


APPENDIX: EQUITABLE UTILIZATION ARTICLES IN THE UN CONVENTION ON NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES

**Article 5: Equitable and reasonable utilization and participation**

1. Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner. In particular, an international watercourse shall be used and developed by watercourse States with a view to attaining optimal and sustainable utilization thereof and benefits therefrom, taking into account the interests of the watercourse States concerned, consistent with adequate protection of the watercourse.

2. Watercourse States shall participate in the use, development and protection of an international watercourse in an equitable and reasonable manner. Such participation includes both the right to utilize the watercourse and the duty to cooperate in the protection and development thereof, as provided in the present Convention.

**Article 7: Obligation not to cause significant harm**

1. Watercourse States shall, in utilizing an international watercourse in their territories, take all appropriate measures to prevent the causing of significant harm to other watercourse States.

2. Where significant harm nevertheless is caused to another watercourse State, the State whose use causes such harm shall, in the absence of agreement to such use, take all appropriate measures, having due regard for the provisions of Articles 5 and 6, in consultation with the affected State, to eliminate or mitigate such harm and, where appropriate, to discuss the question of compensation.

**Article 10: Relationship between different kinds of use**

1. In the absence of agreement or custom to the contrary, no use of an international watercourse enjoys inherent priority over other uses.

2. In the event of a conflict between uses of an international watercourse, it shall be resolved with reference to the principles and factors set out in Articles 5 to 7, with special regard being given to the requirements of vital human needs.

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**Women’s Leadership for Climate Change: Lessons from the Peace Process in Moving Negotiations Forward**

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**INTRODUCTION**

Even advocates of multilateral agreements recognize that global environmental issues are insufficiently addressed by the current treaty-making system. In some cases, negotiations stall because of issues related to domestic politics, sovereignty, and national interests. Nevertheless, even failed treaties can have positive normative effects that ultimately influence agendas and action. When negotiations are stalled but not yet abandoned, however, they continue largely in limbo; delegates attend the Conference of Parties (COP) but remain unable to push the negotiating process forward, and the dynamics for addressing global environmental issues remain outside the purview of the formal negotiations.

In the case of the UN Framework Convention on Climate Change (FCCC), the rate leading up to the Kyoto Protocol, which would have established timelines and reduction rates for carbon emissions from industrialized countries, halted soon after the protocol’s debut. U.S. resistance to the protocol blocked its effective implementation and catalyzed a new wave of “climate conflict,” manifested most recently in Russia’s decision to not ratify the protocol, attributed in part to Russia’s recognition that there would be no market for its emission credits in the United States anytime soon (Rekvins 2003).

As Kyoto consensuses unravels, it reveals deeper divisions in the climate change discourse, reopening more fundamental debates over the implications of climate change itself. The protocol’s failure could thus catalyze political retrenchment as well as arguments over provisions already agreed upon. The doubt cast on the negotiating process overall forces a current reevaluation of the FCCC framework and leaves the negotiating parties and stakeholders fatigued. With little prospect for a major policy change in the Unites States, whose ratification is needed for the protocol to be effective, how can the international community address climate change by utilizing the potential convergence opportunities that still exist at the Conference of Parties (COP)?

Because failed treaties are not without their normative benefits, Kyoto’s failure indeed presents an opportunity. As some experts note, the fate of Kyoto per se is less critical than the longer-term developments for which it has been a catalyst and which have taken place regardless of U.S. action (Rekvins 2003). These developments have included the creation of new domestic legislation and the European Union’s commitment to cap emissions and begin an emissions credit trading system in 2005.

While ultimately the objective of the international community must remain a signed treaty that will dramatically decrease emissions, the opportunity nevertheless exists to hear new voices on the issue and to try new approaches to the “climate conflict” that reduce traditional barriers to progress, lead to new areas of agreement, and can ultimately bring new pressure to bear upon the U.S. and other leading emitters to reduce emissions.
This paper thus proposes that women's leadership at the FCCC can provide a boost to the flagging negotiations, bring renewed dynamism into the negotiating process, result in new areas of agreement relating to both climate change and gender, and expand the global constituency for greenhouse gas stabilization and, therefore, U.S. action. First the paper identifies barriers to international treaty-making that can be tackled by organizing a cross-cutting group in an effort to move forward even when negotiations stall. I then argue that women are the ideal cross-cutting sector to lead this process based upon several examples of women’s successes in “de-stalling” peace negotiations and in emerging efforts to mainstream gender into the climate negotiations. Finally, the paper considers how women’s leadership in the FCCC could be strengthened to improve the negotiations.

BARRIERS IN INTERNATIONAL ENVIRONMENTAL NEGOTIATIONS

In opening the box of stalled international environmental treaties at the COP level, there are divisive and formidable factors that affect individuals and delegations (Barrett 2003; Susskind 1994). In the climate talks, state actors remain constrained by:

- national positions and overarching “North-South” development conflicts, particularly the issue of responsibility for the problem and financing of its solutions;
- limitations of the structure, agenda, and Secretariat’s creativity and facilitation;
- poor strategic review and application of scientific and political information;
- lack of capacity of some parties to participate fully and continuously;
- disengagement from local level constituents for climate change mitigation; and
- lack of Non-Governmental Organization (NGO) involvement, and NGO pressure.

As such, a new approach to the negotiations should involve an organized and ongoing dialogue that cuts across national boundaries as a means of uniting stakeholders in a way that will enable them to bring a perspective different than that of their nations to the process of addressing climate change. This would present a “new voice” and help address both the problems of national positions, past country alliances, and the larger North-South divide.

Further, the dialogue should be organized in a way that increases delegates’ capacity to participate fully (training and human resources) in negotiations and in a less hierarchical way than in the formal negotiations, with a range of non-governmental actors. The agenda, while linked to current topics, should be expanded to include new areas of agreement. Local level constituents of climate change should participate, and individuals should take on more responsibility and leadership and promote the Secretariat’s effectiveness.

These conditions would help build new alliances and common interests and overcome the barriers noted above. Therefore, a new voice, framework, and agenda for climate change could mobilize the convergence opportunities that exist at the COP level. Based upon women’s success in destalling peace talks in Guatemala and Burundi and on the current status of efforts to mainstream gender into the FCCC process, women’s leadership can have a positive impact on the climate negotiations.

WOMEN’S CATALYTIC ROLE IN DE-STALLING PEACE NEGOTIATIONS: GUATEMALA AND BURUNDI

Women’s roles and strategies in the peace negotiations in Guatemala and Burundi provide important lessons that can be applied to climate change. While negotiations in the Guatemalan peace process began in 1991, it was not until women got involved in a leadership capacity that the negotiations de-stalled, reached completion, and began to be implemented. Much of the success of women in de-stalling the negotiations has been attributed to their introduction of gender into the peace agreements.

Women and other civil society groups first met with the UN and the parties to the talks, the Guatemalan government and the Revolutionary Unity Front, to demand participation in the talks, arguing that the agreements were not moving forward and that the outcomes would affect their lives. The groups established a parallel table of dialogue, the Assembly of Civil Society, to review the agenda from the first round of formal negotiations (Mendez 2003).

Rather than evaluate the existing agreements, the groups highlighted what “extra issues” from the agenda had not been included in the treaty. With the UN and the Archbishop moderating the discussions, the groups proposed these new additions as ways of getting the negotiators to prioritize. Thus, within the scope of the overall agenda, women led the process of bringing new proposals to the negotiating table and of ensuring follow-up for issues that had been neglected (Mendez 2003).

By engaging in the formal peace process generally and by demonstrating a knowledge of the content of the cease-fire with the parties, women were able to build rapport and establish credibility prior to introducing new proposals. Once rapport and credibility were established, women were then able to effectively encourage the recognition of a formal role for women in implementing the agreements and successfully argue that women needed to participate on the ground if the agreements were to be successful on the ground. After the parties incorporated this new perspective, the pace of negotiations sped up and the central role of civil society in implementing the peace agreements was validated (Mendez 2003). The three key components of the strategy that made it successful were:

- civil society groups and the international community supported the women’s efforts to organize in gaining a seat at the table, with the mediating group of countries playing a strong role;
- women engaged in the issues of the agreement first and then introduced gender elements; and
- women help created a difference through the topics they introduced to the negotiations.

It’s also important to note that a weakness in peace treaty implementation existed because the broader coalition that women joined lacked a unified advocacy plan to be effective in pressing for implementation of provisions (Mendez 2003).
In the case of Burundi, women affected the stalled peace talks through an external advisory group on gender. First, the women’s groups that had asked for a formal role in the talks and had been denied appealed to the UN. In response, the United Nations Development Fund for Women (UNIFEM) assembled a neutral team of women from South Africa, Uganda and Guatemala who had been involved in formal peace negotiations. This External Advisory Group convinced the formal facilitating committee, which comprised representatives of the UN, EU, and African governments, that based on the advisory group’s own experiences, Burundi women had to be included in the Burundi peace talks to make them successful (Mendez 2003).

In order to bring the negotiators on board in Burundi, the facilitating committee and the negotiating parties each had to be convinced separately. UNIFEM thus arranged a conference where Tutsi and Hutu women met together to arrive at a single proposal for including women in the process, which was presented to Nelson Mandela, president of the mediation team. One result of women’s leadership in this case was that the peace agreements included gender provisions in the final peace accord, such as quotas requiring that women fill at least 30 percent of the seats in parliament and 30 percent of the positions in reconstruction efforts (Mendez 2003).

To understand the importance of including the women’s perspective it is critical to recognize that, by including these provisions, the peace process gained increased legitimacy and the agreements were perceived as stronger and more acceptable by the negotiators, by representatives of civil society, and by the international community (Mendez 2003).

WOMEN’S EMERGING ROLE IN THE CLIMATE CHANGE NEGOTIATIONS

Women’s central role in the environment gained new political relevance during the 1992 Earth Summit, as women mobilized and helped craft Agenda 21, the global blueprint for sustainable development, which was adopted by the world’s governments. Chapter 24 of Agenda 21 specifically linked women’s involvement in environmental activities and in crafting policies for sustainability (UNCED 1994). As a result, women began to be recognized as key policy stakeholders in consultations between governments and NGOs on sustainability.

Moreover, the Beijing Platform of Action, which was adopted in 1995 by most of the world’s governments, further elaborated the importance of women’s involvement in sustainable development at the community and household level, in ethics, in education, as sources of indigenous knowledge, and as experts in natural resource management (United Nations Division for the Advancement of Women (DAW) 1995).

The emphasis on women as primary natural resource users, particularly in energy and agriculture in developing countries, became recognized as strategically crucial in the 1990s as responsibility for the environment shifted toward civil society and as male populations were leaving rural and agricultural areas en masse for urban employment. Both environment and development practitioners now generally stress the linkage between women’s participation in environmental activities and project sustainability; efforts to target women in development projects have increased, as have the number of women’s groups associated with environmental issues and advocacy.

In terms of climate change, women are increasingly recognized as being on the frontline in efforts to combat environmental degradation and to implement local mitigation strategies. Their role as energy users in developing countries and household energy consumption was formally recognized by the FCCC chair at the 1997 COP. In the case of developed countries, they are credited with having decision-making authority over household energy consumption. Also within the UNFCCC framework, the Intergovernmental Panel on Climate Change now formally recognizes differences in physical vulnerabilities to the effects of climate change based on gender (IPCC 2001).

Finally, at COP 8 in 2002, the first UN-sponsored side event to discuss gender’s relevance to the climate debate was held. It was titled “Engendering the Climate Debate: Vulnerability, Adaptation, Mitigation, and Financial Mechanisms.” The “conventional wisdom” on gender has thus started to influence the “wisdom of the convention on gender.”

Women’s leadership in environmental negotiations, while much less documented and promoted than the impact of climate on women, was demonstrated by the proactive role women leaders from the Swiss, German, Zimbabwean, and Peruvian delegations played in unifying delegations during the 1997 COP, helping adoption of the Kyoto Protocol (Villegas 2002: 41). Efforts have also been launched to mainstream gender into the negotiations. At COP 7, which took place in 2001, the Samoan delegation presented a resolution calling for equal participation of women in the negotiations, where only a fifth of delegates were women. This signaled to the Secretariat that it ought to track the gender composition of the negotiations and encourage election of women to posts within the Secretariat, where very few serve on technical bodies or on boards overseeing related projects (Skutsch 2002: 31). For example, the ratio of men to women professionals on boards deciding on new forestry and energy-related projects under the FCCC process is 10 to 1 (Boyd 2002: 72).

A general indication of how far mainstreaming still needs to go at the international level is the composition of delegations to the Commission on Sustainable Development (CSD), which has remained constant despite the tremendous lobbying efforts of former U.S. Congresswoman Bella Abzug and the Women’s Environment and Development Organization (WEDO). On average, only 10 percent are led by women, and some other gender equity indicators are getting worse, such as the number of all-male delegations, which accounted for 40 percent of all CSD delegations in 1997 and grew to 50 percent in 2000 (Women’s Environment and Development Organization 2002).

While male delegates can certainly advocate for gender issues at the negotiating level, women as an affected minority can be expected to be more committed to obtaining results and to be more adamant about ensuring that resources to address climate change are equally available to women on the frontline. For example, following a strategy meeting of 40 or so women and some men from government ministries, NGOs, and the media during COP 4 in 1998, 15 environmental NGOs led by women in Argentina, where the conference was held, signed a letter to the Secretary General to ask that more women be included in projects to be funded through new and additional resources for climate change being mobilized by governments during the conference.
Moreover, despite women’s capacity to contribute to problem-solving and implementation, the strategy session participants noted that women were absent from shaping and marketing future investment opportunities under the Clean Development Mechanism (CDM). Several participants suggested that the Global Environmental Facility (GEF) conduct consultations on the Clean Development Mechanism on a country or regional basis specifically to solicit women’s input in the process and their ownership of the final mechanism. This would help create a cross-cutting international constituency for implementing climate solutions on the local level.

Moreover, preliminary research suggests that obtaining direct input from women’s local networks into the process would help, in turn, mobilize more women’s organizations to become active on climate change, exponentially growing the potential constituency for action. Through informal email questionnaires distributed to NGOs prior to COP 4, 25 women-led groups from Australia, Canada, Indonesia, Japan, Kenya, Netherlands, Senegal, the United Kingdom, and the United States reported that they felt prohibited from attending the conference in part because of perceptions that, as women, it was not their area of expertise and they lacked meaningful information on the talks (Sargent 1998). Making mechanisms such as CDM much more gender-friendly and including more women NGOs in the international process would provide avenues for more engagement with these groups.

Finally, if women continue meeting as a cross-cutting stakeholder group, they will be in a better position to have an impact on the negotiations generally. Because of the role that the 1998 strategy session served in offering support and an orientation to both the talks and to other country colleagues, as well as informal guidance on negotiating strategy, participants expressed interest in forming a women’s network on climate change. The network would meet during UNFCCC sessions as an alternative to more divisive NGO forums. In this way, the network could help offset competing demands of the negotiations, the understaffing, and the lack of scientific advice, and women could focus additional time on gender issues.

STRATEGY FOR INCREASING WOMEN’S ROLE IN THE CLIMATE CHANGE NEGOTIATIONS

The Kyoto stall provides an opportunity for women. The more they take on leadership roles as a stakeholder group in the negotiating process, the more they will increase both dynamism in the process as well as the potential to build new country alliances that can move forward in making a difference on climate, even as negotiations stall.

If women were able to petition and sit across the table from the military in Guatemala, then they should be able to do so with governments and oil companies. Taking a lesson from the Guatemalan example, the data show that the impacts of climate change disproportionately fall on women strengthens arguments that, as an impacted group, they must also be better represented across the board: in the negotiations as delegates, in project oversight and implementation, and in consultations and leadership roles as key stakeholders.

These disparities are central to women’s perspectives as they share a common experience in facing discrimination that cuts across all national boundaries. This shared experience also exists at the negotiating level and is one argument in favor of women acting as a cross-cutting stakeholder group. As such, they can reenergize the negotiating process in new ways. These new elements have already started emerging through gender-related data, resolutions, and meetings at the climate change negotiations. The dual-track effort to increase the numbers of women both in negotiations and in implementation and to link the two is an effective organizing strategy. Based on the experiences of women in the peace processes, creating a voice for including gender in the negotiations can add validity to the agreements and mobilize new support for them. In essence, support for implementation of the Kyoto Protocol’s objectives will increase if gender provisions are incorporated into the negotiations.

This would require enlisting the support of NGOs and the Secretariat, and engaging delegates in the issues of the agreement as well as introducing gender elements. A recommended approach to achieving this and cultivating potential opportunities at the COP is for women leaders from official delegations to:

- continue organizing women in a “Conversation of the Parties” immediately preceding and during the FCCC negotiations to consolidate a women’s network for discussing general issues of the conference and developing a strategy on mainstreaming gender;
- consider formalizing the mainstreaming role through an External Advisory Group on Gender as was done in Burundi;
- integrate experts from corporate, scientific, funding, NGO, and media worlds who are available and committed to advise the network on relevant issues, including possible participation in a “buddy system” for women delegates;
- identify government representatives who can take a lead in organizing support for and tabling resolutions regarding the gender composition of delegations and in the Secretariat, as well as in implementing climate related projects;
- create a broader women’s “climate change constituency” by strategizing how to integrate established women’s groups; and
- ensure follow-up with a unified advocacy plan during the implementation of any new provisions.

UNIFEM has already initiated an effort to bring gender into the Framework Convention through side sessions. Thus, UNIFEM could approach countries that have supported its efforts in the past and in the context of previous COPs and ask them to request that the FCCC Secretariat — building upon previous statements on gender mainstreaming — invite UNIFEM to establish a Gender Advisory Group for the Framework Convention. To have the appropriate weight, this may require obtaining a certain number of signatures from delegations. Through UNIFEM’s prior experience and through this additional consultation with the Secretariat, UNIFEM should be able to identify a core of participants who support increasing their delegations’ representation of women and putting gender resolutions on the table.

Further, if UNIFEM could identify an “NGO partner” that could help it coordinate this activity and manage communications among participating delegations, it could undertake the role of information and networking clearinghouse. Previously perceived as tangential, gender-related monitoring, advocacy, and constituent-building by an NGO would have new validity and currency once an External Advisory Group is up and running.
Together, UNIFEM and an NGO could invite a consortium of representatives from the corporate, scientific, funding, NGO, and media worlds to advise the network on relevant issues and to present new information on the gender effects of climate change. This might include coordinating a buddy system, whereby experts are matched with incoming women delegates.

A benefit to this approach is that most participants already attend these meetings. This would significantly reduce the level of investment necessary to sustain this project. Moreover, nearly 80 percent of the women’s groups and international networks involved in the environment are concerned about human health (Tierramérica 2001). Thus, as women consider bringing “extra issues” to the agenda, they may be able to align with groups such as the World Health Organization and re-insurers, who provide the conference with data on health and economic damages indicators of climate change and groups concerned with the correlation of heat increases to higher deaths in elderly people. These groups, like women, help define the human dimensions of climate change.

Ultimately, if success were achieved in moving the negotiations forward, how would it be measured? First, over a period of several years, the project should be able identify a growth in the number of international and national women’s groups that, as a result of the initiative, put climate change on their issue agenda and begin to mobilize politically oriented constituencies to put pressure on their respective governments to take more policy action or to pressure the United States to take stronger policy action consistent with its treaty-related commitments. (While the former is less direct than the latter, it nevertheless establishes precedents and creates an expectational environment. This is an even more critical function now that the focus on the “war on terror” has supereceded many other urgent global causes.)

This measurement would also extend to any new group or constituency that, as a result of knowledge of either the UNFCCC leadership composition in terms of gender or the climate impact composition in terms of gender, takes similar steps.

Second, the initiative should be able to document an increase in overall new, additional investments that are made to mitigate climate change’s impact on women. An increase in the number of new projects that both address climate change and women’s needs on the ground could be measured in carbon offsets and therefore would demonstrate progress toward negotiated targets — regardless of official government positions.

Third, if the initiative could document any new action on moving the negotiations forward that is taken due to the catalytic effect of women’s involvement, even where gender is not explicitly referenced, this would represent progress. As the cases in this paper suggest, mainstreaming gender into the negotiating process can increase the perceived legitimacy of that process, provide fresh perspectives and actors, and therefore motivate a new generation of advocates, negotiators, and implementers. By bringing new momentum to both climate policy and the projects in the context of the UNFCCC, women can breathe new life into the climate negotiating process even as the talks officially stall.

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