOVERNMENT OF ARMIES OF THE UNITED STATES IN THE FIELD, art. 47 (April 24, 1863) ("Crimes punishable by all penal codes, such as arson, murder, maiming, assaults, highway robbery, theft, burglary, fraud, forgery, and rape, if committed by an American soldier in a hostile country against its inhabitants, are not only punishable as at home, but in all cases in which death is not inflicted, the severe punishment shall be preferred"), available at [http://avalon.law.yale.edu/19th\\_century/lieber.asp](http://avalon.law.yale.edu/19th_century/lieber.asp).

<sup>86</sup> *Prosecutor v. Kunarac*, Case No. IT-96-23 & 23/1-T, Judgment (February 22, 2001).

<sup>87</sup> Van Schaack, *supra* note 79, at 225.



and other forms of sexual violence as war crimes in armed conflict. Thus, the contributions of Witness J and her fellow witnesses helped bring about the development of international law that recognizes rape as a component of genocide and sexual violence as a crime not only against women, but also against peace.<sup>88</sup>

A second example of the advancement of prioritizing protection of women as a component of peacebuilding took place during the transition to postapartheid South Africa, where South African women sought to redefine societal values about the use of force and peace by advancing women-led development of security policies. Operating in local community groups, these women were instrumental in drafting the *South African White Paper on Defence*, which introduced a new conceptualization of security.<sup>89</sup> The paper identified the need to reject the “military-masculinity nexus”<sup>90</sup> of security in order to reframe young men’s views about the benefits of engaging in the use of force. Instead, the paper advocates the promotion of opportunities for these men, and women, to engage in peacebuilding in order to prioritize “human security in societies experiencing or emerging from armed conflict.”<sup>91</sup> Women peacebuilders further identified and promoted awareness about the important role women enjoy as the center of family units in fostering postconflict stabilization by shaping future generations’ views on peace.<sup>92</sup> These contributions have provided a new doctrinal and normative perspective on the definition of peace. They have also introduced new ways of engaging in peacebuilding. For example, South African women’s organizations demonstrated the effectiveness of using decentralized networks, referred to as “meshworks,” that create social bonds among participants and foster solidarity and connectedness.<sup>93</sup> These novel methods – employed through decentralized sources of authority, minimal hierarchy, and horizontal forms of organizing – emphasize the

<sup>88</sup> Van Schaack, *supra* note 79, at 226–27. See also Kelly Dawn Askin, *Gender crimes jurisprudence in the ICTR: Positive developments*, 3 J. INT’L. CRIM. J. 1007 (2005) (discussing the ICTR’s contributions to the development of gender jurisprudence).

<sup>89</sup> Nomboniso Gasa, *WOMEN IN SOUTH AFRICAN HISTORY: THEY REMOVE BOULDERS AND CROSS RIVERS* 275 (2007). See also Peter Batchelor, Jacklyn Cock, & Penny McKenzie, *CONVERSION IN SOUTH AFRICA IN THE 1990S: DEFENCE DOWNSIZING AND HUMAN DEVELOPMENT CHALLENGES* 254 (2000).

<sup>90</sup> Daniel Conway, *Masculinity, citizenship and political objection to military service in apartheid South Africa*, in (UN)THINKING CITIZENSHIP: FEMINIST DEBATES IN CONTEMPORARY SOUTH AFRICA 91–116 (Amanda Gouws ed., 2005).

<sup>91</sup> Gasa, *supra* note 89, at 259 (defining peacebuilding).

<sup>92</sup> *Id.* at 262.

<sup>93</sup> *Id.* at 273. See also Sidney Tarrow, *POWER IN MOVEMENT: SOCIAL MOVEMENTS AND CONTENTIOUS POLITICS* (2003).

value of women-led contributions to the field of peacebuilding and international law.<sup>94</sup>

### Subsidiarity

The fourth component of effective peacebuilding advanced by African women peacebuilders is the concept of subsidiarity. Subsidiarity is the principle of “locating governance at the lowest possible level” so that those most affected by decisions can be involved in making them.<sup>95</sup> This principle has been recognized as being essential to the effective resolution of disputes. For example, in the International Court of Justice’s *Gabčíkovo-Nagymaros Project* case, Judge Christopher Gregory Weeramantry emphasized the importance of adopting local practices in resolving resource disputes.<sup>96</sup> The principle of subsidiarity is also essential to effective peacebuilding. It promotes the use of culturally and contextually appropriate practices and encourages inclusion of local people as essential actors in developing national peace.<sup>97</sup> In postconflict African societies, women are most often the survivors of war. They are the ones who assume primary responsibility for rebuilding peace at the local level. Thus, because of their experiences, they offer valuable perspectives and lessons learned.

The Sudanese Women’s Voice for Peace (SWVP), a nongovernmental organization (NGO) conducting peacebuilding efforts in the Sudan, embraced the principle of subsidiarity as a criterion for selecting mediators. Departing from the practice of choosing mediators based on expertise and experience, the typical practice in the United States, SWVP selected mediators from local communities who, as elders or family members, enjoyed authority and standing.<sup>98</sup> As referenced earlier, Bigombe argued that, following the principle of subsidiarity, her identity as a local was an important reason

<sup>94</sup> Jacklyn Cock, “Another mother for peace”: *Women and peace building in South Africa*, in *WOMEN IN SOUTH AFRICAN HISTORY* 272–73 (2007).

<sup>95</sup> Anne Marie Slaughter, *A NEW WORLD ORDER* 30 (2004) (defining subsidiarity as “a principle of locating governance at the lowest possible level – that closest to the individuals and groups affected by the rules and decisions adopted and enforced”).

<sup>96</sup> *Gabčíkovo-Nagymaros Project* (Hung. v. Slov.) 1997 I.C.J. 197 (September 25), para. 7; *Id.* (separate Opinion of Weeramantry, J.) paras. 88–119 (emphasizing the importance of subsidiarity in referencing local customary law and negotiation practices on traditional water management in Bali as guidance for the case). See also Eyal Benvenisti, *Asian traditions and contemporary international law on the management of natural resources*, 7 *CHIN. J. INT’L L.* 273, 277 (2008).

<sup>97</sup> Call, *supra* note 36, at 6.

<sup>98</sup> Anna Snyder, *SETTING THE AGENDA FOR GLOBAL PEACE, CONFLICT AND CONSENSUS BUILDING* 125 (2003).

that her efforts in reintegrating child soldiers as a component of peacebuilding in Uganda were successful. Gbowee is also an advocate of subsidiarity. She has noted that, “people who have lived through a terrible conflict may be hungry and desperate, *but they’re not stupid* [Gbowee’s emphasis]. They often have very good ideas about how peace can evolve, and they need to be asked.”<sup>99</sup> Gbowee advocated involving Liberian civil society, especially women’s organizations, in restoring the country. She critiqued the way that the “UN was spending many millions of dollars in Liberia, but most of it was on [their own] staffing resources. . . . If they had just given some of that money to the local people, it would have made a real difference.”<sup>100</sup>

Recognizing the importance of local practices is one of the key normative implications of adopting subsidiarity as a guiding principle in peacebuilding in Africa. For example, in Sierra Leone, the October 2004 final report of the TRC found that government corruption and the betrayal of public trust were two causes of the war there.<sup>101</sup> In response, restorative justice approaches were adopted alongside traditional ones. The Special Court of Sierra Leone was set up to prosecute violations of international humanitarian law.<sup>102</sup> At the same time, a local process known as the Fambul Tok (“Family Talk”), which consists of truth telling, cleansing rituals, and cooperative development initiatives, was adopted.<sup>103</sup> Similarly, as this chapter previously described, women-led peacebuilding efforts in Burundi advocated the use of the traditional and locally based dispute resolution mechanism of *ubushingantahe*.<sup>104</sup> These examples illustrate the importance of subsidiarity as an aspect of effective peacebuilding in postconflict societies.

### Sustainability

The fifth component of essential peacebuilding described in this chapter is environmental sustainability. Environmental degradation is a consequence of war, and restoring a healthy natural environment is essential to long-term peace. The late Kenyan activist Wangari Maathai recognized the importance of sustainability as a principle of peacebuilding. She was awarded the 2004 Nobel Peace Prize for her groundbreaking work in promoting environmental

<sup>99</sup> *Id.* at 173.

<sup>100</sup> *Id.* at 177.

<sup>101</sup> Moore, *supra* note 4, at 198–99.

<sup>102</sup> Statute of the Special Court for Sierra Leone, Art. 1.1 (2000), available at <http://www.sc-sl.org/LinkClick.aspx?fileticket=uClndiMJeFw%3d&tabid=70>.

<sup>103</sup> *Id.*

<sup>104</sup> Moore, *supra* note 4, at 199–200.

protection. She founded the Green Belt movement to mobilize Kenyans to work for a “greener, cleaner Kenya.”<sup>105</sup> This movement employed planting trees as a form of protest against government policies that created conditions of oppression across the country. Maathai was labeled a “mad woman and a threat to the order and security of the country” by the then President Daniel Moi.<sup>106</sup> She risked her life in these acts of protest because she believed that they were necessary to expose the injustices of the existing system where “[t]he rights of those at the bottom of the pyramid are violated every day by those at the top.”<sup>107</sup> Her vision for promoting peace involved protecting Kenya’s precious resources, both human and natural: the trees, the water, the earth, the children and their mothers. In doing so, Maathai helped to solidify environmental protection as an essential component of peacebuilding.<sup>108</sup>

Another promoter of sustainability in peacebuilding is Emem Okon, a community mobilizer in Niger Delta, Nigeria. Her work seeks to address oil pollution by Exxon-Mobil and other oil companies that are causing environmental degradation. Like Wangari Maathai, Okon recognized the integral connection between environmental degradation, resource scarcity, and armed conflict. She also highlighted the disparate impact that such conflicts have on women and girls. She has advocated for the critical importance of including women in peacebuilding efforts at all levels, which is not the common practice of either the oil companies or the Nigerian government. Okon explains why women are necessary to successful peacebuilding: “We believe that women, as mothers and wives and lovers, are in a better position to talk to the men who are perpetuating the acts of violence. And we’re causing the violence to go down. Since 2007, we’ve gotten more than 1,600 boys and young men to surrender their weapons to the police and to make the decision not to be involved in violence.”<sup>109</sup> Okon’s work has highlighted why including women at all levels of decision making is essential to developing peacebuilding capacity in fragile states and postconflict nations.<sup>110</sup>

<sup>105</sup> Anita Price Davis & Marla J. Selvidge, *WOMEN NOBEL PEACE PRIZE WINNERS 196* (2006) (explaining the mission statement of the Green Belt movement); Judith Hicks Stiehm, *CHAMPIONS FOR PEACE: WOMEN WINNERS OF THE NOBEL PEACE PRIZE 201–16* (2006).

<sup>106</sup> *Id.* at 108.

<sup>107</sup> Wangari Muta Maathai, *THE BOTTOM IS HEAVY TOO* 13 (1994).

<sup>108</sup> Stiehm, *supra* note 105, at 212–14 (2006).

<sup>109</sup> Beverly Bell, *Birthing justice: Women in peace-building: Peace amidst war for resource control* (April 2, 2012), available at <http://www.allianceforpeacebuilding.org/news/88406/BIRTHING-JUSTICE-Women-in-Peace-Building-Peace-amidst-War-for-Resource-Control.htm>.

<sup>110</sup> *Id.*

*Advancing the African Women-Developed Normative  
Paradigm of Peacebuilding*

This chapter has been critical of the lack of attention and recognition that mainstream international law scholars and practitioners have paid to the specific contributions that local actors, including African women, have made to international legal frameworks for peace promotion. As the stories shared here illustrate, women peacebuilders in fragile and postconflict African nations have advanced reconciliation, reintegration, protection of women, subsidiarity, and sustainability as guiding principles of peacebuilding. Witness J and her fellow witnesses brought attention to the need to understand that women are vulnerable in unique ways during and after armed conflict and thus need special protection. Tesfagiorgis and Gbowee highlighted the importance of reconciliation in promoting healing from physical, emotional, and psychological trauma. Bigombe emphasized the necessity of reintegrating former combatants back into society, often because there is no other place for them to go.

However, identifying and examining specific contributions is not enough. The contributions of these women, and others like them, are representative of a broader normative vision for what peacebuilding is and ought to be.<sup>111</sup> As survivors of conflict and as women, their insights and perspectives offer important intelligence about what works, when, and why. Therefore, it is vital that policymakers, institutions, and scholars alike strive to consider the full impact that such contributions are having on the practice and theory of peacebuilding.<sup>112</sup>

One reason that these contributions remain underrecognized is that such views are not captured and promulgated in the prevailing models that standardize peacebuilding practices.<sup>113</sup> The following overview of several prominent models illustrates how they advance a framework for understanding the values and perspectives that guide the selection and application of

<sup>111</sup> See Tripp et al., *supra* note 22, at 3 (arguing that women-led peacebuilding efforts have contributed to the changing international norms) and at 196 (arguing that peacebuilding practices employed in Mozambique and Uganda have contributed to broader trends).

<sup>112</sup> For examples of scholarship discussing the normative goals described here, see generally John McDonald with Noa Zanolli, *THE SHIFTING GROUNDS OF CONFLICT AND PEACEBUILDING* 278–79 (2008) (describing the author's participation in drafting a UNGA resolution on trauma, healing, and reconciliation in response to lessons learned in Liberia); Benner et al., *supra* note 5, at 146 (discussing the importance of reintegration in Sierra Leone). For examples of scholarship discussing peacebuilding models with little or no reference to the contributions described here, see Uzi Rabi, *INTERNATIONAL INTERVENTION IN LOCAL CONFLICTS* (2010); Howard, *supra* note 3; and Ponzio, *supra* note 13.

<sup>113</sup> Bercovitch, *supra* note 11, at 6. See generally Howard, *supra* note 3, and Benner et al., *supra* note 5.

peacebuilding techniques, such as political inclusion, power sharing, development of national identities, pursuing legitimacy of the state, economic development, and social reform. However, they do not recognize and integrate the guiding principles identified in this chapter that have emerged from the African women's view of peacebuilding and thus fail to provide comprehensive and effective models.

Peacebuilding frameworks can be categorized according to the following typology developed by Call. Liberal peacebuilding aims to promote democracy and market-based economies. This includes the promotion of civil and political rights, the liberalization of markets, and the development of governance institutions.<sup>114</sup> Republican peacebuilding is understood as a legitimacy-focused approach that aims to create stability among groups in discord based on the principles of deliberation, representation, and constitutionalism.<sup>115</sup> Peacebuilding through state-building is a third approach that emphasizes the development of self-sustaining peace through state-building as the remedy for fragile states, based on experiences in Rwanda and Angola.<sup>116</sup> A fourth category of peacebuilding is defined by critical theory that argues against intrusive measures adopted by the other theories.<sup>117</sup> These categories are not inclusive of reconciliation, subsidiarity, the protection of women, and the other principles identified in this chapter.

An overview of several prominent peacebuilding frameworks further illustrates the point. The Democratic Reconstruction Model (DRM) is a peacebuilding framework adopted by UN-led efforts in East Timor and Kosovo, by NATO in Bosnia, and by the United States in Iraq.<sup>118</sup> DRM was credited with bringing about the decline of violence in intrastate political disputes, increasing capacity for governance and humanitarian assistance, and increasing political participation and the creation of

<sup>114</sup> See generally Doyle & Sambanis, *supra* note 25.

<sup>115</sup> Call, *supra* note 36, at 33. See also Michael Barnett, *Building a republican peace: Stabilizing states after war*, 30 INT'L SEC. 87–112 (2006).

<sup>116</sup> Call, *supra* note 36, at 33–35. See also Francis Fukuyama, STATE-BUILDING: GOVERNANCE AND WORLD ORDER IN THE 21ST CENTURY (2004); and MAKING STATES WORK: STATE FAILURE AND THE CRISIS OF GOVERNMENT (Simon Chesterman, Michael Ignatieff, & Chandra Thakur eds., 2005).

<sup>117</sup> *Id.* See also David Chandler, EMPIRE IN DENIAL: THE POLITICS OF STATE-BUILDING (2006) (arguing that state-building does not work); PALGRAVE ADVANCES IN PEACEBUILDING: CRITICAL DEVELOPMENTS AND APPROACHES (Oliver P. Richmond ed., 2010), Ian Taylor, LIBERAL PEACE, LIBERAL IMPERIALISM: A GRAMSCIAN CRITIQUE (2010) (featuring essays critical of liberal approaches to peacebuilding).

<sup>118</sup> Ponzio, *supra* note 13, at 205–07.

conditions that support socioeconomic recovery.<sup>119</sup> DRM is considered costly and complex, and it has the potential to destabilize postconflict societies.<sup>120</sup> The Institutionalization Before Liberalization (IBL) approach prioritizes developing political stability through the creation of effective institutions before engagement in significant economic and democratic reform.<sup>121</sup> An IBL approach advocates postponing elections until political parties and electoral structures are well formed. It also promotes economic policies that build the market economy alongside government and legal systems capable of providing effective regulations.<sup>122</sup> A third model, described by Lakhdar Brahimi, UN Special Representative for Afghanistan, is the Light Foot Approach (LFA). LFA seeks to avoid extensive international infrastructure and personnel and emphasizes engagement with local stakeholders to build indigenous capacity.<sup>123</sup> As peacebuilding through LFA in Afghanistan has shown, this approach requires high-level commitment and resources to be effective.<sup>124</sup> These peacebuilding models form the basis for the normative dialogue about what peacebuilding is and what it should be. The perspectives of African women peacebuilders are not captured in these frameworks and are therefore absent from mainstream conversations about peacebuilding.

One model that does capture some of the guiding principles discussed in this chapter is the Democratic Peacebuilding Approach (DPA), described as a “dynamic, long term process of institutionalizing and expanding democratic legal authority within a weak state or territory to reduce the propensity toward violent conflict.”<sup>125</sup> DPA emphasizes the use of local authority structures to legitimize reforms essential for peacebuilding<sup>126</sup> and emphasizes the importance of subsidiarity in order to promote “innovative governance models” that work well in non-Western societies.<sup>127</sup> This model has placed renewed emphasis on using multidimensional approaches that are inclusive of local perspectives.<sup>128</sup> For example, nonstate actors, such as tribal groups in Afghanistan or

<sup>119</sup> *Id.* at 206.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 211.

<sup>122</sup> *Id.* at 212.

<sup>123</sup> *Id.* at 213–14.

<sup>124</sup> *Id.* at 215.

<sup>125</sup> *Id.* at 216.

<sup>126</sup> *Id.* at 217.

<sup>127</sup> *Id.* at 219. See also Charles Call & Susan Cook, *On democratization and peacebuilding*, 9 GLOBAL GOV. 233 (2003) at 242–43.

<sup>128</sup> Bercovitch, *supra* note 11, at 8–10. See also Karen Aggestam, *Quasi-informal mediation in the Oslo Channel: Larsen and Holst as individual mediators*, in STUDIES IN

armed groups in Sierra Leone, have been recognized as necessary stakeholders in various peace initiatives in recent years.<sup>129</sup>

As the examples provided in this chapter illustrate, women-led peacebuilding in Africa has advanced a vision that peace and security are best achieved after armed conflict by prioritizing reconciliation, reintegration, protection of women, subsidiarity, and sustainability. These women, given their identities as survivors of war and as mothers endeavoring to rebuild a life for their children, offer distinct and important perspectives about the causes of war and peace.<sup>130</sup> Women often find themselves at the bottom of societal power structures; although this renders them particularly vulnerable to the consequences of war, it also makes them effective advocates for peace. During the movements that sought an end to apartheid in South African, a slogan, “Another mother for peace,” developed to represent the belief that women are naturally expert peacebuilders because they learn to be facilitative, cooperative, and capable of mediating conflicts: all qualities useful in peacebuilding.<sup>131</sup> Empowering women empowers peacebuilding; it is toward achieving this goal that the world must now turn.

### Conclusion

This chapter acknowledges the remarkable contributions of African women who, after the traumas of war and against all odds, have advanced the cause of peace. In addition, it highlights the importance and value of the perspectives and contributions of those embedded at the bottom of societal structures, whose voices are often unheard. It is essential that the international community recognize these often undocumented and ignored contributions, which have advanced forms of peacebuilding that prioritize social rehabilitation, forgiveness, and healing through reconciliation and reintegration. The contributions of these women have also highlighted the necessity for subsidiarity, sustainability, and increased protection of women during and after war. In doing so, these women peacebuilders have advanced a normative framework for defining the concept of peacebuilding and showing how it can be achieved in today’s complex world.

INTERNATIONAL MEDIATION 57–79 (Jacob Bercovitch ed., 2002); Nicolas Sambanis & Michael Doyle, *International peacebuilding: A theoretical and quantitative analysis*, 94 AM. POL. SCI. REV. 779 (2000); UN Peacebuilding Commission (established in 2005), available at <http://www.un.org/en/peacebuilding/>.

<sup>129</sup> Ponzio, *supra* note 13, at 3–5. Lakhdar Brahimi, *The Situation in Afghanistan: Briefing to the UN Security Council*, available at <http://www.un.org/news/dh/latest/afghan/brahimi-sc-briefing.htm>.

<sup>130</sup> Snyder, *supra* note 98, at 132.

<sup>131</sup> Batchelor et al., *supra* note 89, at 267.